



VOLUME 32
NUMBER 09
SEPTEMBER 22, 2010

COMMONWEALTH REGISTER

To all subscribers and recipients of the Commonwealth Register:

This month begins a series of publication of Directives previously issued and not published.

Directives 270 thru 272 were issued this year, 2010.

The previous directives issued and not published begins with Directive dated 01/15/94 thru #035.

COMMONWEALTH REGISTER

VOLUME 32
NUMBER 09

SEPTEMBER 22, 2010

TABLE OF CONTENTS

EMERGENCY

Extension of Emergency, Volcanic of Anatahan Office of the Governor	030622
Public Notice of Emergency Regulations which are Amendments to the Rules and Regulations of the Public School System.....	030623

ADOPTION

Public Notice of Certification and Adoption of Regulations of the Commonwealth Board of Education	030635
---	--------

PROPOSED

Public Notice of Proposed Rules and Regulations Which are Establishment of Rules and Regulations of the Rota Municipal Scholarship Foundation	030638
Public Notice of Proposed Rules and Regulations To Implement Provisions of the Smoke-Free Air Act of 2008, P.L. 16-46, 6 CMC §§3171-3187 Department of Public Health.....	030657

EXECUTIVE ORDER

E.O. 2010-10 Declaration of a State of Disaster Emergency: CUC" Imminent Generation and Other Failure and the Need to Provide Immediate Reliable Power, Water and Wastewater Services Office of the Governor.....	030672
---	--------

LEGAL OPINION

AG Opinion 2010-11
Office of the Attorney General 030699

DIRECTIVE

Directive No. 270
Qualified Application Plan
Office of the Governor..... 030706

Directive No 271
Adoption of Updated Standard State Mitigation Plan for the
Commonwealth of the Northern Mariana Islands
Office of the Governor..... 030745

Directive No. 272
Implementation Action to Effect a Reduction-in-Force
Office of the Governor 030749

Directives dated 01/15/94 thru #035

Directive dated Jan. 15, 1994 Directive on Telephone Etiquette
Office of the Governor..... 030752

Directive No. 002 Customs Inspection of Incoming Containers
Office of the Governor..... 030754

Directive No. 003 Administrative Leave Policy
Office of the Governor..... 030755

Directive No. 004 Hiring Freeze
Office of the Governor..... 030756

Directive No. 005 Official Correspondence
Office of the Governor..... 030757

Directive No. 006 Computation Required on Travel Vouchers
Office of the Governor..... 030758

Directive No. 007 Use of Government Vehicles
Office of the Governor..... 030759

Directive No. 008 Designated Parking, Administration Building
Office of the Governor..... 030761

Directive No. 009 Treatment of Civil Service Employees
Office of the Governor..... 030762

Directive No. 010 Sexual Harrassment
Office of the Governor..... 030763

Directive No. 011 Use of Government Lease Vehicles
Office of the Governor..... 030764

Directive No. 012 Computation required on Travel Documents Office of the Governor	030765
Directive No. 013 Public Law 8-41, The Open Government Act of 1992 Office of the Governor	030766
Directive No. 014 Compliance with the Open Government Act Office of the Governor	030767
Directive No. 015 Legislative Budget Hearings Office of the Governor	030768
Directive No. 016 Lowering of American Flags to Half-mast Office of the Governor	030769
Directive No. 016 Executive Order 94-2 – Re-organization Office of the Governor	030770
Directive No. 017 Executive Order 94-2, Section 214(c) Office of the Governor	030771
Directive No. 018 Executive Order 94-2, Section 214 Office of the Governor	030772
Directive No. 019 Executive Order 94-2; Division of Environmental Quality Office of the Governor	030773
Directive No. 020 Executive Order 94-2 Office of the Governor	030774
Directive No. 021 Executive Order 94-2; Land Commission Office of the Governor	030781
Directive No. 022 Executive Order 94-2; Outside Contractors Office of the Governor	030782
Directive No. 023 Executive Order 94-2; Division of Intergovernmental Relations Office of the Governor	030783
Directive No. 024 Executive Order 94-2; Corporate Charters Office of the Governor	030784
Directive No. 025 Executive Order 94-2; Division of Intergovernmental Relations Office of the Governor	030785
Directive No. 026 Executive Order No. 94-2 Office of the Governor	030786
Directive No. 027 Executive Order No. 94-2 Office of the Governor	030787
Directive No. 028 Executive Order No. 94-2 Office of the Governor	030788

Directive No. 029 Executive Order No. 94-2 Office of the Governor	030789
Directive No. 030 Executive Order No. 94-2 Office of the Governor	030790
Directive No. 031 Executive Order No. 94-2 Office of the Governor	030791
Directive No. 032 Executive Order No. 94-2 Office of the Governor	030792
Directive No. 033 Executive Order No 94-2, Section 206 Office of the Governor	030793
Directive No. 034 Executive Order 94-2, Section 307(a) Office of the Governor	030794
Directive No. 035 Executive Order No. 94-2 Office of the Governor	030795



