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September 12, 1990

PUBLIC NOTICE

PROPOSED AMENDMENT TO THE CNMI PROCUREMENT REGULATIONS

DIVISION OF PROCUREMENT AND SUPPLY DEPARTMENT OF FINANCE

The Director of Finance, pursuant to the authority conferred by Article X, Section 8 of the CNMI Constitution, 1 CMC §2553 (j) and 1 CMC §2557, is proposing to promulgate amendments to the CNMI Procurement Regulations.

The proposed amendments are to repeal obsolete provisions in the Procurement Regulations; to update and clarify certain provisions pertaining to contracting and appeals; to increase the procurement amount limitation on small purchases; to readopt existing regulations and to incorporate certain administrative directives affecting procurement procedures into these regulations.

The proposed amendments may be inspected at the Division of Procurement and Supply, Central Office, Lower Base, Commonwealth of the Northern Mariana Islands, Saipan, MP 96950. These amendments are published in the Commonwealth Register. Copies of the Commonwealth Register may be obtained from the Attorney General's Office.

The Director of Finance is soliciting views, opinions, facts and data for or against the proposed amendments to the CNMI Procurement Regulations from the general public.

Anyone interested in commenting on these proposed amendments to the CNMI Procurement Regulations may do so in writing addressed to the Director of Finance, Commonwealth of the Northern Mariana Islands, Capitol Hill, Saipan MP 96950 not later than thirty (30) days from the date of its publication in the Commonwealth Register.

day of Se 1990. Dated this $\backslash \gamma$

Issued by:

Eloy S. Inos

Director of Finance

Concurred by:

umer a Lorenzo I. DeLeon Guerrero Governor

Septiembre 12, 1990

NOTISIAN PUBLIKU

PROPOSITO PARA AMENDASION I AREKLON MAMAHAN SITBISIO YAN KOSAS SIHA PARA USON GOBIETNAMENTU

I Direktot i Finansiat, sigun i attoridad ña gi Attikulo X, Seksiona 8 gi CNMI Constitution, i 1 CMC §2553 (j) yan 1 CMC §2557, ha introdudusi propositon amendasion gi areglamento yan regulasion pot asunton Mamahan Sitbisio Yan Kosas Siha Para Uson Gobietnamentu.

I ma intensiona na amendasion para u na suha i man tai setbi siha na probision gi Regulasion; para u probeniye klarifikasion yan dinirihi gi asunto kontrata; para uklarifika yan uhatsa i kantidan salape nui para umana setbe gi man takpapa siha na finahan; para u agon umadopta ayo siha i man sesetbi ha siha na probision gi presenta na regulasion yan para u na halom ayo siha na areklu i man kombiene para ufan halom guine na regulasion.

I ma intensiona na amendasion sina ma rikonosi gi ofisinan i Division i Procurement & Supply gi Lower Base, Commonwealth i Northern Mariana Islands, Saipan, MP 96950. Este na amendasion ma publika gi Commonwealth Register. Sina manuli hao kopian este na publikasion go ofisinan i Abogadon i Gobietno.

I Ofisinan i Direktot i Finansiat ma ma-maisen idea, fakto yan nota ginen i publiku, kao mauleg pat ma kokontra este na amendasion gi Regulasion.

Todo man interesao na individuat ni para ufan na halom opinion ni fumabot, osino ma kokontra este na amendasion gi Areklon Mamahan Sitbisio Yan Kosas Siha Para Uson Gobietnamento, man ma-fafaisen na u ma satmite i matugi na opinion niha guato gi Ofisinan i Direktot i Finansiat, Commonwealth i Northern Mariana Islands, Capitol Hill, Saipan, MP 96950, gi halom trenta (30) dias deste i fecha anai ma publika este na notisia gi Commonwealth Register.

Mafecha este gi dia \searrow de Septiembre, 1990.

Pineblika: Eloy S. Ino Direktot i Finansiat

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Konfotme:

Lorenzo I. DeLeon Guerrero Gobietno

DIVISION OF PROCUREMENT AND SUPPLY DEPARTMENT OF FINANCE

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CNMI PROCUREMENT REGULATIONS

Article 1 - GENERAL PROVISIONS

Part A - General

Section 1-101 Purposes.

- (1) Interpretation. These regulations shall be construed and applied to promote their underlying purposes and policies.
- (2) **Purposes and Policies.** The underlying purposes and policies of these regulations are:
 - (a) to simplify, clarify, and modernize the procurement policies and practices of the Commonwealth and its agencies;
 - (b) to make as consistent as possible the procurement policies and practices among the various branches, activities and agencies of the Commonwealth;
 - (c) to provide for increased public confidence in the procedures followed in public procurement;
 - (d) to insure the fair and equitable treatment of persons who deal with the procurement system of the Commonwealth;
 - (e) to provide increased economy in Commonwealth procurement activities and to maximize to the fullest extent practicable the purchasing value of public funds;
 - (f) to foster effective broad-based competition within the free enterprise system; and
 - (g) to provide safeguards for the maintenance of a procurement system of quality and integrity.

Section 1-102 Authority.

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These regulations are promulgated under the authority of 1 CMC §2553(j) which gives the Director of Finance the duty to be in control of and be responsible for procurement and supply in the Commonwealth.

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Section 1-103 <u>Supplementary General Principles of Law</u> Applicability.

Unless displaced by the particular provisions of these regulations, the principles of law and equity including, but not limited to, the Uniform Commercial Code of the Commonwealth and Common law of fraud, conflicts of interest, waste, false pretenses, and public purpose shall supplement these regulations.

Section 1-104 Requirement of Good Faith.

These regulations require all parties, including government employees, contractors **and suppliers**, involved in the negotiation, bidding, performance or administration of government contracts to **act** in good faith.

Section 1-105 Application of Regulations.

These regulations apply to every expenditure of public funds irrespective of source, including federal assistance monies and Covenant funds.

These regulations apply to all agencies, departments, branches of the government, political subdivisions, public corporations and agencies of local government of the Commonwealth, all collectively referred to herein as "Public Agencies". Any Public Agency which adopts these regulations or identical regulations may be authorized by the Department of Finance to administer procurement functions pursuant to the provisions of Section 2-201 of these regulations.

These regulations do not apply to contracts between the government and its political subdivisions or other governments. Nothing in these regulations shall be construed to prevent any governmental body or political subdivision from complying with the terms and conditions of any grant, cooperative agreement or memoranda.

These regulations do not apply to employment contracts or contracts for personal services under an excepted service.

Section 1-106 Severability.

If any provision of these regulations or any application thereof to any person or circumstances is held invalid **by a court of competent jurisdiction**, such invalidity shall not affect other provisions or application of these regulations which can be given effect without the invalid provision or application, and to this end, the provisions of **these regulations** are declared to be severable.

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Section 1-107 <u>Validity of Contract.</u>

No government contract shall be valid unless it complies with these regulations.

Section 1-108 Remedy Against Employee.

Any procurement action of an employee of **the** government **or its** agencies or political subdivisions in violation of these regulations is an action outside the scope of his or her employment. The government will seek to have any liability asserted against it by a contractor which directly results from these improper acts to be determined judicially to be the individual liability of the employee who committed the wrongful act.

Part B - Definitions

Section 1-201 Definitions.

As used in these regulations, unless the context otherwise requires, the following meanings apply:

- 1. Attorney General means the Attorney General of the Commonwealth of the Northern Mariana Islands.
- 2. Director means the Director of Finance.
- 3. Chief means the Chief of Procurement and Supply within the Department of Finance.
- 4. Construction means the process of building, altering, repairing, improving or demolishing of a public structure or building or public improvements commonly known as "capital improvements". It does not include the routine maintenance of existing structures, buildings, or public real property.
- 5. Contract means all types of agreements, regardless of what they may be called for the procurement of supplies, services or construction.
- 6. Cost-Reimbursement Contract means a contract under which a contractor is reimbursed for costs which are allowable and in accordance with the contract terms and these regulations, and a fee, if any.

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- 7. Dispute means a disagreement concerning the legal rights and obligations of contracting parties, which, if not settled by mutual agreement, must be referred to a neutral third party for resolution.
- 8. Employee means an individual receiving a salary from the government, including appointive and elective officials and non-salaried individuals performing personal services for the government. This definition extends to the Governor, Lt. Governor and members of their staff. Consultants, independent contractors and part-time workers shall be considered employees.
- 9. Goods means all property, including but not limited to equipment, materials, supplies, and other tangible personal property of any kind or nature, printing, insurance, leases of real and personal property, and sale or other disposal of real and personal property, except the sale or disposal of public lands under the management of the Marianas Public Land Corporation (MPLC).
- 10. Government or Commonwealth means the Government of the Commonwealth of the Northern Mariana Islands which includes the executive, legislative and judicial branches. It also includes government agencies, political subdivisions, public corporations and agencies of local government, all collectively referred to herein as "Public Agencies".
- 11. Governor means the Governor of the Commonwealth of the Northern Mariana Islands.
- 12. Invitation for Bids means all documents, whether attached or incorporated by reference, utilized for soliciting bids.
- 13. Official with Expenditure Authority means that public official who may expend, obligate, encumber or otherwise commit public funds under the Planning and Budgeting Act or under any annual appropriation act.
- 14. Person means an individual, sole proprietorship, partnership, joint venture, corporation, other unincorporated association or a private legal entity.
- 15. Procurement means buying, purchasing, renting, leasing or acquiring construction, goods or services. It also includes all functions that pertain to the obtaining of construction, goods or services, including description of requirements,

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selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration.

- 15. Purchase Description means the words used in a solicitation to describe the goods, services or construction to be purchased and includes specifications attached to, or made part of, the solicitation.
- 16. Responsible in reference to a bidder, means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.
- 17. Responsive in reference to a bidder, means a person who has submitted a bid which conforms in all material respects to the invitation for bids.
- 18. Services means the furnishing of time, labor or effort by a person other than an employee, and not involving the delivery of a specific end product other than reports, plans and incidental documents.

Part C - Public Access

Section 1-301 Public Access to Procurement Information.

Procurement information shall be a matter of public record and shall be available for public inspection. Procurement information may be kept confidential when necessary to insure proper bidding procedures. This decision shall be made only by the Chief.

Article 2 - PROCUREMENT ORGANIZATION

Part A - Chief of Procurement and Supply

Section 2-101 Creation of Procurement and Supply Division.

There is created in the Department of Finance a Division of Procurement and Supply to assist the Director of Finance in the execution of those duties authorized under 1 CMC §2553 (j) and §2581 - §2590.

Section 2-102 Chief of Procurement and Supply.

The Director of Finance shall appoint a Chief of Procurement and Supply to administer and supervise the day-to-day activities of the Division. The Chief of Procurement and Supply **shall** be assisted in carrying out his functions and duties by employees of the Procurement and Supply Division.

Section 2-103 Duties of the Chief.

The duties and responsibilities of the Chief include, but are not limited to, the following:

- oversee that these regulations are observed in all government procurement;
- (2) provide advance planning for the centralized purchase of government supplies;
- (3) procure or supervise the procurement of all supplies, goods and services needed by the government;
- (4) conduct bidding, procurement, negotiation or administration of government contracts upon request of the official with expenditure authority;
- (5) sell, trade or otherwise dispose of surplus supplies belonging to the Government;
- (6) exercise general supervision and control over all inventories of supplies belonging to the Government;
- (7) exercise general oversight and control on the use of physical assets and other capital equipment to prevent waste or abuse or other unauthorized use;
- (8) establish and maintain programs for the inspection, testing and acceptance of supplies; and
- (9) hear all appeals of protests and disputes.

Section 2-104 Contract Review, Processing and Oversight.

(1) All contracts must first be prepared by Official with the expenditure authority who shall certify that he has complied with Procurement Regulations and that the proposed contract is for a public purpose, and does not constitute a waste or abuse of Public funds. All contract documents must be complete including attachments and exhibits, if they are incorporated into the contract by reference. The contract documents prepared by the Official with the expenditure authority shall be submitted to the Chief.

- (2) The next step in the contract process is the review by the Chief. Upon his own initiative or upon the request of the Public Auditor, the Chief may refer any contract to the Public Auditor for a recommendation before he approves or disapproves of the contract. The Chief shall cause such review to occur in a prompt and timely manner.
- (3) The contract shall next be approved by the Director of Finance or his designee who shall certify the availability of funds. If the Director finds any aspect of the contract to be deficient or defective in any respect, he shall return the contract to the Chief for appropriate resolution with the contracting officer.
- (4) The fourth review is that of the Attorney General or his designee who shall certify the contract as to form and legal capacity.
- (5) The contract shall then be approved by the Governor.
- (6) After the Governor's approval, the Chief shall forward the contract to the contractor for his approval and signature.
- (7) After the signature of the contractor, the Chief shall review the contract documents for completeness. If he is satisfied, he shall sign in the appropriate space and shall:
 - a) inform in writing the official with the expenditure authority that the contract has been signed by all parties and that he may proceed with contract implementation according to the terms contained therein; and
 - b) provide copies of said contract to the:
 - i) Director of Finance
 - ii) Attorney General
 - iii) Contractor

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(8) A contract may be referred back to the Chief by the Director of Finance or the Attorney General for further

review based on additional evidence that it may not comply with these regulations. If the Chief withdraws approval or refuses to approve a contract, he shall state in writing the basis for his determination.

- (9) It is the responsibility of the official with expenditure authority to ensure that the contractor does not sign the contract or incur any expenses under it until all necessary government signatures have been obtained. The supervision and inspection of a project is the primary responsibility of the official with expenditure authority.
- (10) No contract is effective against the Commonwealth until all of the **parties** whose signatures **are required** on the contract form have signed the contract. A contract shall contain a Right to Audit Records Clause.

Section 2-105 Split Contracts.

If the Chief determines that a contract has been split into subcontracts for the purpose of avoiding bidding or if a change order or modification is unreasonably being made in a contract to increase the contract price where a contract has been bid and awarded to the lowest responsible and responsive bidder, then **he** may require the contract or the modification to be competitively bid. An unreasonable modification or change order would be, for example, one which would have been reasonably foreseeable at the time of the formation of the contract.

Section 2-106 <u>Acceptance of Gratuities by Chief and Procurement</u> and Supply Division Employees.

- (1) In addition to the restrictions found in Section 6-205, the Chief and the employees of the Procurement and Supply Division shall be subject to these additional restrictions to avoid the appearance of impropriety.
- (2) The Chief or his employees **shall not** accept from any person any gift of value given to them with the intent to influence their business judgment.

Part B - Procurement Function

Section 2-201 Decentralized Procurement.

(1) All purchases under Sections 3-104, 3-105 and 3-108 shall be centralized through the Chief. However, upon approval

by the Director, the Chief may delegate, in writing, other procurement functions and responsibilities to public agencies upon satisfying the following requirements:

- (a) These procurement regulations have been duly adopted pursuant to the procedures required for adopting official business of such agencies.
- (b) The agency has adequate staff capability necessary to carry out the functions of the Chief.
- (c) The agency shall certify to the Chief that it is in compliance with (a) and (b) above.
- (2) Where the Chief has delegated his authority under this section, the official with expenditure authority may conduct bidding, procurement, negotiation and the administration of contracts involving funds appropriated to their own office, department, agency or branch. All such activity must be shown to the reasonable satisfaction of the Chief to be in compliance with the regulations.

Section 2-202 Procurement Services.

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Notwithstanding the decentralized procurement authority of any agency, upon request by the official with expenditure authority, the Chief shall provide assistance or conduct the bidding, procurement, negotiation or administration of a particular contract.

Section 2-203 Centralized Procurement of Supplies.

The Chief may, with the approval of the Director of Finance, purchase certain government supplies in large quantities to be relied upon by all departments, agencies, offices and branches. No separate contract or purchase order for these supplies will be approved.

Article 3 - SOURCE SELECTION AND CONTRACT FORMATION

Part A - Source Selection

Section 3-101 Methods of Source Selection

All government **procurement** shall be awarded by competitive sealed bidding, except as provided in:

- (1) Section 3-103 (Small Purchases);
- (2) Section 3-104 (Sole Source Procurement);
- (3) Section 3-105 (Emergency Procurement);
- (4) Section 3-106 (Competitive Sealed Proposals);
- (5) Section 3-107 (Professional Services);
- (6) Section 3-108 (Expedited Purchasing); and
- (7) Section 4-102 (Architect-Engineer Services).

Section 3-102 Competitive Sealed Bidding.

- (1) Invitation for Bids. An invitation for bids shall be issued and shall include at the minimum:
 - (a) an invitation for bids number;
 - (b) date of issuance;
 - (c) name, address and location of issuing office;
 - (d) specific location where bids must be submitted;
 - (e) date, hour and place of bid opening;
 - (f) a purchase description in sufficient detail to permit full and open competition and allow bidders to properly respond;
 - (g) quantity to be furnished;
 - (h) time, place and method of delivery or performance requirements;
 - (i) essential contractual terms and conditions; and
 - (j) any bonding requirements.
- 2) Public Notice. Adequate public notice of the Invitation for Bids shall be given a reasonable time prior to the date set forth for the opening of bids. Publications of notice in a newspaper of general circulation in the Commonwealth once in each week over a period of thirty (30) calendar days shall be deemed to be adequate notice.

For those islands within the Commonwealth where the there are no newspapers of general circulation, the posting of invitations to bid and requests for proposals in public places designated by the Chief shall be deemed adequate notice.

- (3) Bidding time. A bidding time of at least thirty (30) calendar days shall be provided, unless the Chief determines a shorter period is reasonable and necessary.
- Bid Receipt. All bids shall be submitted to the Office (4) of the Chief of the Division of Procurement and Supply. Bids shall be received prior to the time set for opening and shall be maintained sealed in a locked receptacle at the office. Bids submitted from vendors outside the Commonwealth must be postmarked by the date set in the Invitation for Bids and must be received within seven (7) working days of that date. Bidders outside the Commonwealth must notify the Chief in writing of their intent to bid in order to receive this additional seven (7) days for the receipt of the actual bid documents. This notice of intent to bid may be by any mode of written including telex, facsimile or communication other electronic transmission.

If a bid is opened by mistake, it shall be resealed and the person who opened the bid shall write his signature and print his title on the envelope and deliver it to the Chief. No information contained in the bid shall be disclosed prior to the bid opening. The Chief shall cause the opened bid to be placed into the sealed receptacle.

- (5) Bid Opening. The bid opening shall be conducted by the Chief at the Office of the Division of Procurement and Supply. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. The Chief shall be present at the bid opening. The bids received prior to the bid closing date shall be publicly opened. The amount of each bid, together with the name of each bidder shall be recorded, the record and each bid shall be open to public inspection. The Chief shall prepare a written summary of the bid opening.
- (6) Bid Acceptance and Bid Evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in these regulations. Bids shall be evaluated based on the requirements set forth in the

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Invitation for Bids, which may include criteria as is necessary to reasonably permit a determination as to the acceptability of the bid for the particular purpose intended.

- (7) **Bid Rejection.** A bid may be rejected for any of the following reasons:
 - (a) failure to conform to essential requirements of the Invitation for Bids such as specifications or time of delivery;
 - (b) imposition of conditions or restrictions in the bid which modify requirements of the invitation or limit the bidder's liability to the government. For example, bids shall be rejected in which the bidder:
 - (i) protects against future changes in conditions, such as increased costs;
 - (ii) fails to state a price and indicates that price shall be the price in effect at the time of delivery;
 - (iii) states a price but qualifies it as subject to price in effect at time of delivery; or
 - (iv) limits the rights of government.
 - (c) unreasonableness as to price;
 - (d) a bid from a nonresponsible bidder.
- (8) Correction or Withdrawal of Bids; Cancellation of Awards. Correction or withdrawal of inadvertently erroneous bids, before or after award, or cancellation of awards based on bid mistakes must be approved by the Chief in writing. After the bid opening, no changes in bid price or other provisions of bids prejudicial to the interest of the government or fair competition shall be allowed. Whenever a bid mistake is suspected, the government shall request confirmation of the bid prior to award. In such an instance, if the bidder alleges an error, the government shall only permit correction of the bid or withdrawal of the bid in accordance with subparagraph (a) or (b).
 - (a) Correction of bids. Correction of bids shall only be permitted when:

- (i) an obvious clerical mistake is clearly evident from examining the bid document. Examples of such mistakes are errors in addition or the obvious misplacement of a decimal point; or
- (ii) the otherwise low bidder alleges a mistake and the intended bid is evident from the bid document or is otherwise supported by clear and convincing evidence as to the bid intended and the corrected bid remains the low bid. A low bidder may not be permitted to correct a bid mistake resulting from an error in judgment.
- (b) Withdrawal of Bids. Withdrawal of a bid shall only be permitted where the otherwise low bidder alleges a mistake and there is a clear and convincing evidence as to the existence of a mistake.
- (c) Cancellation of Awards. Cancellation of awards or contracts shall only be permitted when:
 - (i) evidence as to the existence of the mistake is not discovered until after the award;
 - (ii) there exists no clear and convincing evidence to support the bid intended; and
 - (iii) performance of the contract at the award price would be unconscionable.
- (9) Award.
 - (a) The contract must be awarded with reasonable promptness by written notice to the lowest responsive bid by a responsible bidder whose bid fully meets the requirements of the invitation for bids and these regulations. Unsuccessful bidders shall also be promptly notified.
 - (b) Notice of an award shall only be made by the presentation of a contract with all of the required signatures to the bidder. No other notice of an award shall be made. No acceptance of an offer shall occur nor shall any contract be formed until a government contract is written and has been approved by all the officials required by law and regulation.

Government contracts shall contain a clause which states that the signature of the private contractor shall be the last in time to be affixed to a contract and that no contract can be formed prior to the approval of all required government officials.

(C) In the event all bids exceed available funds and the bid of the lowest responsive and responsible bidder does not exceed those funds by more than five percent (5%), and time or economic considerations preclude resolicitation of work of a reduced scope, the official with expenditure authority may be authorized by the Chief to negotiate an adjustment of the bid price including changes in bid requirements, with the lowest responsive and responsible bidder in order to bring the bid price within the amount of available funds. The negotiation shall be documented in writing and attached to the bidding documents.

Section 3-103 Small Purchases.

- (1) Any procurement not exceeding the amounts established herein may be made in accordance with small purchase procedures. However, procurement requirements shall not be artificially divided so as to constitute a small purchase.
- (2) Bidding is not required for procurement under \$2,500.
- (3) Bidding is not required but is encouraged for procurement over \$2,500 and under \$10,000. The official with expenditure authority must obtain price quotations from at least three (3) vendors and base the selection on competitive price and quality for procurement valued at \$2,500 to \$10,000. Any price quotations obtained must be written, documented, and submitted to the Chief for approval.
- (4) Purchase orders may be utilized for small purchases in subparagraphs (2) and (3).
- (5) This section shall not apply to lease or purchase of vehicles, machinery and equipment. Any lease or purchase of vehicles, machinery and equipment shall be procured pursuant to Section 3-102 or other applicable provisions of these regulations.

Section 3-104 Sole Source Procurement.

- (1) A contract may be awarded for a supply, service or construction without competition when the Chief determines in writing that there is only one source for the required supply, service or construction.
- (2) A written justification for sole source procurement shall be prepared by the official with expenditure authority and shall contain the unique capabilities required and why they are required and the considerations given to alternative sources.

Section 3-105 Emergency Procurement.

- (1) Notwithstanding any other provision of these regulations, the government may make emergency procurement when there exists a threat to public health, safety or welfare under emergency conditions. An emergency procurement must be as competitive as practicable under the circumstances.
- (2) A written justification of the basis for the emergency and for the selection of the particular contractor must be made by the official with expenditure authority.
- (3) If the Chief is satisfied, he shall state his approval in writing.

Section 3-106 Competitive Sealed Proposals.

- (1) Conditions for use. When the official with expenditure authority determines in writing that the use of a competitive sealed bidding is either not practical or not advantageous to the government and receives the approval of the Chief, a contract may be entered into by competitive sealed proposals.
- (2) Request for proposals. Proposals shall be solicited through a Request For Proposals.
- (3) **Public notice.** Adequate public notice of the request for proposals shall be given in the same manner as provided for in competitive sealed bids.
- (4) Receipt of proposals. Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall

be prepared and opened for public inspection after contract award.

- (5) **Evaluation factors.** The request for proposals shall state the relative importance of price and other evaluation factors.
- Discussion with responsible offerors and revisions to (6) proposals. As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible being selected for award for the purpose of of clarification and to insure full understanding of, and responsiveness to, solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submission and prior to award for the purpose of obtaining the best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.
- (7) Award. Award shall be made to the responsible offeror whose proposal is determined in writing to be most advantageous to the government taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation and the contract file shall contain the basis on which the award is made
- Section 3-107 <u>Competitive Selection Procedures for Professional</u> <u>Services.</u>
 - (1) Procurement method. The services of accountants, physicians or lawyers shall be procured as provided in this section except when authorized as a small purchase, emergency procurement, expedited procurement or sole-source procurement.
 - It is the policy to publicly announce all (2) Policy. requirements for professional services and negotiate contracts on the basis of demonstrated competence and qualifications at a fair and reasonable price. The Chief files shall maintain of current statements of qualifications of professional firms. Persons engaged in providing professional services may submit statements of qualifications and expressions of interests providing such

types of services. Persons may amend these statements at any time by filing a new statement.

- (3) Public announcement and form of request for proposals. Adequate notice of the need for such services shall be given by the official with expenditure authority through a Request For Proposals. The Request For Proposals shall describe the services required, list the type of information and data required of each offeror and state the relative importance of particular qualifications.
- (4) Discussions. The official with expenditure authority may conduct discussions with any offeror who has submitted a proposal to determine such offerors qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.
- Award. Award shall be made to the offeror determined in (5) writing by the Chief to be the best qualified based on the evaluation factors set forth in the request for proposals, and negotiation of compensation determined to be fair and If compensation cannot be agreed upon with reasonable. the best qualified offeror then negotiations will be formally terminated with the selected offeror. If proposals were submitted by one or more other offerors determined to be qualified, negotiations may be conducted with such other offeror or offerors, in the order of their respective qualification ranking, and the contract may be awarded to the offeror then ranked as best qualified if the amount of compensation is determined to be fair and reasonable.

Section 3-108 Expedited Purchasing in Special Circumstances

- (1) When special circumstances require the expedited procurement of goods or services, the official with expenditure authority may request that the Chief approve expedited procurement without the solicitation of bids or proposals.
- (2) The factor to be considered by the Chief in approving or disapproving this request shall be:
 - (a) The urgency of the government's need for the good or service;

- (b) The comparative costs of procuring the goods or service from a sole source or through the competitive process;
- (c) The availability of the goods or service in the Commonwealth and the timeliness in acquiring it; and
- (d) Any other factors establishing that the expedited procurement is in the best interest of the Commonwealth Government.
- (3) Upon the Chief's written determination that the factors in (2) above justify an expedited purchase, he shall process the necessary document(s) and assist the official with the expenditure authority in procuring the required goods or service in the most efficient manner.
- (4) If the Chief's written determines that the request for the expedited procurement did not meet the criteria in (2) above, he should promptly notify the official with the expenditure authority of his disapproval in writing.
- (5) The expedited procurement shall be as competitive as possible under the circumstances.
- (6) The total amount of goods or service that may be approved under this section shall not exceed \$25,000.

Part B - Cancellation of Invitation for Bids and Request for Proposals

Section 3-201 Cancellation.

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An invitation for bids or request for proposals may be canceled, and any and all bids or proposals may be rejected, when such action is determined in writing by the official with expenditure authority and approved by the Chief to be in the best interest of the government based on:

- (1) inadequate or ambiguous specifications contained in the solicitation;
- (2) specifications which have been revised;
- (3) goods or services being procured which are no longer required;

- (4) inadequate consideration given to all factors of cost to the government in the solicitation;
- (5) bids or proposals received indicate that the needs of the government can be satisfied by a less expensive good or service;
- (6) all offers with acceptable bids or proposals received are at unreasonable prices;
- (7) bids were collusive; or

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(8) cancellation is determined to be in the best interest of the government.

Part C - Qualifications and Duties

Section 3-301 Responsibility of Bidders and Offerors.

- (1) Awards shall be made only to responsible contractors. To be determined responsible, a prospective contractor must:
 - (a) have adequate financial resources to perform the contract, or the ability to obtain them;
 - (b) be able to comply with the required delivery or performance schedule;
 - (c) have a satisfactory performance record;
 - (d) have a satisfactory record of integrity and business ethics;
 - (e) have the necessary organization, experience and skills, (or the ability to obtain them), required to successfully perform the contract;
 - (f) have the necessary production, construction and technical equipment facilities, or the ability to obtain them; and
 - (g) be otherwise qualified and eligible to receive an award under applicable laws and rules.
- (2) Obtaining information. Prior to award, the **Chief** shall obtain information from the bidder or offeror necessary to make a determination of responsibility using the factors

in paragraph 1 above. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for determination of nonresponsibility with respect to that bidder or offeror.

- (3) Right of non-disclosure. Information furnished by a bidder or offeror pursuant to paragraph 2 may not be disclosed outside of the office of the Chief, or any other government official involved without prior consent by the bidder or offeror.
- (4) Nonresponsibility determination. When a bid or proposal on which a contract award would otherwise be made is rejected because the prospective contractor is found to be nonresponsible, a written determination shall be signed by the **Chief** stating the basis for the determination and this shall be placed in the contract file.

Section 3-302 Prequalification of Contractors.

Prospective suppliers of goods or services may be prequalified for particular types of construction, goods and services when determined necessary by the Chief. Opportunity for qualification before solicitation shall be afforded to all suppliers. Solicitation mailing lists of potential contractors shall include, but shall not be limited to, prequalified suppliers. In no event will bidders be allowed to qualify after the bid opening.

Part D - Types of Contracts

Section 3-401 Types of Contracts.

- (1) Use of a cost-plus-a-percentage-of-cost and percentage of construction cost methods of contracting are prohibited.
- (2) Government contracts shall utilize a firm fixed price unless use of a cost reimbursement contract is justified under paragraph 3.
- (3) A cost reimbursement contract may be used when the **Chief** determines in writing which is attached to the contract that:
 - (a) uncertainties in the work to be performed make the cost of performance too difficult to estimate with

the degree of accuracy required for a firm fixed price contract;

(b) use of a cost reimbursement contract is likely to be less costly to the government than any other type due to the nature of the work to be performed under the contract.

Part E - Inspection and Audit

Section 3-501 Right to Inspect Place of Business.

The government, may at reasonable times, inspect the place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the government.

Section 3-502 Right to Audit Records.

As required by Section 404 of Public Law No. 3-91 (1 CMC §7845), the contractor and subcontractor or grantee and subgrantee at all levels shall provide the Public Auditor of the Commonwealth with access to and the right to examine and copy any records, data or papers relevant to a government contract or grant for a period of three (3) years after the final payment under the contract or grant. A clause to this effect shall appear in all government contracts and obligations.

Part F - Reports and Records

Section 3-601 Report of Anticompetitive or Deceptive Practices.

When for any reason any person suspects the following practices are occurring among bidders, offerors, contractors or subcontractors, a notice of the relevant facts shall be transmitted **by the Chief** to the Attorney General without delay:

- (1) unfair methods of competition;
- (2) deceptive acts; or
- (3) unfair business practices.

These acts are more fully defined at 4 CMC §5101 through §5206.

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Section 3-602 Retention of Procurement Records.

- (1) All procurement records shall be retained by the **Chief. The** official with expenditure authority **shall also keep copies of all procurement records** for their respective agencies.
- (2) The Chief shall maintain a record listing all contracts made under sole-source procurement, emergency procurement or expedited procurement for a minimum of five (5) years. The records shall contain:
 - (a) each contractors name;
 - (b) the amount and type of each contract; and
 - (c) a listing of the supplies, services or construction procured under each contract.
- (3) All procurement records, except those designated herein as not subject to disclosure, shall be available to public inspection.

Article 4 - PROCUREMENT OF CONSTRUCTION AND ARCHITECT-ENGINEER SERVICES

Section 4-101 Construction Procurement.

(1) Invitation for Bids.

- (a) Deposit. The **Chief** shall determine the amount of deposit required for potential bidders to obtain the invitation for bids.
- (b) Contents. The invitation for bids shall be prepared in accordance with Section 3-102(1). In addition, the following items shall be included in the Invitation for Bids:
 - (i) Notice to Bidders. General information regarding the project;
 - (ii) Instructions to Bidders. Information on the preparation of bids, bid security requirements and forms and certifications that must be submitted with the bid;

- (iii) General Conditions. Standard contract clauses governing the performance of work;
- (iv) Special Conditions. Special contract clauses depending on the nature and dollar amount of the work to be performed; and
- (v) Technical Specifications. Specifications governing the technical aspects of the work to be performed;
- (2) Bid Security.
 - (a) Requirement. Bid security shall be required for all competitive sealed bidding construction contracts where the price is estimated by the Chief to exceed \$25,000.00 or when the Chief determines it is in the interest of the Commonwealth. Bid security shall be on a bid bond, in cash, by certified check, cashiers check or other form acceptable to the government. A surety company shall hold the certificate of authority from the U.S. Secretary of the Treasury as an acceptable surety or other surety acceptable to the Attorney General.
 - (b) Amount. Bid security shall be an amount equal to at least fifteen percent (15%) of the amount of the bid or other amount as specified in the Invitation for Bids depending upon the source of funding.
 - (c) Rejection of Bid. Failure to furnish bid security, when required by the invitation, shall result in rejection of the bid as nonresponsive.
- (3) Contract Performance and Payment Bonds.
 - (a) When a construction contract is awarded in excess of \$25,000.00, the following bonds or security shall be delivered to the government and shall become binding on the parties upon the execution of the contract:
 - (i) a performance bond satisfactory to the government, executed by a surety company authorized to do business in the Commonwealth or otherwise secured in a manner satisfactory to the government, in an amount equal to tone

hundred percent (100%) of the price specified in the contract; and

- (ii) a payment bond satisfactory to the government, executed by a surety company authorized to do business in the Commonwealth or otherwise secured in a manner satisfactory to the government, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the price specified in the contract.
- (4) Suits on Payment Bonds; Right to Institute. Every person who has furnished labor or material to the contractor or its subcontractors for the work provided in the contract, in respect of which a payment bond is furnished under this section, and who has not been paid in full therefor before the expiration of a period of ninety (90) days after the day on which the last of the labor was done or performed by such person or material was furnished or supplied by such person for which such claim is made, shall have the right to sue on the payment bond for the amount, or the balance thereof, unpaid at the time of institution of such suit and to prosecute said action for the sum or sums justly due such person; provided, however, that any person contractual relationship with having а direct а subcontractor of the contractor, but no contractual relationship express or implied with the contractor furnishing said payment bond, shall have a right of action upon the payment bond upon giving written notice to the contractor within ninety (90) days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material upon which such claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was done or performed. Such notice shall be personally served or served by mailing the same by registered or certified mail, postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or conducts its business.
- (5) Suits on Payment Bonds; Where and When Brought. Every suit instituted upon a payment bond shall be brought in a court of competent jurisdiction for the Commonwealth; but no

such suit shall be commenced after the expiration of one (1) year after the day on which the last of the labor was performed or material was supplied by the person bringing suit. The obligee named in the bond need not be joined as a party in any such suit.

(6) Fiscal Responsibility. Every contract modification, change order, or contract price adjustment under a construction contract shall be subject to prior written certification by the Director of Finance as to the effect of the contract modification, change order or adjustment in contract price on the total project budget or the total In the event that the certification contract budget. discloses a resulting increase in the total project budget the total contract budget, such and/or contract modification, change order or adjustment in contract price shall not be made unless sufficient funds are available therefore, or the scope of the project or contract is adjusted so as to permit the degree of completion that is feasible within the total project budget and/or total contract budget as it existed prior to the price under consideration; provided, however, that with respect to the validity, as to the contractor, of any executed contract modification, change order or adjustment in contract price which the contractor has reasonably relied upon, it shall be presumed that there has been compliance with the provisions of this subsection.

Section 4-102 Architect-Engineer Services.

- (1) **Procurement Method.** Architect-Engineer services shall be procured as provided in this section except when authorized as a small purchase or emergency procurement.
- (2) **Policy.** It is the policy to publicly announce all requirements for architect-engineer services and negotiate contracts on the basis of demonstrated competence and qualifications at a fair and reasonable price.
- (3) Selection. The chief Procurement Officer and the Technical Services Division of the Department of Public Works shall jointly maintain files of current statements of qualifications of architect-engineer firms. After public announcement of requirement for architect-engineer services, current statements shall be reviewed together with those that may be submitted by other firms in response to the announcement. Discussions shall be conducted with at least three (3) of the firms regarding

the contract requirements and technical approach and selection made therefrom, in order of preference, of no less than three (3) firms determined to be the most highly qualified to perform the services required.

(4) The **Chief** shall negotiate a contract with Negotiation. the highest qualified architect-engineer firm at a price determined to be fair and reasonable to the government. If a fair and reasonable price cannot be negotiated, negotiations shall be terminated and negotiations shall be undertaken with the second highest qualified firm. If a and reasonable price cannot be negotiated, fair negotiations shall be terminated and negotiations shall be undertaken with the third highest qualified firm. If a fair and reasonable price cannot be negotiated with any of the firms, then the **Chief** shall select additional firms in order of competence and qualifications and continue negotiations until a fair and reasonable price is agreed upon.

Article 5 - PROTESTS AND DISPUTES

Part A - Bid Protests and Appeals

Section 5-101 Protests to the Chief.

- (1) General
 - (a) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Chief. The protest shall be received by the Chief in writing within ten (10) days after such aggrieved person knows or should have known of the facts giving rise thereto. The Chief shall consider all protests or objections to the award of a contract, whether submitted before or after award. If a protest is oral and the matter cannot be resolved, written confirmation of the protest shall state fully the factual and legal grounds for the protest;
 - (b) Other persons, including bidders, involved in or affected by the protest shall be given notice of the protest and its basis in appropriate cases. These persons shall also be advised that they may submit

their views and relevant information to the Chief within a specified period of time. Normally, the time specified will be one (1) week. Exceptions are to be considered exceptional and will be granted sparingly;

- (c) The Chief shall decide the protest within twenty (20) calendar days after all interested parties have submitted their views unless he certifies that the complexity of the matter requires a longer time, in which event he shall specify the appropriate longer time;
- (d) When a protest, before or after award, has been appealed to the Public Auditor, as provided in these procedures, and the Chief is requested to submit a report, the Chief should include with his report a copy of;
 - (i) the protest;

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- (ii) the bid submitted by the protesting bidder and a copy of the bid of the bidder who is being considered for award, or whose bid is being protested;
- (iii) the solicitation, including the specifications on portions relevant to the protest;
- (iv) the abstract of offers or relevant portions;
- (v) any other documents that are relevant to the protest; and
- (vi) the Chief's signed statement setting forth findings, actions, and recommendations and any additional evidence or information deemed necessary in determining the validity of the protest. The statement shall be fully responsive to the allegation of the protest. If the award was made after receipt of the protest, the Chief's report will include the determination prescribed in subparagraph (2) (d) below.
- (e) Since timely action on protests is essential, they should be handled on a priority basis. Upon receipt of notice that an appeal from the Chief's decision

has been taken to the Public Auditor, the Chief shall immediately begin compiling the information necessary for a report as provided in subsection (d) above. To further expedite processing, the official who furnishes the agency's report should, upon request of the protester or the Public Auditor, simultaneously furnish a complete copy (except for information privileged by law or which the Chief deems must be confidential in order to benefit from competitive bidding) to the protester. In such instances, the protester shall be requested to furnish a copy of any comments on the administrative report directly to the Public Auditor as well as the Chief.

(2) Protest Before Award:

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(a) The Chief shall require that written confirmation of an oral protest be submitted by the time specified in Section 5-101(1)(a) and may inform the protester that the award will be withheld until the specified time. If the written protest is not received by the time specified, the oral protest may be disregarded.

An award may be made in the normal manner unless the Chief finds it necessary in his discretion to take remedial action.

- (b) When a proper protest against the making of an award is received, the award will be withheld pending disposition of the protest. The bidders whose bids might become eligible for award shall be informed of the protest. In addition, those bidders shall be requested, before expiration of the time for acceptance of their bids, to extend the time for acceptance to avoid the need for readvertisement. In the event of failure to obtain such extensions of bids, consideration shall be given to proceeding with an award under subparagraph (c) below.
- (c) When a written protest is received, award shall not be made until the matter is resolved, unless the Chief determines that:
 - (i) the materials and services to be contracted for are urgently required;

- (ii) delivery or performance will be unduly delayed by failure to make award promptly; or
- (iii) a prompt award will otherwise be advantageous to the Commonwealth.
- (d) If award is made under subparagraph (c) above, the Chief shall document the file to explain the need for an immediate award. The Chief also shall give written notice to the protester and others concerned of the decision to proceed with the award.
- (3) Protests After Award.

Although persons involved in or affected by the filing of a protest after award may be limited, in addition to the Chief, at least the contractor shall be furnished the notice of protest and its basis in accordance with subparagraph (1)(b) above. When it appears likely that an award may be invalidated and a delay in receiving the supplies or services is not prejudicial to the Government's interest, the Chief should consider seeking a mutual agreement with the contractor to suspend performance on a no-cost basis.

(4) Computation of Time.

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- (a) Except as otherwise specified, all "days" referred to in this part are deemed to be working days of the Commonwealth Government. The term "file" or "submit" except as otherwise provided refers to the date of transmission.
- (b) In computing any period of time prescribed or allowed by these procedures, the day of the act or event from which the designated period of time begins to run shall not be included.

Section 5-102 Appeals of Chief's Decisions to the Public Auditor.

(1) Jurisdiction; Exhaustion of Remedies. A written appeal to the Public Auditor from a decision by the Chief may be taken provided that the party taking the appeal has first submitted a written protest to the Chief as provided in section 5-101 of these Procedures, and the Chief has denied the protest or has failed to act on the protest within the time provided for in section 5-101(1)(c) above.

- (2) Form of Appeal. No particular form of pleading is required for filing an appeal to the Public Auditor. The appeal shall, however:
 - (a) Include the name and address of the appellant;
 - (b) Identify the contracting agency and the number of the solicitation or contract;
 - (c) Contain a concise, logically arranged, and direct statement of the grounds for appeal; and
 - (d) Specifically request a ruling by the Public Auditor.
- Time for Filing Appeal. An appeal from the Chief's (3) decision must be received by the office of the Public Auditor not later than ten (10) days after the appellant receives the decision of the Chief, or, in the event that the Chief has not decided the protest within ten (10) days from the date that he should have decided the protest pursuant to Section 5-101(1)(c) above. Any appeal received after these time limits shall not be considered by the Public Auditor unless good cause is shown or unless the Public Auditor determines that the appeal presents issues significant to procurement practices that are not outweighed by the detriment to the Commonwealth should the appeal be considered.
- (4) Notice of Protest, Submission of Chief's Report and Time for Filing of Comments on Report.
 - (a) The Public Auditor shall notify the Chief by telephone and in writing within one (1) day of the receipt of an appeal, requesting the Chief to give notice of the appeal to the contractor if award has been made or, if no award has been made, to all bidders or proposers who appear to have а substantial and reasonable prospect of receiving an award if the appeal is denied. The Chief shall be requested to furnish in accordance with section 5-101(1)(b) of these Procedures copies of the protest and appeal documents to such parties with instructions to communicate further directly with the Public Auditor.
 - (b) Material submitted by an appellant will not be withheld from any Commonwealth or federal agency which may be involved in the appeal except to the

extent that the withholding of information is permitted or required by law or regulation. If the appellant considers that the protest contains material which should be withheld, a statement advising of this fact must be affixed to the front page of the appeal document and the allegedly proprietary information must be so identified wherever it appears.

- (c) The Public Auditor shall request the Chief to submit a complete report on the appeal to the Public Auditor as expeditiously as possible (generally within 25 working days) in accordance with Section 501(1)(d) of these Procedures and to furnish a copy of the report to the appellant and other interested parties as defined in Section 4-101(4)(c).
- (d) Comments on the agency report shall be filed with the Public Auditor within ten (10) days after the Public Auditor's receipt of the report, with a copy to the agency office which furnished the report and to other interested parties. Any rebuttal an appellant or interested party may care to make shall be filed with the Public Auditor within five (5) days after receipt of the comments to which rebuttal is directed, with a copy to the agency office which furnished the report, the appellant, and interested parties, as the case may be. Unsolicited agency rebuttals shall be considered if filed within five (5) days after receipt by the agency of the comments to which rebuttal is directed.
- (e) The failure of an appellant or any interest party to comply with the time limits stated in this section may result in resolution of the appeal without consideration of the comments untimely filed.
- (5) Withholding of Award. When an appeal has been filed before award, the Chief, will not make an award prior to resolution of the protest except as provided in this section. In the event the Chief determines that award is to be made during the pendency of an appeal, the Chief will notify the Public Auditor.
- (6) Furnishing of Information on Protests. The Public Auditor shall, upon request, make available to any interested party information bearing on the substance of the appeal which has been submitted by interested parties or agencies

except to the extend that withholding of information is permitted or required by law or regulation. Any comments thereon shall be submitted within a maximum of ten (10) days.

- (7) Time for Submission of Additional Information. Any additional information requested by the Public Auditor from the appellant or interested parties shall be submitted no later than five (5) days after the receipt of such request. If it is necessary to obtain additional information from the Chief, the Public Auditor will request that such information be furnished as expeditiously as possible.
- (8) Conference.
 - (a) A conference on the merits of the appeal with the Public Auditor may be held at the request of the appellant, any other interested party, or the Chief. Request for a conference should be made prior to the expiration of the time period allowed for filing comments on the agency report. Except in unusual circumstances, requests for a conference received after such time will not be honored. The Public Auditor will determine whether a conference is necessary for resolution of the appeal.
 - (b) Conferences normally will be held prior to expiration of the period allowed for filing comments on the agency report. All interested parties shall be invited to attend the conference. Ordinarily, only one conference will be held on an appeal.
 - (c) Any written comments to be submitted and as deemed appropriately by the Public Auditor as a result of the conference must be received in the Office of the Public Auditor within five (5) days of the date on which the conference was held.
 - (i) Time for Decision; Notice of Decision: The Public Auditor shall, if possible, issue a decision on the appeal within 25 days after all information necessary for the resolution of the appeal has been received. A copy of the decision shall immediately be mailed or otherwise transmitted to the appellant, other participating parties, and the Chief.

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(9) Request for Reconsideration:

- (a) Reconsideration of a decision of the Public Auditor may be requested by the appellant, any interested party who submitted comments during consideration of the protest, the Chief, and any agency involved in the protest. The request for reconsideration shall contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law made or information not previously considered.
- (b) Request for reconsideration of a decision of the Public Auditor shall be filed not later than ten (10) days after the basis for reconsideration is known or should have been known, whichever is earlier. The term "filed" as used in this section means receipt in the Office of the Public Auditor.
- (c) A request for reconsideration shall be subject to these bid protest procedures consistent with the need for prompt resolution of the matter.

Section 5-103 Remedies.

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- (1) Remedies Prior to Award. If prior to award the Chief or the Public Auditor determines that a solicitation or proposed award of a contract is in violation of law or regulation, then the solicitation or proposed award shall be:
 - (a) canceled; or
 - (b) revised to comply with law or regulation.
- (2) Remedies After an Award. If after an award the Chief or the Public Auditor determines that a solicitation or award of a contract is in violation of law or regulation, then:
 - (a) if the person awarded the contract has not acted fraudulently or in bad faith:
 - (i) the contract may be ratified and affirmed, provided it is determined that doing so is in the best interest of the Commonwealth; or
 - (ii) the contract may be terminated and the person awarded the contract shall be compensated for

the actual expenses reasonably incurred under the contract, plus a reasonable profit, prior to termination;

- (b) if the person awarded the contract has acted fraudulently or in bad faith:
 - (i) the contract may be declared null and void; or
 - (ii) the contract may be ratified and affirmed if such action is in the best interests of the Commonwealth, without prejudice to the Commonwealth's rights to such damages as may be appropriate.
- (3) Finality of Findings of Fact by the Public Auditor. A determination of an issue of fact by the Public Auditor under these Procedures shall be final and conclusive unless arbitrary, capricious, fraudulent, or clearly erroneous.

Section 5-104 Effective Date.

All protests as to the manner of bidding, the failure to properly award a bid, the failure of government to contract with a business after bidding, or the cancellation of bids which may or may not be subject of lawsuit but have not reached final judgment as of the effective date of these regulations shall be heard in accordance with this Part upon the request of the actual or prospective bidder, offeror, or contractor who is aggrieved.

Part B - Disputes

Section 5-201 Disputes.

- (1) Any dispute between the government and a contractor relating to the performance, interpretation of or compensation due under a contract, which is the subject of these regulations, must be filed in writing with the Chief and the official with the expenditure authority within ten (10) calendar days after knowledge of the facts surrounding the dispute.
- (2) The official with contracting authority will attempt to resolve the dispute by mutual agreement. If the dispute cannot be settled either party may request a decision on the dispute from the Chief. The Chief shall review the

facts pertinent to the dispute, secure necessary legal assistance and prepare a decision that shall include:

- (a) description of the dispute;
- (b) reference to pertinent contract terms;
- (c) statement of the factual areas of disagreement or agreement; and
- (d) statement of the decision as to the factual areas of disagreement and conclusion of the dispute with any supporting rationale.

The Chief may require a hearing or that information be submitted on the record, in his discretion.

(3) Duty to Continue Performance. A contractor that has a dispute pending before the official with expenditure authority or the Chief must continue to perform according to the terms of the contract and failure to so continue shall be deemed to be a material breach of the contract unless he obtains a waiver of this provision by the official with the expenditure authority.

Article 6 - ETHICS IN PUBLIC CONTRACTING

Part A - Definitions

Section 6-101 Definitions of Terms.

- 1. Confidential information means any information which is available to en employee only because of the employee's status as an employee of this government and is not a matter of public knowledge or available to the public on request.
- 2. Conspicuously means written in such special or distinctive form, print or manner that a reasonable person against whom it is to operate ought to have noticed it.
- 3. Direct or indirect participation means involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity.

- 4. Financial interest means:
 - a. ownership of any interest or involvement in any relationship from which or as a result of which, a person within the past year has received or is presently or in the future entitled to receive compensation; or
 - b. holding a position in a business such as an officer, director, trustee, partner, employee or the like or holding any position of management.
- 5. Gratuity means a payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- 6. Immediate family means spouse, children, parents, brothers and sisters.

Part B - Standards of Conduct

Section 6-201 Policy.

Public employment is a public trust. In governmental contracting, public employees shall discharge their duties impartially so as to:

- (1) insure fair competitive access to governmental procurement by reasonable contractors; and
- (2) conduct themselves in a manner as to foster public confidence in the integrity of the government procurement process.

Section 6-202 <u>General Standards.</u>

- (1) Employees. Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of a public trust. In order to fulfill this ethical standard, employees must meet the requirements of these regulations.
- (2) Contractors. Any effort to influence any public employee to breach the standards of ethical conduct set forth in these regulations is also a breach of ethical standard.

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Section 6-203 Employee Disclosure Requirements.

- (1) Disclosure of benefit received from contract. Any employee who has, or obtains any benefit from, any government contract with a business in which the employee has a financial interest shall report such benefit to the Chief Procurement Officer.
- (2) Failure to disclose benefit received. Any employee who knows or should have known of such benefit and fails to report such benefit is in breach of these ethical standards.

Section 6-204 Employee Conflict of Interest.

- (1) Conflict of interest. It is a breach of ethical standards for any employee to participate directly or indirectly in a procurement when the employee knows that:
 - (a) the employee or any member of the employee's immediate family has a financial interest pertaining to the procurement; or
 - (b) any other person, business or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.
- (2) Discovery of actual or potential conflict of interest, disqualification and waiver. Upon discovery of an actual or potential conflict of interest, an employee shall promptly file with the Chief a written statement of disqualification and shall withdraw from further participation in the transaction involved. The employee may, at the same time, apply to the Public Auditor for an advisory opinion as to what further participation, if any, the employee may have in the transaction.

Section 6-205 Gratuities and Kickbacks.

(1) Gratuities. It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a

purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefor.

(2) *Kickbacks*. It shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontractor or order.

Section 6-206 Prohibition Against Contingent Fees.

- (1) Contingent fees. It shall be a breach of ethical standards for a person to retained, or to retain a person, to solicit or secure government contracts upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.
- (2) Representation of contractor. Every person, before being awarded a government contract, shall represent, in writing that such person has not retained anyone in violation of this section. Failure to do so constitutes a breach of ethical standards.

Section 6-207 Contract Clauses.

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The prohibitions against gratuities, kickbacks and against contingent fees shall be conspicuously set forth in every contract and solicitation therefor.

Section 6-208 <u>Restrictions on Employment of Present and Former</u> <u>Employees.</u>

(1) Present employees. It shall be a breach of ethical standards for any employee who is participating directly or indirectly in the procurement process to become or be, while such an employee, the employee of any person contracting with the governmental body by whom the employee is employed.

- (2) Restrictions on former employees in matters connected with their former duties.
 - (a) Permanent disqualification of former employee personally involved in a particular matter. It shall be a breach of ethical standards for any former employee knowingly to act as a principal, or as an agent for anyone other than the government, in connection with any:
 - (i) judicial or other proceeding, application, request for a ruling or other determination;
 - (ii) contract;
 - (iii) claim; or
 - (iv) charge or controversy,

in which the employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise while an employee, where the government is a party or has a direct or substantial interest.

- (3) Disqualification of business when an employee has a financial interest. It shall be a breach of ethical standards for a business in which an employee has a financial interest knowingly to act as a principal, or as an agent for anyone other than government, in connection with any:
 - (a) judicial or other proceeding, application, request for a ruling or other determination;
 - (b) contract;
 - (c) claim; or
 - (d) charge or controversy,

in which the employee either participates personally and substantially through decision, approval, disapproval recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of the employee's official responsibility, where the government is a party or has a direct and substantial interest.

Section 6-209 Use of Confidential Information.

It shall be a breach of ethical standards for any employee or former employee to knowingly use confidential information for actual or anticipated personal gain, or the actual or anticipated personal gain of any other person.

Section 6-210 Collusion by Bidders.

Collusion or secret agreements between bidders for the purpose of securing an advantage to the bidders against the authorizing agent in the awarding of contracts is prohibited. The official with the expenditure authority may declare the contract void if he finds sufficient evidence after a contract has been let that contract was obtained by a bidder or bidders by reason of collusive or secret agreement among the bidders to the disadvantage of the government.

Section 6-211 Civil and Administrative Remedies.

In addition to existing remedies provided by law, any person who violates any of the provisions of these regulations maybe subject to one or more of the following:

(1) Government employees. Government employee is any person whether appointed, elected, excepted service or civil service. An employee who violates the provisions of these rules and regulations is subject to adverse action as may be appropriate in his or her particular circumstances.

This action includes but is not limited to reprimand, suspension without pay, termination of employment, civil injunction, civil suit for damages or return of government money, or criminal prosecution.

- (2) Contractors. A contractor who violates a provision of these rules and regulations shall be subject to a written warning of reprimand, the termination of the contract or suspension from being a contractor or subcontractor under a government contract in addition to other penalties prescribed by law.
- (3) All proceedings under this section must be in accordance with due process requirements.

Section 6-212 Authority to Debar or Suspend.

- (1) Authority. After reasonable notice to the person involved and reasonable opportunity for the person to be heard under the Administrative Procedures Act, the Chief Procurement Officer after consultation with the official with expenditure authority and the Attorney General, shall have authority to debar a person for cause from consideration for award of contracts. The debarment shall not be for a period of more than three (3) years. The same officer, after consultation with the official with authority and the Attorney General, shall have authority to suspend a person from consideration for award of contracts if there is probable cause for debarment. The suspension shall not be for a period exceeding three (3) months.
- (2) Causes for debarment or suspension. The causes for debarment or suspension include the following:
 - (a) conviction for commission of a criminal offense is an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
 - conviction under Commonwealth or federal statutes (b) of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving property, violation of Consumer stolen the Protection Act (4 CMC §5101 et. seq.), violation of any unfair business practices as prescribed by 4 CMC \$5202, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects its responsibility as a government contractor;
 - (c) conviction under Commonwealth or federal antitrust statues arising out of the submission of bids or proposals such as in Chapter 2 of Division 5 of Title 4 of the Commonwealth Code;
 - (d) violation of contract provisions, as set forth below, of a character which is regarded by the Chief to be so serious as to justify debarment action:
 - (i) deliberate failure without good cause to perform in accordance with the specifications

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within the time limits provided in the contract; or

- (ii) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered a basis for debarment;
- (e) any other cause that the Chief determines to be so serious and compelling as to affect responsibility as a government contractor, including debarment by another governmental entity; and
- (f) for violation of any of the ethical standards set forth in Article 6.
- (3) Decision. The Chief shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken.
- (4) Notice of decision. A copy of the decision shall be mailed or otherwise furnished immediately to the debarred or suspended person.

Certified by: ELOY S. INOS

Director of Finance

DATE

Uni Concurred h LORENZO I. DELEON GUERRERO

Governor



Commonwealth of the Northern Mariana Islands Office of the Director of Public Works

Saipan, Mariana Islands 96950

Tel:(670) 322-9482/9570 Fax:(670) 322-3547

PUBLIC NOTICE

Rules and Regulations Governing the Administrative Procedure of the Building Safety Code Public Law 6-45

The Department of Public Works hereby gives Public Notice that it intends to adopt Rules and Regulations that will govern the administration, implementation and enforcement of the Building Safety Code of the Commonwealth of the Northern Mariana Islands, Public Law 6-45. Except, Section 7027 of the Rules and Regulations are not so adopted yet pending the Building Safety Code Review Board review and approval. The Rules and Regulations to be promulgated are authorized pursuant to Section 7153 of P.L. 6-45.

The Department of Public Works urges the public to submit written comments and recommendations regarding the proposed Regulations within thirty days (30) after the date of this publication in the Commonwealth Register to the following address:

> Department of Public Works Lower Base, Tanapag Saipan, MP 96950

Dated this 30th day of August, 1990.

Department of Public, Wor By: AN Director



Commonwealth of the Northern Mariana Islands Office of the Director of Public Works

Saipan, Mariana Islands 96950

NUTISIAN PUPBLIKU

Tel:(670) 322-9482/9570 Fax:(670) 322-3547

Areklamento yan Regulasion siha ni Gumubiebietna i Administrative Procedure put i Building Safety Code

Lai Pupbliku Numiru 6-45

I Depattamenton Public Works ginen este ha nana'i i pupbliku nutisia nu i entension-ña manadapta areklamento yan regulasion siha ni para u gubietna i administrasion yan i emplimentasion Building Safety Code na kodikon Commonwealth i Sangkattan siha na Islas Mariana, Lai Pupbliku Numiru 6-45. Fuera di Seksiona 7027 gi Areklamento yan Regulasion siha ni ti manma'adapta guine put i trabiha ti manma'i'ina yan/osino' u fanma'aprueba nu i Building Safety Code Review Board. I Areklamento yan Regulasion siha ni para u fanmaproponi ma'aotorisa sigon gi Seksiona 7153, gi Lai Pupbliku Numiru 6-45.

I Depattamenton Public Works ha sosoyo' i pupbliku na u fana'halom tinige' siha na komento yan rekomendasion put i manmapropoponi na regulasion gi halom trenta (30) dias despues di i fecha ni mapupblika este gi halom i Rehistran Commonwealth guato gi sigente na adres:

> Department of Public Works Lower Base, Tanapaga Saipan, MP 96950

Mafecha gi este i mina' 30 1 na dia gi Auguer 1990.

Nick C. Sablan Director Department of Public Works



Commonwealth of the Northern Mariana Islands Office of the Director of Public Works

Saipan, Mariana Islands 96950

Tel:(670) 322-9482/9570 Fax:(670) 322-3547

ARONGORONGOL TOWLAP

ALLEGH REEL MWÓGHÚTÚGHÚTÚL BUILDING SAFETY CODE ALLÉGHÚL TOWLAP

(PUBLIC LAW 6-45)

Dipatamentool Public Works, ekke arongaar towlap reel mángemángil bwe ebwe adapta allégh kka ebwe tepengi administration igha ebwe aghatchú me amwuri fischiiy Building Safety Code mellól Commonwealth of the Northern Mariana Islands, Public Law 6-45. Nge saabw section ye 7027 mellól allégh yeel igha resáál mwir sángiir mwo schóól Building Safety Code Review Board ngáre re aprebaay. Allégh kkaal nge ebwe tabweey aylééwal Section 7153 mellól Public Law No. 6-45.

Dpatamentool Public Works ekke tingór ngáliir towlap bwe rebwe ischiitiw meta tipeer me mángemángiir reel allégh kkaal, llól eliigh(30) rál sángi maram, rál me ráágh ye arongorong yeel e toowow mellól Commonwealth Register nge raa afanga ngáli address ye faal:

> Department of Public Works Lower Base, Tanapag Saipan, MP 96950

Ráálil ye <u>30 h</u> maram ye <u>Augus</u>, 1990.

Sángi:

NICK C. SABLAN Director Department of Public Works

"BUILDING SAFETY CODE"

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RULES AND REGULATIONS

Governing Administrative Procedures of the "BUILDING SAFETY CODE"

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

SECTION 7000. <u>Authority</u>. These Regulations are promulgated pursuant to the authority of the Building Safety Code, Public Law 6-45 ("Safety Code").

SECTION 7001. Existing Structures. The following specified provisions shall apply to existing buildings and structures:

(a) It shall be unlawful to make any change in the use or occupancy of any structure or building without the approval of the Building Safety Official and his certification that such new use of the structure or building is permitted under the Safety Code and these regulations and that such change does not result in a greater hazard to public safety or welfare. Such change in use must also comply with the requirements of the Zoning Code, Public Iaw 5-32.

- (b) If a building is increased in floor space or number of stories, the entire building or structure shall be made to conform to the requirements of the Safety Code and these Regulations.
- (c) Where alterations or repairs are made within any period of twelve (12) months which affects or includes in excess of fifty (50) percent of the existing floor space area, the entire structure or building shall be made to comply with the provisions of the Safety Code and these Regulations applicable to new buildings and structures. Exception; if the new construction is separated from the existing by fire walls of 2 houses or greater than existing construction does not have to comply.
- (d) Ordinary repairs to buildings or structures, of which repairs do not, within the twelve (12) months period, exceed Twenty-Five percent (25%) of the existing floor space area of the building or structure, may be made without application or notice to the Building Safety Official; provided, that the term ordinary repairs shall not include the removal or cutting of any structural member or support, or the removal or change of any required means of egress, or rearrangement of parts of a

structure affecting the existing requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or other work affecting public health, safety or welfare.

SECTION 7002. <u>Compliance Required</u>. No building or structure shall be constructed, extended, repaired or altered in violation of the provisions of the Safety Code and these Regulations, except for ordinary repairs as defined in Section 7001(d); and except further, that the raising or lowering or moving of a building or structure as a unit necessitated by a change in grade or the widening of a street shall be permitted; provided, that the building or structure is not otherwise altered or its use or occupancy changed.

SECTION 7003. <u>Administration and Enforcement</u>. The administration and enforcement of the provisions of the Safety Code and these Regulations shall be the responsibility and duty of the Building Safety Official.

SECTION 7004. <u>Cooperation from Public Agencies and Application to Public</u> <u>Buildings</u>. Officials of other Departments, Agencies or branches of Government in the Commonwealth of the Northern Marianas exercising any degree of control over construction, use or occupancy of buildings or appurtenances connected or attached thereto or equipment structures, thereof, under other applicable Laws of the Northern Mariana Islands shall cooperate and assist in the enforcement of the provisions of the Safety Code and these Regulations. Any employee of such Department or Agency empowered to review the design or make inspections of such structures shall promptly report to the head of his Department or Agency any violations of the provisions of the Safety Code and these Regulations Such Department or agency head shall promptly communicate the violation to the Building Safety Official. Furthermore, it is the expressed intent of Regulations the design and construction, alteration, these that modification, occupancy and use of all public buildings shall be in full compliance with the requirements of the Safety Code.

SECTION 7005. Purpose; Rules and Regulations.

(a) The provisions of the Regulations are designed to set forth the standards for protection of the public health, safety and welfare. The expressed approval of certain materials, methods, devices or equipment which will satisfy these same standard.

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a. T (b) In furtherance of the intent of Subsection (a) of this Section, the Building Safety Official may formulate and promulgate and may amend or repeal Regulations supplementary to and not inconsistent with the provisions of this and other applicable Federal and Commonwealth Laws. Said Regulations shall have the force and effect of Law and shall be concerned with the uses of alternate materials, methods, devices, equipment and test which are deemed acceptable for meeting the standards established by or pursuant to the Law; and with such other matters as the Building Safety Official, from time to time may deem necessary in order to effectuate the expressed purposes of this Law. It the intent of this Section that the standards of the is governmental agencies and recognized national technical organizations listed in Appendix A of these Regulations shall serve as a guide in prescribing Regulations promulgated pursuant to this Law.

SECTION 7006. <u>Discretion to Adapt to Circumstances</u>. The Building Safety Review Board on recommendation of the Building Safety Official, may vary or modify the application of any provision of the Safety Code or these Regulations consonant with their spirit and intent, upon application of the owner or his representative, in any of the following conditions: (a) When the proposed variation or modification will not affect the public health, safety or welfare, designed to be achieved, provided or protected by the provisions of the Safety Code or these Regulations.

SECTION 7007. New or Alternate Materials.

- (a) Any new or alternate materials, methods, devices or equipment which are not covered by the Safety Code and these regulations may be used by their proponent only when the proposed use has been expressly authorized in writing by the Building Safety Official.
- (b) The proponent shall file, in addition to his application for a Building Permit, a request for authorization to use the proposed new or alternate material, method, device or equipment, accompanied by proof in support of his claim regarding the consistency of the proposed use with the standards established by the Safety Code and these Regulations. Such proof shall consist of a complete report from an approved materials testing laboratory listed in the Appendix B to these Regulations on the performance characteristics of the subject matter to meet the proposed use as set forth in the Application for a Building Permit.

c) The Building Safety Official, within a reasonable time after submission but not to exceed ninety (90) days, of the request for authorization of the proposed use, shall approve or disapprove such use. Said approval or disapproval shall be in writing, and shall set forth the basis of said Building Safety Official decision. Any approval shall require the applicant to utilize such material, method, device or equipment in strict conformity with the terms of the approval.

SECTION 7008. <u>Prohibition</u>. It shall be unlawful to construct, enlarge, alter, remove or demolish, or change the occupancy of a building, public or private, from one use group to another, without first filing an application with the Building Safety Official in writing and obtaining the required permit therefore, except that ordinary repairs as defined in Section 7001(d) which do not involve any violation of the Safety Code and these Regulations shall be exempt from this provision.

SECTION 7009. <u>Application for Permit</u>. An Application for a permit shall be submitted in such form as the Building Safety Official may prescribe and shall be accompanied by the required fee as prescribed in these Regulations. SECTION 7010. <u>Application Procedure</u>. An Application for a Permit shall be made by the owner or lessee of the property, or agent of either, or by a CNMI licensed engineer or architect employed in connection with the proposed work. If the application is made by a person other than the legal owner it shall be accompanied by a duly verified affidavit of the owner that the applicant is authorized to make such application. The full names and addresses of the owner, lessee, applicant and, where the owner or lessee is a corporation, the responsible officers names shall be stated on the application.

SECTION 7011. <u>Contents</u>. An Application shall contain a general description of the proposed work, identify its location, the use and occupancy of all parts of the building or structure and of all portions of the site or lot not covered by the building, and such additional information as may be required by the Building Safety Official.

SECTION 7012. <u>Information Required</u>. An Application for a permit shall be accompanied by not less than two copies of the Specifications and of the Drawings drawn to scale, with sufficient clarity and dimensions, to show the nature and character of the work to be performed. When quality of materials is essential for compliance with the Safety Code, specific information shall be given to establish such quality; and in no case shall the Safety Code be cited or the term "Legal Specifications" or its equivalent be used as a substitute for specific information. The Building Safety Official may waive the requirement for filing drawings the work involved is of a minor nature. The Building Safety Official may prescribe a uniform format and size for Drawings and Specifications required with an Application for Permit.

SECTION 7013. <u>Site Plan</u>. There shall be filed a Site Plan showing the scale, size and location of all the new construction and all existing structures on the site, distance from lot lines and the established street grades; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the Site Plan shall show all construction to be demolished and the location and size of all existing buildings and constructions that are to remain on the site or plot. The Building Safety Official may waive the requirements of this Section when the work involved is of a minor nature.

SECTION 7014. Additional Details. The Building Safety Official shall require that adequate details of structural, mechanical and electrical work including computations, stress diagrams and other essential technical data to be filed. All engineering drawings and computations shall bear the signature of a CNMI Licensed Professional Engineer or Architect who shall be responsible for the work. SECTION 7015. <u>Examination and Review</u>. The Building Safety Official shall promptly examine or cause to be examined, each Application for a Building Permit and all Drawings, Specifications, information and materials filed in conjunction therewith, in order to ascertain whether the proposed work is in compliance with the requirements of the provisions of the Safety Code and these Regulations. Whenever the actual physical conditions of the proposed work, or the site thereof, are not apparent from the Application for a Building Permit and the materials filed in conjunction therewith, the Building Safety Official may require the submission of additional information or may examine or cause to be examined the site of the proposed work in order to determine such conditions.

SECTION 7016. Action on Applications.

(a) The Building Safety Official shall act upon each Application for a Building Permit without unreasonable or unnecessary delay. On finding conformity with all the requirements of these Regulations, the Safety Code, and other applicable Laws, the Building Safety Official shall, upon receipt of the required fee, issue the Permit to the applicant. (b) If an Application for a Permit or the Drawings and Specifications submitted therewith describe proposed work are not in conformity with all the requirements of Law, or do not contain sufficient information to enable the Building Safety Official to reach a decision, he shall not issue such a Permit, but shall return the Drawings and Specifications to the applicant, together with a written statement setting forth his or her refusal to issue such Permit, and reason therefore. The Building Safety Official, upon request of the applicant, shall make such refusal, containing the reasons therefore, in writing.

SECTION 7017. <u>Endorsement</u>. The Building Safety Official, upon the issuance of a Permit, shall endorse in writing or stamp on both sets of Drawings and Specifications "APPROVED FOR PERMIT #_____", and affix his or her signature to such endorsement.

SECTION 7018. <u>Approved Drawings, Revisions Prohibited</u>. Approved Drawings and Specifications shall not be revised, modified or altered in any manner affected by the provisions of the Safety Code or these Regulations without the expressed written authorization from the Building Safety Official, and all such work shall be done in accordance with approved Drawings and Specifications. SECTION 7019. <u>Disposition</u>. The Building Safety Official shall retain at least one set of approved and endorsed Drawings and Specifications with their attached data and return one endorsed set to the applicant. The applicant's set shall be kept at the work site, at all times, during which the authorized work is in progress, and shall be open for inspection at all reasonable times to the Building Safety Official or his authorized representative.

SECTION 7020. Permit.

- (a) The issuance of a Building Permit or approval of Drawings and Specifications shall not be construed to be a permit for, or approval of any violation of the provisions of the Safety Code, these Regulations, or other applicable Law, except in the case of an approved modification pursuant to Safety Code §7114. Any permit presuming to cancel such provisions or condone such violations shall be invalid and void in its entirety.
- (b) The issuance of a Building Permit after approval of Drawings, Specifications and attached data submitted therewith, shall not prevent the Building Safety Official from thereafter requiring corrections of any errors in said Drawings in writing,

Specifications and Data, nor from prohibiting building construction to be carried on thereunder until such correction(s) is/are made.

(c) Any Building Permit shall lapse and become invalid, if the work authorized by it is not commenced within six (6) months after its issuance; or if the work is suspended or abandoned for a period of six (6) months at any time after the work has been commenced. For cause, the Building Safety Official may allow an extension up to a maximum of six (6) months each. All such extensions shall be in writing and noted on the Building Permit and in the Building Permit records at the Building Safety Official Office.

SECTION 7021. <u>Special Permits</u>. The Building Safety Official may, at his discretion after the receipt of an Application for a Building Permit and pending issuance of such Permit, issue a Special Permit for the foundations or other substructures, without assurance that a Building Permit for the super structure will be granted. However,

the Special Permit shall be issued only after the Site Plan Foundation Plans including calculation has been reviewed and approved. Such activity as the applicant may undertake under said Special Permit must be in full compliance with the provisions of the Safety Code, these Regulations, and any other applicable Laws.

SECTION 7022. Inspection.

- (a) All construction or work in progress for which a permit is required shall be subject to inspection from time to time by the Building Safety Official, or his designated representatives(s). Certain types of constructions may require continuous or special inspections as determined by the Building Safety Official. Any person or persons interferring with the Building Safety Official or his authorized representative in the performance of such duties shall be liable to the penalties hereinafter provided.
- (b) Work requiring a Building Permit shall not begin until the permit holder or his agent shall have posted an Inspection Card, in a conspicuous place on the premises and in such a position as allow the Building Safety Official or his authorized to representative to make entries thereon regarding inspection of the work. The Card which shall be furnished by Building Safety Official shall be maintained in such the position by the permit holder until the work has been completed and a Certificate of Occupancy issued. The Card shall maintain a record of every inspection including the time, date and all violations of the provisions of the Building Safety Code, these Regulations, or of other applicable Laws, Rules and Regulations.

(c) Reinspections. A Reinspection Fee may be assessed for each inspection or reinspection when such work or portion of work for which an inspection is called is not complete or when corrections called for by the Building Safety Official or his designated representative(s) are not made or are inadequately made.

This Subsection is not to be interpreted as requiring Reinspection Fees the first time a job is rejected for failure to comply with the requirements of this Code, but as a means of discouraging the practice of calling for inspections before the job is ready for such inspection or reinspection.

Reinspection Fees may be assessed when the Permit Card is not properly posted on the work site, the approved Drawings are not readily available to the inspector, access is not provided on the date inspection is requested, or construction deviates from Drawings and/or Specifications approved by the Building Safety Official.

To obtain a Reinspection the applicant shall file an application therefore in writing upon a form furnished for that purpose, by the Building Safety Official and shall pay a Reinspection Fee if so accessed in accordance with Section 7022(c).

When Reinspection Fees are assessed, no reinspection of the work shall be performed until the required fees have been paid in full.

SECTION 7023. Tests as Proof of Compliance.

- (a) Whenever there is insufficient evidence that any material or any construction does not conform to the requirements of the Safety Code or these Regulations, or in order to substantiate claims for the use of alternate materials or methods of construction, the Building Safety Official may require tests, as proof of compliance, to be made at the expense of the owner or his agent by an approved agency or testing laboratory.
- (b) Tests shall be in accordance with generally recognized standard test procedures for the proposed use. In the absence of such standard test procedures, the Building Safety Official shall specify the test procedure.

(c) The Building Safety Official may require tests to be repeated, if at any time he has reason to believe that an approved or material or method no longer conforms to the requirements upon which the approval was based.

SECTION 7024. <u>Prefabricated Buildings</u>. Where the unit or component parts of a prefabricated building are not readily accessible to inspection, the Building Safety Official may accept a Certification from an approved testing agency that the building is identical with a specimen previously tested and approved by the agency.

SECTION 7025. Stoppage of Work for Non Compliance.

- (a) Upon notice from the Building Safety Official that work on any building or structure is being executed contrary to the provisions of the Safety Code, these Regulations, or other applicable Laws, or in an unsafe and dangerous manner, the Building Safety Official shall issue a Stopwork Order and such work shall be immediately stopped.
- (b) The stopwork order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person in charge of the work; and shall state the conditions under which work may be resumed;

(c) The Building Safety Official may require that work be stopped on oral notice, pending issuance of a written Order, in such instances where he deems immediate action is necessary for protection of public health, safety or welfare.

SECTION 7026. <u>Revocation Permit</u>. The Building Safety Official shall revoke a permit or approval issued under the provisions of this Law;

- (1) In case of any false statement or misrepresentation as to a material fact in any Application or Drawings or Specification in which the Permit was issued in error and conditions are such that a Permit should not have been issued.
- (2) In any case where a Building Permit owner refuses to comply with a Stop Order issued under the provisions of Section 7026 herein above.

SECTION 7027. Fees.

(a) Before a Building Permit is issued a Permit Fee, therefore, shall be paid to the Building Safety Official in accordance with the following schedule based upon valuation of the proposed work:

BUILDING PERMIT FEES

CONSTRUCTION COSTS	FEES
\$ 1.00 to \$ 500.00	\$10.00
\$ 501.00 to \$ 2,000.00	\$10.00 for the first \$500 plus \$2.00 for each additional \$100 or fraction thereof, to and including \$2,000.00.
\$ 2,001.00 to \$25,000.00	\$40.00 for the first \$2,000.00 plus \$8.00 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00.
\$ 25,001.00 to \$50,000.00	<pre>\$224.00 for the first \$25,000.00 plus \$6.00 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00.</pre>
\$50,001.00 to \$100,000.00	\$374.00 for the first \$100,000.00 plus

0.00 plus \$4.00 for each additional \$1,000.00 or fraction thereof, to and including \$500,000.00.

\$100,001.00 to \$500,000.00 \$479.50 for the first \$100,001.00 plus \$3.50 for each additional \$1,000.00 or fraction thereof, to and including \$100,001.00.

\$500,001.00 to \$1,000,000.00 \$2,174.00 for the first \$500,000.00 and \$3.00 for each additional \$1,000.00 or fraction thereof.

\$1,000,001.00 and up \$2,655.00 for the first \$1,000,001.00
plus \$2.00 for each additional \$1,000.00
or fraction thereof, to and including
\$1,000,001.00.

(b) Where work, for which a Permit is required by the Safety Code and these Regulations, is started or proceed with prior to obtaining said Permit, the fees as setforth above shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of the Safety Code and these Regulations in the execution of the work nor from the assessment of any other penalties prescribed herein.

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(c) Before Drawings and Specifications are accepted for reviewing, a Plan-Review Fee, in addition to the Building Permit Fee, shall be paid to the Building Safety Official. For a building or structure not classified as a single-family dwelling unit and whose construction costs is One Thousand Dollars (\$1,000.00) or more, the Plan-Review Fee shall be three/fourth (3/4) of the Building Permit Fee. For a single-family dwelling units whose valuation is over Two Thousand Dollars (\$2,000.00) and less than Fifty Thousand Dollars (\$50,000.00), the Plan-Review Fee shall be one/half (1/2) the Building Permit Fee. For single-family dwelling units whose valuation is \$50,000.00 and over, the Plan-Review Fee shall be three/fourth (3/4) the Building Permit fee.

SECTION 7028. <u>Cessation in Construction</u>. Whenever a cessation in construction of an approved building or structure exists of more than twelve (12) months, the Building Safety Official, by written Order served upon the Permit holder, may require the holder of the Permit to maintain the premises in such condition of reasonable health and safety as may be determined by the Building Safety Official as appropriate.

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SECTION 7029. <u>Certificate of Occupancy</u>. No building or structure hereafter erected shall be occupied or used, in whole or in part, until a Certificate of Occupancy has been issued by the Building Safety Official and posted on the premises certifying that such building conforms to the provisions of the Safety Code and these Regulations. The permit shall remain posted indefinitely in a conspicious place.

SECTION 7030. <u>Alterations</u>. No building or structure hereafter enlarged or extended, or so altered, wholly or in part, so as to change its classification or occupancy shall be occupied or used, in whole or in part, until a Certificate of Occupancy has been issued by the Building Safety Official certifying that the work for which the permit was issued has been completed in accordance with the provisions of the Safety Code and these Regulations; provided, that if the occupancy or use of such building was not discontinued during the work of alteration, the occupancy or use of said building or structure shall not continue for more than thirty (30) days after completion of the alteration unless such certificate shall have been issued.

SECTION 7031. <u>Content</u>. In addition to the certification as to compliance with the provisions of the Safety Code and these Regulations, the Certificate of Occupancy shall state the purposes for which the building may be used in its several parts, the maximum permissible live loads on floors, the number of individual persons that may be accommodated in any space, in case such number is limited by a provision of Law or by the Permit.

SECTION 7032. Changes.

- (a) No change of occupancy shall be made in a building or structure hereafter erected or altered inconsistent with the last issued Certificate of Occupancy, unless a new Certificate of Occupancy is issued. No change of occupancy of a building or structure, shall be made, unless the Building Safety Official finds, upon such building inspection, that or structure conforms substantially to the provisions of Safety Code with respect to the proposed new occupancy, and issues a Certificate of Occupancy thereof.
- (b) The occupancy of a building shall not be deemed to have been changed because of a temporary vacancy or change of ownership or tenancy. The re-establishment in a building, after a change of occupancy has been made, of a prior use that would not have been permitted in a new building of the same type of construction is prohibited. The change from a specifically prohibited use to another specifically prohibited use shall not be made.

SECTION 7033. <u>Application</u>. Any person desiring a Certificate of Occupancy as hereinabove required shall after completion of the work for which a Building Permit was issued, file with the Building Safety Official a signed Application therefore on a form furnished by the Building Safety Official stating, in writing, that the work has been completed in compliance with the terms of the Building Permit and the requirements of the Safety Code and these Regulations.

SECTION 7034. <u>Final Inspection</u>. The Building Safety Official, upon receipt of an Application for a Certificate of Occupancy, shall promptly inspect or cause to be inspected the construction, enlargement, alteration, repair, conversion, movement or improvement of the building, structure or appurtenances, or the installation of equipment for which a Building Permit was issued, in order to ascertain whether the proposed work has been completed in accordance with the requirements of the Building Permit and the provisions of the Code and of these Regulations.

SECTION 7035. Issuance or Denial.

(a) If after inspection as provided in Section 7035, it is found that the proposed work has been completed in accordance with the requirements of the Building Permit, and the provisions of the Safety Code and these Regulations, the Building Safety Official shall issue a Certificate of Occupancy. The Building Safety Official shall keep a permanent record of all Certificates of Occupancy issued.

- (b) If after inspection, as provided in Section 7035, it is found that the proposed work has not been completed in accordance with the Building Permit and the terms of the Safety Code and these Regulations, the Building Safety Official shall not issue an Occupancy Permit and shall order the work completed in compliance with the Building Permit, the Safety Code, and these Regulations.
- (c) The Building Safety Official may issue a Temporary Use Permit for any portion(s) of the premises which may be safely occupied prior to the issuance of a Certificate of Occupancy.

SECTION 7036. Unsafe Structures.

(a) All unsafe buildings and structures are hereby declared to be illegal, and shall be repaired, vacated or demolished, in accordance with the procedure established by these regulations.

(b) For the purpose of this Law, unsafe buildings are all buildings and structures and/or equipment thereof which are structurally unsafe, or which are unsanitary, or which are unfit for human habitation, or are not provided with adequate means of egress, or which constitute a fire hazard, and electrically unsafe, or are otherwise dangerous to public health, safety or welfare, which in relation to existing uses constitute a hazard to the safety of the public or occupants by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

SECTION 7037. <u>Examination</u>. The Building Safety Official shall examine or cause to be examined every unsafe or damaged building or structure. He shall make or cause to be made, a written record of such examination, which shall set forth a factual description of the premises and specifically enumerate the particular conditions which are alleged to be violations of the provisions of the Safety Code or these Regulations or otherwise render such buildings unsafe.

SECTION 7038. Report.

(a) The Building Safety Official, whenever he shall make a finding, as a result of the examination required in Section 7037 shall:

- (1) Notify in writing, by personal service or Certified Mail, return receipt requested, the owner, occupant, lessee, mortgagee, agent and other persons having an interest in said building as shown by official land records that the building or structure is unsafe, and that:
 - (a) The owner must vacate, or repair, or demolish said buildings or structure in accordance with the terms of the notice and of these Regulations.
 - (b) The occupant or lessee must vacate said building, or may have it repaired in accordance with the terms of the notice and of these Regulations.
 - (c) Said mortgagee, agent, or other persons having an interest in said building, may at his own risk, repair, vacate or demolish said building or have such work or act done.

Any person notified under this Subsection to repair, vacate or demolish any building shall be given such reasonable time, not exceeding thirty (30) days, as may be necessary to do, or have done, the work or act required by the notice as herein provided.

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Such Notice shall describe the building deemed unsafe, shall include a statement of the particulars which make it unsafe, and shall contain an order requiring the building to be put in such condition as to comply with the terms of these Regulations within a stated time, not exceeding thirty (30) days.

(2) Post, or cause to be posted in a conspicuous place at the principal point of entry to the building deemed unsafe, a notice reading as follows:

> "This building has been found to be a dangerous building by the Building Safety Official, Government of the Northern Mariana Islands. This Notice is to remain on the building until it is repaired, vacated, or demolished in accordance with the Notice which has been given to all parties having an interest in this building. It is unlawful to remove this Notice until such Notice is complied with."

(b) The Building Safety Official, or his designee, in the event of non-compliance with the Notice and Order hereinabove provided for in this Section shall:

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- (1) Notify in writing by personal service or Certified Mail, return receipt requested, the same parties as notified under Subsection (a) of this Section to appear before him on a specified date to show cause why the building deemed unsafe would not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the prior Notice. The Notice shall be given at least five (5) business days before hearing.
- (2) Hold a Hearing and hear such testimony as Building Safety Official employees, owner, occupant, lessee, mortgagee, or other interested parties shall offer relative to the unsafe building. Interested parties shall be given a full and fair opportunity, in person or through counsel, to present any facts relative to the proposed action. The testimony taken shall be under oath and taken stenographically or by machine, but the parties shall not be bound by strict rules of evidence.
- (3) Make written findings of fact from the testimony offered at said Hearing, and on the basis of such findings render a written decision as to whether the building is safe, or

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unsafe within the meaning of the Safety Code and these Regulations. The original copy of such findings and decisions shall be kept in the Department of Public Works. Other copies of the findings and decisions shall be sent to all parties served with Notice of the Hearing. Copies of the transcript made at the hearing shall be given to interested parties upon request and at their expense.

- (4) On finding that the building is unsafe, issue an order based on such findings of fact, commanding all parties served with Notice of the Hearing to repair, vacate or demolish such unsafe building; provided, that any person so notified, except the owner, shall have the privilege of vacating or repairing, and; provided further, that no person other than the owner shall be order to demolish said building.
- (c) In the case of non-compliance with the above order, and if judicial review of the order is not sought within thirty (30) days pursuant to the Administrative Procedures Act, the Building Safety Official shall cause such building to be repaired,

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vacated or demolished as the facts may warrant, in accordance with the standards for repair, vacating or demolition set forth in Subsection (d) of this Section. The cost of such repair, vacating or demolition shall be a lien against the land on which the building exists or existed, as the case may be, until recovered by the Commonwealth of the Northern Marianas.

- (d) The Building Safety Official in ordering repair, vacating or demolition of a building found unsafe, shall be governed by the following standards:
 - If an unsafe building can reasonable be repaired so that it will no longer exist in violation of the terms of these regulations, it shall be ordered to be repaired.
 - (2) If an unsafe building is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated.
 - (3) If an unsafe building is damaged or decayed, or deteriorated to the extent of fifty percent (50%) of its original value or structure, it shall be demolished. In

all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of these regulations, it shall be demolished. In all cases where the unsafe building is fire hazard existing or erected in violation of the Safety Code or these Regulations or unsafe within the meaning of the Safety Code and Regulations, it shall be demolished.

SECTION 7039. <u>Emergency Order to Vacate</u>. The Building Safety Official, whenever he determines that an unsafe building, structure, or portion thereof, constitutes an immediate danger to the occupants, shall order the buildings, structure, or portion thereof, to be vacated at once and not reoccupied until issuance of a new Certificate of Occupancy by the Building Safety Official.

SECTION 7040. Sign.

(a) The Building Safety Official, on the vacating of any building in accordance with the provisions of Section 7038 and 7039 of these Regulations, shall post or cause to be posted at each entrance to the building, a Sign stating: "This building is unsafe and its use or occupancy is prohibited by the Building Safety

Official. Any person entering this building without permission of the Building Safety Official shall be subject to fine "

- (b) Such Sign shall remain posted until the required repairs are made or demolition is completed.
- (c) Any person entering the building, except for the purpose of making the required repairs of effecting demolition, or any person removing any Sign posted by the Building Safety Official shall be liable to the penalties provided for in these Regulations.

SECTION 7041. Actual and Immediate Danger.

(a) In case there shall be, in the opinion of the Building Safety Official immediate danger of failure or collapse of a building or structure, or any part thereof so as to endanger life or property, he shall promptly cause such building or structure to be declared temporarily safe, or if necessary, to be demolished. In such cases the decision of the Building Safety Official shall be final and conclusive.

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- (b) The Building Safety Official, in exercising his powers and duties under this Section, may at once enter any unsafe building, or the land on which it stands, or abutting land or structure, with such assistance and at such cost as he deems necessary. He may vacate adjacent structures and protect the public by an appropriate fence or such other means as may be necessary, and for this purpose he may close a public or private way.
- (c) Costs incurred under this Section shall be paid by the Government of the Northern Mariana Islands on a Certified Voucher of the Building Safety Official. Such costs shall be a lien on the land on which the building exists or existed, as the case may be, until recovered by the Government of the Northern Mariana Islands.

SECTION 7042. Prohibition and Penalty.

(a) It shall be unlawful for any person to construct, alter, repair, remove, demolish, equip, use, occupy or maintain any building or structure or portion thereof in the Northern Mariana Islands contrary to any provision of the Safety Code or these Regulations.

- (b) Any person violating the provisions of the Safety Code or these Regulations shall be liable for a Civil Fine of not less than Ten Dollars (\$10.00) and not more than Five Hundred Dollars (\$500.00), per day provided that the Fine shall not exceed Ten Thousand Dollars \$10,000 or one percent (1%) of the total value of the project, whichever is greater. Such penalties may be imposed by the Building Safety Official in addition to any criminal penalties established by the Safety Code.
- (c) Such person shall be deemed guilty of a separate offense for each day during which violation of the provisions of the Safety Code or these Regulations continues.
- (d) Other Departments and Agencies of the Commonwealth of the Northern Mariana Islands shall cooperate and assist in the enforcement of the Safety Code and these Regulations. Any employees of such Department or Agency empowered to review the design or make inspections of such structures shall promptly report to the head of his Department or Agency any suspected violations of the provisions of the Safety Code or these regulations. Such Department or Agency head shall promptly communicate the suspected violation to the Director of Public

Works. Furthermore, it is the expressed intent of the Safety Code and these Regulations that the design and construction, alteration, modification, occupancy and use of all public buildings shall be in full compliance with the requirements of the Safety Code and Regulations.

m) Certified by: Building Safety Official

Building Safety Official Building Safety Division Department of Public Works

Fee schedule approved pursuant to Z CMC § 7132(1):

Chairman Building Safety Code Review Board Date

APPENDEX "A"

- a) UNIFORM BUILDING CODE (1988)
- b) UNIFORM PLUMBING CODE (1988)
- c) UNIFORM MECHANICAL CODE (1988)
- d) UNIFORM FIRE CODE (1988)
- e) NATIONAL ELECTRICAL CODE (1987)
- f) CABO ONE and TWO FAMILY DWELLING CODE (1986 EDITION)
- q) NFPA 101 "LIFE SAFETY CODE" (1988)
- h) ANSI 117.1 (1986) (HANDICAPPED ACCESSIBILITY STANDARDS)
- i) ASME/ANSI A17.1 (1987) (SAFETY CODE FOR ELEVATORS AND ESCALATORS)
- j) NFPA 13 (1989) (INSTALLATION OF FIRE SPRINKLER SYSTEMS)
- k) NFPA 72A (1987) (LOCAL FIRE ALARM SYSTEMS)

APPENDIX "B"

- a) UNDERWRITER LABORATORY
- b) FACTORY MUTUAL

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c) CALIFORNIA STATE FIRE MARSHAL

PUBLIC NOTICE

NOTICE OF ADOPTED REGULATIONS FOR FISH AND GAME

The Director of Natural Resources, pursuant to the authority vested in him by Public Law 2-51 codified at 2CMC subsection 5104 has published the amended regulations for fish and game in the Commonwealth Registrar, Volume 10, No. 4, dated April 15, 1988.

Notice is hereby given that the Director of Natural Resources adopted such regulations, as published, without change, effective September 15, 1990.

Those regulations are available for public inspection at the office of the Director of Natural Resources on Capitol Hill, Saipan or at the Division of Fish and Wildlife, Lower Base, Saipan.

Certified by

Nicolas M. Leon Guerrero Director, Department of Natural Resources Date:

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NUTISIAN PUPBLIKU

NUTISIA PUT I MANMA'ADAPTA NA REGULASION PUT PESKA SIHA

I Direktot i Depattamenton Natural Resources, sigon gi attoridat ni maprubeniyi nu i Lai Pupbliku Numiru 2-51 ni makodiku gi 2CMC Papa' seksiona 5104 ha pupblika i manma'amenda na regulasion put peska siha gi halom i Rehistran Commonwealth, Baluma 10, Numiru 4, gi Abrit 15, 1988 na fecha.

Nutisia manana'i ginen este na i Direktot Natural Resources ha adapta ayu siha na regulasion, taimanu ha' anai manmapupblika, sin hafa na tinilaika, ya para u fanefektibu gi Septembre 15, 1990.

Ayu siha na regulasion siña manmachuchule' para ininan pupbliku gi Ufisinan i Direktot Natural Resources giya Capital Hill, osino' gi Ufisinan i Division of Fish and Wiuldlife, Lower Base Saipan.

Masettefiku nu as:

Nicolas M. Leon Guerrero Director, Department of Natural Resources

Fecha:

ARONGORONGOL TOWLAP

ARONGONGORONG REEL FFÉÉRÚL ALLÉGHÚL LEESET ME ASCHEP

Direktoodul Natural Resources reel igha ebwe tabweey aylééwal me bwángil alléghúl towlap ye Public Law 2-51 igha e aléghéléghéló llól 2CMC tálil ye 5104 reel igha e alléghéló ngåre fféérúl mwóghútúghútúl leeset me aschep mellól Commonwealth Registrar, Volume 10, NO. 4, iye e fféér llól ráálil ye Abrit 15, 1988.

Towlap rebwe ghuleey bwe Direktoodul Natural Resources aa adaptaali allégh kkaal, igha schagh e toowow, nge esóór lliiwel mellól, iye ebwe bwélétá ngáre alléghéló wóól Septembre 15, 1990.

Allégh kkaal nge emmwel scagh bwe aramas towlap rebweló amwuri fischil mellól Bwulasiyool Direktoodul Natural Resources me Capitol Hill, Saipan ngáre Bwulasiyool Division of Fish and Wildlife, Lower Base Saipan.

Alléghúyal:

Lerrer

Nicolas M. Leon Guerrero Director, Department of Natural Resources

Ráálil ye:________90

PROPOSED AMENDMENTS RULES AND REGULATION DIVISION OF FISH AND WILDLIFE DEPARTMENT OF NATURAL RESOURCES

The Director of Natural Resources after consultation with the Chief of the Division of Fish and Wildlife proposes the following underlined amendments and notice of deletions to the rules and regulations for the Division of Fish and Wildlife.

The entire set of regulations have been renumbered to provide clarity. Therefore, Part 1 is now Part 10; Part 1, Section 1 is now noted Part 10.1.

PART 10 GENERAL PROVISIONS

1. SECTION 10.1 Authority

The Division of Fish and Wildlife of the Department of Natural Resources was created by Commonwealth Public Law No. 2-51 on October 19, 1981, to provide for the conservation of fish, game, and endangered species. Pursuant to 2 CMC <u>\$\$ 5104(b)(7), 5104(c), 5108, and</u> <u>5109</u>, the Director of the Department of Natural Resources is authorized to issue regulations necessary to carry out the purposes of P.L. 2-51.

- 2. SECTION <u>10.3</u> (a) "Act" means CNMI P.L. 2-51, "The Fish, Game, and Endangered Species Act", <u>2 CMC §5101</u>.
- 3. SECTION <u>10.3</u> (o) "Protected Wildlife" includes all species of resident and migratory birds and mammals not listed in <u>Section 10.2</u>. It is illegal to kill, capture or harass protected wildlife, their offspring, nests or eggs. Protected wildlife includes such groups as native forest birds, waterfowl, shorebirds, seabirds, and marine mammals (porpoises and whales).
- 4. SECTION 10.3 (s) "Subsistence Hunting" means the taking of wildlife to provide sustenance for the taker and his or her family when no other reasonable means of providing sustenance is available. <u>See Section</u> 30.5(b) for examples and clarification.

5. SECTION 10.5 Penalties

Violations of fish and wildlife regulations shall be penalized in accordance with P.L. 2-51, Section 10, 2 CMC § 5109.

6. SECTION 20.1(a) ii. In consideration of the privilege of fishing or hunting, regardless of whether a permit is required, any person engaged in fishing or hunting, or having in his or her possession fish or game taken in CNMI, shall upon request and upon being shown proper identification, permit a conservation officer to inspect any fish or game taken by or under control of the person and any tackle, weapon, device, substance, bait, boat, blind, weir, weir, net, trap, or other article used in such fishing or hunting.

7. Formerly, PART 2 SECTION 12 (a) (13). The following is deleted:

> "Green Turtle" Green Turtle (Haggan betde) - Chelonia Mydaa

8. SECTION 20.1 b. Application and Issuance of Licenses

Licenses for taking of fish and game listed in Sections 30 and 40 et seq. shall be issued by the Division or any of its agents upon written application in the form prescribed by the Division, and payment of a fee as hereinunder provided. Any false statement or information rendered shall invalidate the license issued and subject the individual making the false statement to punishment and penalty or both as prescribed in 2 CMC § 5109. A person who has resided in the Commonwealth for one (1) year or longer may apply as a resident; all others must apply as non-resident. A person need not apply for a license in order to possess game taken by another person, but a "Certificate of Origin" letter signed by a valid license holder must accompany the game animal or parts thereof at all times (see Section 30.1). a se e la felge

A person may not be issued a license if that person:

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 has been convicted of any violation of these regulations or any other law relating to the taking of any fish and game within the previous <u>one-year</u> period;

- has failed to provide the information required to issue a license or has made false statements in his application;
- 3. <u>has not returned Hunter Report Cards within</u> <u>the legal period during the preceding two (2)</u> <u>years; and/or</u>
- 4. has not furnished for inspection a valid CNMI identification card allowing him to possess firearms, if he is applying for a hunting license.
- 9. SECTION 20.1 (c) <u>Type of License</u> [Deleting Green Turtle]

Nonc	ommercial Re	sident	Non-Resident
1.	Marianas Fruit Bat	closed	closed
2.	Sambar Deer - Per Season	\$5.00	\$20.00
з.	Wild Goat and/or Pig	.5.00	20.00
4.	Doves (all 3 species)	.5.00	20.00
5.	Trochus	.5.00	20.00
6.	Land Crab	.5.00	20.00
7.	Coconut Crab	.5.00	20.00
8.	Net	.5.00	20.00
9.	All Species	20.00	100.00

	ercial
11.	Precious Corals\$100.00
12.	Reef Corals 15.00
13.	Net 25.00
14.	Fish Weirhighest bidder
	Scientific Research 10.00

10. SECTION 20.1 (d) Duration of License

A license shall be valid from 0000 hour of January 1, until 2400 hour of December 31, regardless of the date of its issuance. The license shall be valid to hunt the species during this period, including each part of any "split" seasons. The Chief may suspend, revoke, modify, or cancel any license or permit issued upon conviction in addition to any other penalty provided under the Act.

11. Part 2, SECTION 1 (d) deletes the following language:

"No person, upon the request of an officer, shall refuse to show his license or withhold permission to inspect his fish, game, bag, creel, container, hunting coat or jacket, or carrier or vechicle of any kind where fish or game might be concealed".

12. SECTION 20.1 (f) Display of License

A person to whom a license has been issued as provided in <u>Section 20.1(a)</u> may not permit any other person to carry, display, or use the license in any way. Every person to whom a license has been issued shall carry the license upon his person when hunting or fishing, and shall show the license upon demand of any officer authorized to enforce the Fish and Game laws of the CNMI.

13. SECTION 20.2 (b) Persons Requiring License

(1) A person conducting research on wild or feral animals in the CNMI or captive populations of such animals must have a scientific research license unless excepted by Section 20.2(b)(2)(A) and (B).

14. SECTION <u>30.1(c)</u> <u>License or "Certificate of Origin"</u> letter to be in Possession

A person must have a valid CNMI hunting license on his person while hunting. Any in possession of a game animal, mounted specimen, antlers, skin, meat or any part thereof must have, in lieu of a valid CNMI hunting license, a letter or statement (receipt, certificate of origin, etc.) signed by a valid CNMI license holder and stating: 1) species and sex of animal; 2) date killed; 3) hunting license number and date issued; 4) person to whom given; and 5) animal part and amount given.

SECTION 30.1(e) Legal Hunting Age

Only persons who may legally possess firearms, bows, or cross bows may hunt game with firearms, bows or cross bows. A valid gun registration number is required on the license of all hunters who intend to use firearms to take wildlife. Individuals 16 years of age or <u>under</u> may be issued hunting licenses for species that may be legally taken without the use of firearms or bows.

16. SECTION 30.1 (g) Prohibited Activities

The following activities are prohibited:

It is illegal to:

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(1) Hunt while under the influence of alcohol or a narcotic or other disabling drug.

17. SECTION 30.1(9) Harm, kill or possess any species of Protected Wildlife or any part thereof without a valid scientific collecting permit.

> (10) <u>Start a fire in a designated Wildlife Area</u> or Wildlife Sanctuary.

18. SECTION 30.2. <u>Hunting Seasons and Harvest Limits for</u> Game Animals

The species of wildlife listed in Table 1 are game animals in the CNMI and may be legally hunted during the hunting seasons specified by individuals in possession of a valid hunting license unless otherwise stated. Consult Table 1 for information on hunting seasons and harvest limits. Unprotected Wildlife may be taken year-round without a hunting license.

TABLE I

(Changing dates of many seasons)

	Bag <u>Limit</u>	Season Limit	<u>Season</u>
19. Deleting Sambar Deer (everywhere	but Rota)	
Sambar Deer (Rota) Wild Goat (Aguijan) Wild Goat (every where	1 10	1 50	9/1-11/30 9/1-11/30
& Pig but Aguijan) Philippine Turtle Dove	NO I	imit	Open
(Saipan/Aguijan) (Tinian/Rota)	5 15	20 50	4/15-5/31 4/15-5/31

Turtle Dove and Fruit Dove			
(Saipan/Aguijan)	10	. 20	10/1-11/30
(Tinian/Rota)	15	50	10/1-11/30
White Throated Ground Dove	3	9	10/1-11/30
Coconut Crab (every where but			
Saipan)	10	30	9/1-11/30
Coconut Crab (Saipan)	5	15	9/1-11/30
Land Crab	- No	Limit	4/1-6/30
			10/1-12/31

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- 20. Deleting Section 3(b)(4) "A coconut crab may not be possessed in any form other than alive or cooked".
- 21. Deleting entire Section 3(c) governing green sea turtle.
- 22. SECTION 30.4. Authorized Means of Taking Game Animals

 (a) Only firearms meeting current CNML caliber/gauge and registration requirements and cross bows and long bows of 40 pound draw or more may be used to harvest game animals except for live capture as otherwise provided herein for specific species.

23. SECTION 4(a) deletes the phrase"...with the exception of sea turtles, coconut crab and..."

24. SECTION 30.5(b)(2) deletes the words "in these regulations".

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25. SECTION 30.5 (b) (3) <u>Permanent residents of the northern</u> islands may legally offer game taken as subsistence to legitimate off-island guests during mealtime. Such game must be consumed by the guest on the premises and may not be transported off-island. Off-island residents may not legally take game in the northern islands except in accordance with normal season and license provisions.

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26. SECTION 30.6 (d) Special permits will be issued free of charge by the Chief for a specified period of time. A full report including the measures taken, personnel involved, and the number and kind or wildlife killed or captured must be submitted thirty (30) days following the expiration of the special hunting permit. Compliance with reporting requirements will be a significant consideration in the consideration of renewal or extension of special permits.

27. SECTION 30.7(a)

The Director, in accordance with the Chief, may acquire and designate land and/or aquatic habitats or easements as Wildlife Sanctuaries. Wildlife Sanctuaries are created to protect important wildlife populations and their habitat. It is illegal to take or attempt to take wildlife in designated sanctuaries.

28. SECTION 30.7 (b)

> The islands of Guguan, Uracas, Maug and Asuncion are designated as wildlife sanctuaries. Landing on these islands is prohibited without prior approval from the Chief except in the case of actual emergency. [The word "is" replaces the word "are".]

29. SECTION 30.10 (a) Random Selection of Hunters

> the first state of each strand strain the strain with a may t The Director or the Chief shall have the authority to limit the number of hunters by selecting among eligible hunters through a random selection method. The selection procedure shall use the following criteria: a total to the spectral state

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SECTION 3.11 Deletes the following phrase: "The 30. procedure limiting the number of hunters through a - H., random method shall reflect, but not limited to a consideration of the following:" A STATE

31.

Part 3, SECTION 12 NORTHERN ISLANDS deletes the following: "All vessels travelling to the Northern Islands from any port including Saipan, Tinian, Rota and Guam must notify the Division of Fish and Wildlife prior to their arrival. The Captain of the vessel; person in charge, or boat owner shall be responsible for compliance with this subsection. Upon return of the vessel from the Northern Islands to Saipan, Tinian, or Rota the Division of Fish and Wildlife must be immediately notified for purpose of inspection. If the vessel is transporting game taken from the Northern Islands, game may not be landed in Saipan, Tinian or Rota until the vessel has been inspected by the Division of Fish and Wildlife. Business hours of the Division are from 7:30 a.m. to 4:30 p.m., Monday through Friday. If the arrival of the vessel in Saipan, Tinian or Rota is expected to occur at a time other than normal

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business hours, the vessel must notify the Division of Fish and Wildlife by radio or otherwise during the Division's normal business hours to enable the Division to be adequately staffed for inspection. Failure to notify the Division shall constitute a violation of this subsection."

32. SECTION 30.12 replaces Part 3, Section 12.

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- All vessels travelling from any port to the (a) Northern Islands must:
 - Notify the Division of Fish and Wildlife i. . prior to sailing;
 - ii. Return to CNMI for inspection by the Division of Fish and Wildlife at a CNMI port;
 - iii. Notify Division of Fish and Wildlife upon docking if during normal business hours; otherwise all vessels will contact the Division by radio or other form of comu-
- nication before arrival to ensure inspection of the vessel upon arrival; and 网络拉拉马拉拉 网络 小熊们和白泽 開始的 "号,"了他不知。
 - iv. Be inspected for transportation of any fish, game, or wildlife. Yes externel set and a more th
- The captain, person in charge, or owner of the vessel shall be responsible for compliance with b. Section 30.12(a).
- C. Failure to comply with any requirements of Section 30.12(a) will be deemed a violation.
- Bag limits as promulgated in Section 30.2 d. shall be in effect for the Northern Islands.
- Season limits as promulgated in Section 30.2. e.
- shall be in effect. Taking or hunting of any animal on Uracas. f. Guguan, Asuncion and Maug is prohibited. <u>\$\$.30.7</u>.

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PART 40 FISHINC REGULATIONS

SECTION 40.1. General Regulations

a. Legal Fishing Time:

It shall be legal to fish during all hours of the day and during all days of the year.

b. Fishing License Required:

No license is required when taking fin fishes with rod and reel, line tackle or with spear.

c. Fishing Age:

Persons of all ages may fish.

SECTION 40.2. Use of Explosives, Chemicals, Poisons, and Electric Shocking Devices.

a. Prohibitions:

The use of explosives, chemicals, poisons, and electric shocking devices is prohibited in the taking of any fish or wildlife.

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- 1. No person shall place or cause to be
- placed, in any waters of the Common-
- wealth, explosives, poisons, chemicals,

substances with the intent to kill

Bishfighed game, marine or other aquatic life.

2. No person shall take any fish, game or other marine or aquatic life by means of explosives, poison, chemicals, electric shocking devices or other substances.

3. No person shall possess, sell, or purchase any fish, game, marine or other aquatic life taken by means prohibited in this section.

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Definitions: ь.

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- The terms "Poisons", "Chemicals", in-1. clude but are not limited to Hypochlorus Acid or any of its salts, including bleaches commonly sold under various trade names such as Clorox and Purex and bleaching powders, preparations containing Rotenone, Tephrosin, or plant materials from Baringtonia asiatica, Coculus ferrandianus, Hura drepitans, Piscidia erythrina, Derris spp., Tephorosia purpurea, and Wikstremia.
- The term "Electric Shocking Device" 2. means a device that either maims, stuns or kills fish or wildlife by Selfgenerating an electric current.
- 3. The term "Explosives" means the use of dynamite, hand grenade, gelignite or other substance capable of violent exact pansion of gases and the liberation of relatively large amounts of thermal a energy. Acting particular in the retions constanting Bother par Der Lister or

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SECTION 40.3.

Use of Nets for Fishing

Mesh Size a.

1.

The use of nets for fishing with a stretched mesh dimension of less than one and one-half (13) inches in linear measure is prohibited; Provided, however, that the traditional methods of catching fish by the use of such nets as talaya, chenchulu and lagua shall be exempted from this provision. License Required

b.

A license shall be required for fishing with the use of a net.

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Fishing nets covered by these regulations include but are not limited to the following: the weather the first a fairful the second

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33. SECTION 40.3 (d)

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Placed nets found in violation of (4) these provisions shall be confiscated by conservation officers and are subject to forfeiture pursuant to 2 CMC \$5109 (f) (3).

34. SECTION 40.3 (d)

		(5)	Any fish or marine plant taken by any dragnet or beach seine and not intended for consumption shall be returned to its proper natural habitat, if alive, or disposed of lawfully, if dead.
35.	Part 4,	SECTION	3 (d) (5) deletes the phrase "the water or removed from the beach and disposed
33.		1	of at the public dump so as not to create a public nusiance."
36.	Part 4,	SECTION	3(e) deletes the following: <u>Commerce in Nets</u> It shall be unlawful to sell import or
			possess with the intent to sell nets whose stretched mesh dimension is less than one and one-half (1½) inches in linear measure; Provided, that this provision shall not apply to the sale of talaya, chenchulu and lagua. Nets violating these provisions shall be
			removed from sales areas and disposed of outside the Commonwealth or in some other manner.
37.	SECTION	40.5.	Harvest of Trochus niloticus (Aliling
ng ng ng ng ng ng ng ng ng ng ng ng ng n		3: 19 ¹ 3:	tulompo This section is amended by adding the word "as" and deleting the word "open". a. <u>Harvesting</u>
Ύ́άά, .		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	No trochus may be taken except during season <u>as</u> declared by the Director. No trochus shall be taken whose shell is less than three (3) inches in dia- meter at the base.
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38. Part 4, SECTION 5(c) deletes the words "shall hereby be" and as outlined below and is amended to read as follows:

39. SECTION 40.5(c) License

Commercial harvesting, buying, or selling of <u>Trochus</u> is subject to licensing and reporting as follows:

40. SECTION 40.7(a)(2) is amended by adding the word "and":

Impose such conditions on the face of the license as are necessary so as not to: unjustly restrict the fishing of others; impact adversely on the survival needs of fishes; or, violate other provisions of these regulations; and

41. SECTION 40.8. Dredging or Dragging for Precious Corals

It shall be unlawful to dredge or drag for any species of precious coral in the waters of the Commonwealth without first obtaining a license from the Chief and authority to use the <u>submerged lands</u>. A fee of Five Hundred Dollars (\$500.00) shall be paid for each license. The license shall expire at the end of the calendar year regardless of when issued.

42. SECTION 40.9 (1) deletes the word "fishery" and is amended to read:

The purpose of this section is to provide for the conservation of <u>fishing resources</u>. <u>The</u> <u>Chief is authorized</u> to declare a moratorium on the issuance of additional commercial fishing licenses to conserve the resource.

Additionally 40.9(a)(ii) is renumbered to Section 40.9(a)(c).

43. SECTION 50.1 (a) Authority

In accordance with 2 CMC 55 5322(c) and 5324, P.L. 2-51 and P.L. 4-55, the Director of Natural Resources promulgates these regulations.

- 44. SECTION 50.1 (c) Only the animals listed in (b) of this section may be lawfully imported into the Commonwealth. It shall be unlawful to import any species of amphibian, reptile, bird, or mammal not on the list in (b) of this section. All animals presented for importing into the Northern Marianas that are not on this list shall be refused entry except as provided in Sections 50.1(b) and 50.2.
- 45. SECTION 50.1 (e) Licensed business establishments may apply to import animals not on the list in (b) of this section for the purpose of public display at the business establishment. Each such application must be approved by the <u>Chief of the</u> <u>Division of Fish and Wildlife</u> and by the <u>Chief of the Division of Animal Health and Industry. The Chiefs may prescribe conditions of the import and later maintenance of such animals. Bonds may not be imposed as conditions of entry. The animals may never be sold or resold but must be disposed of outside the Commonwealth. The animals must be available for inspection on the premises by Conservation Officers.</u>
- 46. SECTION 50.1 (f) The Division will accept applications for additions to the list of admissable animals in Section 50.1 (b).
- 47. SECTION 50.1 (f) (1)
 - (i) common and scientific name and native range of species;
- 48. SECTION 50.1 (f) (2) The Chief will, upon consultation with the Chief, Division of Animal Health and Industry, review the application and inform the applicant as to his findings within thirty (30) days after receipt of a complete application. If the application is approved, the Chief will furnish the Chief, Quarantine Division a revised list of admissible animals (b) within seven (7) days and submit to the legislature an amendment to the "Regulations for Fish and Game" reflect-ing the addition (s) within one (1) year.

49. SECTION 50.2 (b) The Division shall document all instances of illegal or accidental introduction; further, the Division shall take all efforts necessary to extirpate the introduced species. Persons responsible for introductions are liable for the cost of eradication including but not limited to personnel salaries, transportation, and equipment. The captain and owner of a vessel are responsible for all animals carried thereon.

50. All of Part 60 is new.

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Part 60

MISCELLANEOUS

SECTION 60.1 Severability

Should any section, paragraph, sentence, clause or application of any provision of these rules and regulations be declare invalid or unconstitutional by a court of competent jurisdiction, the remainder of these rules and regulations shall not be affected in any way against any person, instrumentality, and circumstance.

SECTION 60.2 Saving

The repeal of any Division of Fish and Wildlife Rules and regulations does not release or extinguish any penalty, forfeiture, or liability incurred or occurred under this law. The regulation shall be treated as remaining in full force and effect for the purpose of sustaining any proper action or prosecution for the enforcement or the right, penalty, sanction, or forfeiture.

PUBLIC NOTICE

ADOPTION OF LITTER CONTROL REGULATIONS LITTER CONTROL ACT OF 1989 - PUBLIC LAW 6-37

The Department of Public Health and Environmental Services of the Commonwealth of the Northern Mariana Islands hereby notifies the general public of its adoption of the Litter Control Regulations published in the Commonwealth Register on July 15, 1990 in Volume 12, No. 7.

These regulations implement the provisions of the law by defining agency responsibilities, enforcement procedures, prohibited acts, penalties, and jurisdiction.

Copies of these regulations are available at the office of the Department of Public Health and Environmental Services, Division of Environmental Quality (DEQ), Post Office Box 1304, Old Dr. Torres Hospital, As Terlaje Area, Saipan, MP 96950.

In accordance with 1 CMC Section 9105(b) these regulations shall take effect ten (10) days after publication of this notice.

Dated this 22nd day of August, 1990.

DR. JOSE L. CHONG Director Department of Public (Health and Environmental Services

NUTISIAN PUPBLIKU

MA'ADAPTAN I REGULASION PUT MINANEHAN BASULA LITTER CONTROL ACT OF 1989 - PUBLIC LAW 6-37

I Depattamenton Public Health and Environmental Services gi Commonwealth i Sangkattan siha na Islas Mariana ginen este ha nutitisia i pupbliku hinerat nu i inadaptan-ña nu i regulasion siha put minanehan basula ni mapupblika gi halom i Rehistran Commonwealth, Baluma 12, Numiru 7, gi Huliu 15, 1990.

Este siha na regulasion para u implimenta i probension siha gi lai entre i dinifinasion i responsabilidat i ahensia, i areklamento put ma'emplementan-ñiha, i manmaprohibi na akto, i mutta yan i attoridat siha ni mapribeni.

Kopian este siha na regulasion siña manmachuchule' gi ufisinan i Depattamenton i Public Health and Environmental Services, Division of Environmental Quality (DEQ), Post Office Box 1304, Old Dr. Torres Hospital, As Terlaje Area, Saipan, MP 96950.

Komo konsiste yan i 1 CMC Seksiona 9105(b), este siha na regulasion para u fanefektibu dies (10) dias despues di mapupblika-ña este na nutisia.

Mafecha gi este i mina'22ndna dia gi Agosto, 1990.

DR. JOSE L. CHONG, Director Department of Public Health and Environmental Services

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ADAPTAAL ALLEGHUL APEYIPEY LITTER CONTROL ACT OF 1989 - PUBLIC LAW 6-37

Dipattamentool Public Health me Environmental Services mellól Commonwealth of the Northern Mariana Islands, e mwuschál arongaar towlap igha aa adapta allégh reel Litter Control Regulations iwe e toowow llól Commonwealth Register wóól July 15, 1990 Volume 12, No. 7.

Allégh kkaal ngáre aweewe, nge ebwe ayoora bwángil allégh reel meta yaal bwulasiyo yeel angaang, mwóghútúghútúl rebwe pileey milikka ese fil, fefféée kka ese fil, mutta me atoridóódul.

Kkoopiyal allégh kkaal nge eyoor llól Bwulasiyool Public Health me Environmental Services, Division-il Environmental Quality (DEQ), Post Office Box 1304, fasúl Dr. Torres Hospital, As Terlaje Area, Saipan, MP 96950.

Reel ebwe ghol fengál me aylééwal 1 CMC Section 9105 (b) nge ebwe aléghéléghéló allégh kkaal seigh (10) rál sángi igha e toowow arongorong yeel.

Efféér ráálil ye 22nd August, 1990.

DR. JOSE L. CHONG Director Department of Public Health and Environmental Services

Section 1: <u>Short Title</u>. The Rules and Regulations shall be cited as the Commonwealth Litter Control Regulations of 1990.

Section 2: <u>Authority and Scope</u>. These regulations are promulgated by the Division of Environmental Quality (hereafter DEQ), within the Department of Public Health and Environmental Services, in accordance with Public Law 6-37, The Commonwealth Litter Control Act of 1989. These regulations shall have the force and effect of law, shall be binding on all persons and governmental entities subject to the jurisdiction of the Commonwealth Superior Court and shall apply to all Public and Private lands and waters of the Commonwealth of the Northern Mariana Islands (CNMI) unless otherwise provided for by law.

Section 3: <u>Purpose</u>. These regulations shall govern specific governmental agencies duty, responsibility, and powers to implement the Litter Control Act of 1989. The regulations define prohibited acts, enforcement procedures, penalties and jurisdiction.

Section 4: Definitions.

A) Act: means the Commonwealth Litter Control Act 1989.

B) <u>Apprehending Officer</u>: shall mean designated employees of the Marianas Visitors Bureau, Department of Natural Resources, Coastal Resources Management Office, Department of Public Health and Environmental Services, Department of Public Works, Department of Public Safety and the Mayor's Office.

C) <u>Litter</u>: shall mean garbage, trash, rubbish, refuse, carcasses, construction materials, debris, or any other disposable item of whatever nature.

D) <u>Littering</u>: shall mean throwing, dropping, placing, depositing, sweeping, discarding, abandoning, or otherwise disposing of any litter on land or water in other than appropriate litter containers or areas designated for such purpose.

E) <u>Person</u>: shall mean the Government of the United States or any agency or department thereof, or the Government of the Commonwealth of the Northern Mariana Islands (CNMI) or any agency or department of any Municipality thereof, any Public and Private institution, Public or Private corporation, association, partnership, or individual.

Section 5: Duties and Responsibilities.

A) <u>Education and Coordination</u>. The Division of Environmental Quality shall coordinate and implement educational programs to encourage anti-litter campaigns, design a CNMI anti-

litter symbol, post anti-litter signs and make litter containers available for parks, beaches, public lands and highways in coordination with the Department of Public Works.

B) <u>Collection and Disposal</u>. The Department of Public Works shall be responsible for the weekly collection and disposal of all garbage, refuse, litter, and etc., deposited in litter containers. Any garbage collected shall be disposed of at a designated public landfill site. The Department of Public Works may contract with a private firm in order to perform duties under this section. The Department of Public Safety shall be responsible for the collection and proper disposal of all dead animals found on public roads or highways consistent with this section.

C) <u>Enforcement Training</u>. The Department of Public Safety shall train all apprehending officers in those law enforcement skills necessary to enforce these Regulations and Act. Periodic law enforcement seminars shall be held to train new apprehending officers and to update information on laws and procedures.

Section 6: Prohibited Activities.

A) It is unlawful for any person to dump, throw, leave, or abandon any litter upon any public highway, street, alley, road, or any other public or private property unless permitted by law.

B) It is unlawful for any person to dump, deposit, throw, leave, or abandon any litter into any bay, channel harbor, reservoir, lagoon, lake, stream, coastal waters, or any other CNMI waters.

Section 7: Enforcement.

A) Any apprehending officer may cite any person for littering in his/her presence.

B) Any apprehending officer may cite any person for littering if he/she has reasonable belief that such person did litter.

C) Any reasonable belief may be based upon a written statement provided by a person who witnessed the littering or by physical evidence found at the littered area.

D) Any person apprehended for violation of these Regulations or the Act shall be served with a citation by the apprehending officer and ordered to appear at the traffic court, Commonwealth Superior Court for a hearing. Citations shall be filed with the Attorney General's Office and the Clerk of the Superior Court.

Parents or legal guardians shall assume financial responsibility for payment of any fines and removal of any litter assessed by the Superior Court for violations of these Regulations or the Act by any minors under their care or custody.

Section 8: <u>Penalties</u>. Any person found to have littered shall be fined not less than \$200.00 nor more than \$500.00. Any person charged with a first violation of these Regulations may post and forfeit bail in the amount of \$200.00 and avoid a court hearing. The court may order any person found to have littered to perform up to eight (8) hours of community service in addition to any fine imposed. All fines shall be paid to the Clerk of the Commonwealth Superior Court.

Section 9: <u>Jurisdiction</u>. The Commonwealth Superior Court shall have jurisdiction to hear cases brought under the authority of these Regulations and the Act. The Attorney General's Office shall be responsible for prosecuting any violators of the Act or Regulations.

Section 10: <u>Severability</u>. The sections of these Regulations are severable and if any section or part thereof shall be held invalid, unconstitutional or inapplicable to any person or circumstances such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining sections.

Section 11: <u>Effective Date</u>. These Regulations shall take effect ten (10) days after publication in the Commonwealth Register unless otherwise altered by law.

NOTICE OF THE ADOPTION OF THE AMENDMENTS TO THE MEMBER HOME LOAN PROGRAM REGULATIONS

The Board of Trustees of the Northern Mariana Islands Retirement Fund hereby notifies the general public that it has adopted the amendments to the Member Home Loan Regulations as published in Commonwealth Register, Volume 12, No. 3, on March 15, 1990.

Dated this <u>31,44</u> day of August, 1990.

MICHAEL A. WHITE CHAIRMAN, Board of Trustees, NMI Retirement Fund

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TOMAS' B. ALDAN ADMINISTRATOR, NMI Retirement Fund

NOTICIA POT I MA ADOPTA I AMENDASION I REGULASION YAN AREKLAMENTO

I Board of Trustees, NMI Retirement Fund man nanae noticia para i publico na ma adopta i tinilaika gi regulasion i Member Home Loan Program anai i ma publika gi Commonwealth Register, Volume 12, No. 3, gi Matso 15, 1990.

31 Augusto, 1990. Mafecha gi dia MICHAEL A. WHITE

CHAIRMAN, Board of Trustees, NMI Retirement Fund

TOMAS' B. ALDAN ADMINISTRATOR, NMI Retirement Fund

NORTHERN MARIANA ISLANDS RETIREMENT FUND ADOPTED AMENDMENTS TO THE MEMBER HOME LOAN PROGRAM REGULATIONS

PART I. AUTHORITY

1. <u>Authority</u>. Under and by virtue of the authority provided in 1 CMC 8316(f), and the Administrative Procedures Act, 1 CMC 9101, <u>et. seq.</u>, the Board of Trustees hereby promulgates these amendments to the Member Home Loan Regulations.

PART II. AMENDMENTS

Having been duly adopted by the Board of Trustees, NMI Retirement Fund, the Member Home Loan Regulations are hereby amended as follows:

1. Section 3.1(h) is deleted in its entirety and a new Section 3.1(h) is hereby adopted to read as follows:

3.1 (h) "Home improvement" means a <u>major physical</u> addition made to a principal home situated on improved real property, including renovations which, upon completion, will substantially add to the value and life of the property. <u>A</u> home improvement may be an added room, garage, or retaining wall, for example. It does not include remodeling maintenance, repairs, repainting, or replacement of furniture, fixtures, or appliances.

2. Section 3.1(j) is deleted in its entirety and a new Section 3.1(j) is hereby adopted to read:

(j) "Leasehold conversion loan" means a loan obtained for the purpose of and used solely for the borrower's purchase of the fee simple interest where the borrower's principal home is situated on leasehold land, whether or not the borrower has an existing first leasehold mortgage loan. [Source: 1 CMC 8354(a)(6).]

3. Section 3.1(k) is amended to read:

(k) "Lender" or "Participating lender" means a financial institution or an agency of the government which may by law make loans secured by first or second mortgages on real estate and which participates in the Member Home Loan Program under an agreement with the NMI Retirement Fund. Lender or participating lender includes the NMI Retirement Fund, if the Fund establishes a branch within its organization.

 Section 3.1(p) is amended to change the referenced subsection 3.1(k) to subsection 3.1(1). 5. Section 4.1(e) is amended to include the term without recourse, to read as follows:

(e) If the loan and the mortgage securing the loan comply with the regulations, the participating lender shall endorse the note and assign the mortgage and note to the Fund which shall purchase the same from the participating lender without recourse.

6. Section 4.3(a) is amended to read as follows:

(a) An active member holding a permanent position classified under the Civil Service System shall have had at least thirty-six (36) continuous months of contributing membership immediately before certification; and shall have at least 18 continuous immediate months of actual work in the member's position;

7. Section 4.3(b) is amended to read as follows:

(b) An active member holding a position not classified by the Civil Service System, or a position requiring the advice and consent of the Legislature, or an elective position, shall have had at least fifteen (15) years of total service and have been a contributing member of the Fund for at least five (5) years on the date of certification of eligibility; and shall have at least 18 continuous immediate months of actual work in the member's position;

- 8. Section 4.3(c) is amended to read as follows: (c) An active member on leave without pay or an active member whose appointment or employment is for a fixed date or limited term, or otherwise temporary in nature, shall not be eligible; provided that a member on authorized educational or child care leave where contributions are made for the member shall be excepted from this subsection;
- 9. Section 4.4(b) is amended to read as follows:

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(b) Full and timely satisfaction of the prior or outstanding loan without default or other credit related problems as reasonably determined by the Fund <u>and participating lender</u>.

- 10. Section 5.1(b) is amended to include the sentence The Board may establish a minimum lot size. at the end of the paragraph.
- 11. Section 5.3 is amended to insert a last sentence which reads: Such a list may include the appraisers approved for listing by FHA.

12. Section 6.2(i), second to the last sentence, is amended to change the monthly mortgage payment of the combined stable monthly income of applicant and the guarantor from "thirty percent (30%)" to forty percent (40%).

13. Sections 8.1(b) and (c) are amended to read as follows:

- (b) If the loan is secured by a first mortgage on leasehold property, the fixed rental term of the lease, prepaid or otherwise, shall extend at least two (2) years beyond the stated maturity date of the note, mortgage or other obligation it secures. [Source: 1 CMC 8354(a)(5)(i).].
- The term of any leasehold conversion loan shall not (C) exceed twenty (20) years.
- 14. Section 10.1(a) is amended to read as follows:

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- (a) No assumption shall be allowed of any loan. Section 10.2 is deleted in its entirety. \$ 5 15.
- 16. Sections 11.2(a), (b) and (c) are amended to read as follows:

The participating lender shall fully disburse the loan (a) proceeds within four (4) months after the date of certification, or within ten (10) months where new home construction is involved under this program, or within six (6) months where a home improvement is involved under this program or the Fund's approval shall lapse.

The participating lender shall deliver the loan file to the (b) Fund for approval to purchase within six (6) months after the date of certification, or within 14 months after the date of certification where new home construction is involved under this program, or within ten (10) months after the date of certification where a home improvement is involved under this program; 1.503

(c) The participating lender shall sell the loan to the Fund within one (1) month after the date of the letter of approval to purchase by the Fund;

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17. Section 13.1(a) is read as follows:

(a) The Board of Trustees shall set the interest rate for member home loan mortgages. Changes of the interest rate may be made from time to time as the Board deems proper, provided that public notice in a newspaper of general circulation of any such changes shall have been made prior to the effective date of the change. The rate may usually range from 1/2% to 2% below that charged by local banks.

18. Sections 13.2(b)(1) and (2) are amended read as follows:

(b) The lender may require the borrower to pay all reasonable fees and charges ordinarily charged to and paid by a borrower for a loan, except:

 For the <u>loan</u> origination fee, the lender may charge \$300 or <u>two</u> percent of the loan amount, whichever is greater;

and for interim construction financing that turns into permanent financing the lender may charge 2%.

(2) For the inspection fee, the lender may charge <u>\$40 per</u> inspection, but limited to four inspections for construction loans and two inspections for home improvement loans.

- 19. Part 15 is amended to read <u>SANCTIONS AND FORECLOSURE</u> and Part 16 is amended to read <u>RECONSIDERATION</u> OF LOAN <u>APPLICATION</u>.
- 20. Section 15.1(b)(2) is amended to read as follows:

15.1 (b) (2) If the Fund has already purchased the mortgage loan made to the applicant or borrower, such applicant or borrower shall not be eligible for another mortgage loan for 10 years, and the loan already purchased by the Fund shall immediately become due and payable in full, for which the Fund shall demand full payment thereof.

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(c) The request for review and reconsideration shall be in writing, and shall be filed with the Fund within thirty (30) days after receipt of the notice of disapproval, and shall contain a statement of the facts and include copies of all documents upon which the applicant or borrower relies in support of the request for review. <u>The Board may</u> <u>appoint a hearing officer from among its members</u> to conduct such a review.

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PART III. EFFECTIVE DATE

The effective date of these adopted amendments shall be pursuant to 1 CMC 9105(b).

na Tomas B. Aldan

Administrator NMI Retirement/Fund

Michael A. White Chairman, Board of Trustees NMI Retirement Fund

R Daté

Date



Department of Finance Office of the Director Commonwealth of the Northern Mariana Islands P.O. Box 234 CHRB

Saipan, MU 96950

Cable Address Cov. NMI Saipan Phone: 322-3245-3246 Facsimile: 322-4310

NOTICE OF EMERGENCY REGULATIONS AMENDING CERTAIN SECTIONS OF THE PROCUREMENT REGULATIONS RELATING TO EXPEDITED PURCHASING IN SPECIAL CIRCUMSTANCES

The Director of Finance finds pursuant to 1 CMC § 9104 (b) that the public interest requires the adoption before less than thirty days notice of regulations permitting expedited purchasing in special circumstances.

These amendatory regulations which will take effect immediately upon filing with the Registrar of Corporations pursuant to 1 CMC § 9105 (b) (2) will permit the Government to make purchases of goods or services with the approval of the Chief, Procurement and Supply Division, in an expedited manner under special circumstances where the government's urgent needs do not permit the conduct of normal bidding procedures.

These amendatory regulations are issued under the authority conferred by Article X, Section 8 of the CNMI Constitution, 1 CMC § 2553 (j), and 1 CMC § 2557.

Issued By ELOY S. INOS

Director of Finance

Concurred By nene LORENZO I. DE LEON GUERRERO Governor, CNMI

Recorded By:

SOLEDAD B. SASAMOTO Registrar of Corporations

Department of Finance



Office of the Director Commonwealth of the Northern Mariana Islands P.O. Box 234 CHRB Saipan, MP 96950

Cable Address Gov. NMI Saipan Phone: 322-3245-3246 Facsimile: 322-4310

NOTISIAN PUBLIKU

NOTISIA POT I <u>EMERGENCY</u> NA REGULASION NI PARA UAMENDA PALU SIHA NA SEKSIONA GI REGULASION YAN AREGLU POT ASUNTUN MAMAHAN KOSAS PAT MANRESIBE SETBISIO PARA I GOBIETNAMENTON <u>COMMONWEALTH</u> GI MANERA PARA U MASCHADEK I MAFAHAN I KOSAS O SINO UMARESIBE I SETBISIO NU I MAN ESPESIAT NA NISESEDAD PUBLIKU.

I DIREKTOT I DEPATATMENTON I FINANSIAT, SEGUN I ATORIDAD GI PAPA I CNMI CONSTITUTION, ATIKULO DIES, SEKSIONA OCHO, YAN GI PAPA I LAI 1 CMC SEKSIONA 2553(J), YAN 1 CMC SEKSIONA 2557, NA GAIGE GI ENTERES I PUBLIKU NA UMANAGUAHAYE AREGLAMENTO NA SINA I GOBIETNAMENTON MARIANAS MAMAHAN KOSAS OSINO MANRISIBE SETBISIO ACHOKA TI MALAGNGOS I NESESARIO YAN I GINAGAGAO NA NOTIFIKASION PARA AYO SIHA I MAN ENTERESAO NA INDIVIDUAT PAT BISNIS.

ESTE NA TINILAKAI GI REGULASION YAN AREGULU PARA U EFEKTIBU GI FECHA ANAI MA REHISTRA GI <u>REGISTRAR OF CORPORATIONS</u> SEGUN I LAI 1 CMC SEKSIONA 9105(B)(2) KOSA KE SINA HAPETMITI I GOBIETNAMENTON MARIANAS YAN I DEPATATMENTO YAN ATIVIDAT SIHA PARA UMAFAHAN I NESESARIO NA KOSAS OSINO SETBISIO YAN GIN INAPREBA NI I <u>CHIEF, PROCUREMENT AND SUPPLY DIVISION</u>. ESTE NA REGULASION YAN AREGLU PARA UMANASETBE GI AYO HA SIHA NAMANERA GI ANAI GUAHA ESPESIAT NA NESESIDAD I GOBIETNAMENTON I <u>CNMI</u>, YAN SENGUN GI EYO NA NESESIDAD, TI PINETMITE IN GOBIETNAMENTO NA U KONDUKTA I REGULAT NA ANUNSIO YAN NOTIFIKASION.

Ha Publicka: ELOY S. INOS

Direktot i Finansiat

Fecha

Ha Konfotma: LORENZO I. DE LEON GUERRERO Gobietno

Ha Rehistra: SOLEDAD B. SASAMOTO Registra of Corporations

EMERGENCY REGULATIONS AMENDING PROCUREMENT REGULATIONS

Section 1.

<u>Authority</u>. The Director, Department of Finance, pursuant to its powers, duties and authority under Art.X, Sec 8 CNMI Constitution and 1 CMC § 2553 (j), and 1 CMC § 2557 issues the following amendments to the Procurement Regulations published in Volume 7, No. 7 of the Commonwealth Register. These amendments will take effect immediately upon filing with the Registrar of Corporations pursuant to 1 CMC § 9105 (b) (2). The public interest requires that these emergency regulations take immediate effect to permit the government to acquire needed goods and services in an expedited manner under special circumstances where time does not permit the government to conduct formal bidding procedures.

Section 2. Purpose and Findings. The Director finds that there are special circumstances which arise from time to time in which the public interest requires the expedited purchase of goods or services by the Commonwealth outside of the normal procurement This expedited procedure will permit procedures. the rapid acquisition of a needed good or service where the Chief of Procurement and Supply determines that the special circumstances justify an expedited purchase. The expedited procurement shall be as competitive as possible under the circumstances.

Section 3.

Article 3, part A of the Procurement Regulations is hereby amended by adding a new Section 3-108 to read as follows:

> <u>"Section 3-108 Expedited Purchasing in Special</u> <u>Circumstances</u>

- (1) When special circumstances require the expedited procurement of goods or services, the official with expenditures authority may request that the Chief of Procurement approve expedited procurement without the solicitation of bids or proposals.
- (2) The factors to be considered by the Chief in approving or disapproving this request shall be:

- The urgency of the government's need (a) for the good or service;
- (b) The comparative costs of procuring the goods or service from a sole source or through the competitive process;
- The availability of the good or (C) service in the Commonwealth and the timeliness in acquiring it; and
- (d) Any other factors establishing that the expedited procurement is in the best interest of the Commonwealth government.
- (3) Upon the Chief's written determination that the factors in (2) above justify an expedited purchase, he shall process the necessary document(s) and assist the official with the expenditure authority in procuring the required good or service in the most efficient manner.
- (4) If the Chief determines that the request for expedited procurement did not meet the criteria in (2), above, he should promptly notify the official with the expenditure authority of his disapproval in writing.
- (5) The expedited procurement shall be as competitive as possible under the circumstances."
- (6) The total amount of good or service that may be approved under this section shall not exceed \$25,000.

Issued By: ELOY S. INOS

Concurred By: unec LORENZO I. DE LEON GUERRERO Covernor, CNMI

Director of Finance

Recorded By

SOLEDAD B. SASAMOTO Registrar of Corporations

Date