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Eloy S. Inos
Lt. Governor

EXTENSION OF EMERGENCY Volcanic of Anatahan

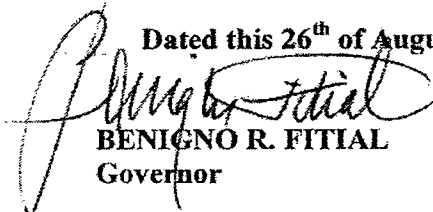
WHEREAS, On May 13, 2003, a Declaration of Emergency was issued with respect to volcanic activity on the island of Anatahan; and

WHEREAS, said Declaration declared the island of Anatahan as unsafe for human habitation and restricted all travel to said island with the exception of scientific expeditions; and

NOW, THEREFORE, I, BENIGNO R. FITIAL, by the authority vested in me as Governor, and pursuant to Article III, Section 10 of the Commonwealth Constitution and 3 CMC §5121, and in accordance with the Emergency Management Office, Commonwealth of the Northern Mariana Islands and US Geological Survey, do hereby extend a state of disaster emergency in the Commonwealth with the respect of the island of Anatahan under the same terms and conditions as are contained in the original Declaration.

This Extension of Emergency shall remain in effect for thirty (30) days, unless the Governor shall, prior to the end of the 30-day period, notify the Presiding Officers of the Legislature that the state of emergency has been revoked or further extended for a like term, and giving reasons for extending the emergency.

Dated this 26th of August 2010.


BENIGNO R. FITIAL
Governor

Cc: Lt. Governor (Fax: 664-2311)
Senate President (Fax: 664-8803)
House Speaker (Fax: 664-8900)
Mayor of the Northern Islands (Fax: 664-2710)
Executive Assistant for Carolinian Affairs (Fax: 235-5088)
Attorney General (Fax: 664-2349)
Secretary Of Finance (Fax: 664-1115)
Commissioner of Public Safety (Fax: 664-9027)
Special Assistant for Management and Budget (Fax: 664-2272)
Special Assistant for Programs and Legislative Review (Fax: 664-2313)
Press Secretary (Fax: 664-2290)
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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



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PUBLIC SCHOOL SYSTEM
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SAIPAN, MP 96950

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Marylou S. Ada
Vice-Chairperson

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Non Public School Rep.

Student Representative

Teacher Representative

Commissioner of Education
Rita A. Sablan, Ed.D.
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PUBLIC NOTICE OF EMERGENCY REGULATIONS
WHICH ARE AMENDMENTS TO THE RULES & REGULATIONS
OF THE PUBLIC SCHOOL SYSTEM

EMERGENCY ADOPTION AND IMMEDIATE EFFECT: The
Commonwealth of the Northern Mariana Islands Public School System ("PSS")
finds that:

- (1) The attached rules and regulations 60-20-720 Accounting and Reporting:
Travel Outside the CNMI; and 60-20-721 Accounting and Reporting: Travel within
the CNMI, shall be adopted immediately on an emergency basis because the public
interest so requires, for the reasons stated below (1 CMC § 9104(b), (c); 1 CMC §
9105(b)(2)); and
(2) The same rules and regulations shall be adopted, after a proper notice and
comment period, as permanent regulations pursuant to the attached Notice of
Proposed Rules and Regulations and the Administrative Procedure Act, 1 CMC §
9104(a).

AUTHORITY: The proposed amendments to PSS regulations are promulgated
pursuant to the Board's authority as provided by Article XV of the CNMI
Constitution, Public Law 6-10 and the CNMI Administrative Procedures Act.

The Administrative Procedure Act provides that an agency may adopt an
emergency regulation upon fewer than 30 days' notice if it states its reasons in
writing.

(b) If an agency finds that the public interest so requires, or that an
imminent peril to the public health, safety, or welfare requires adoption of a
regulations upon fewer than 30 days' notice, and states in writing its reasons
for that finding, it may, with the concurrence of the Governor, proceed
without prior notice or hearing or upon any abbreviated notice and hearing
that it finds practicable, to adopt an emergency regulation. The regulations
may be effective for a period of not longer than 120 days, but the adoption

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of an identical regulation under subsections (a)(1) and (a)(2) of this section is not precluded.

(c) No regulation adopted is valid unless adopted in substantial compliance with this section.....

1 CMC § 9104(b), (c).

THE TERMS AND SUBSTANCE: The purpose of these regulations is to provide procedural guidelines for official PSS travel.

THE SUBJECTS AND ISSUES INVOLVED: Regulation 60-20-720 sets forth the regulations and procedures required for travel outside the CNMI and 60-20-721 sets forth the regulations and procedures for travel within the CNMI.

ADOPTION OF EMERGENCY REGULATIONS FOR 120 DAYS: The Board of Education has followed the procedures of 1 CMC § 9104(b) to adopt these Proposed Regulations on an emergency basis for 120 days.

REASON FOR EMERGENCY ADOPTION: The Board of Education finds that the public interest requires adoption of these regulations on an emergency basis because this amendment to the travel regulations will serve to eliminate Audit Findings of the external auditor for fiscal years: 2005, 2006, 2007, 2008 and 2009. In order to reflect in upcoming audits that PSS is striving for compliance, this regulation must be in effect by the start of fiscal year 2011.

In addition this regulation will serve to eliminate excessive paperwork for inter-island travel. Accountability for travel expenditures is maintained in the implementation of these regulations. Furthermore, because of the frequency with which PSS personnel need to travel to all schools with the CNMI Public School System, it is imperative that current regulations be repealed and replaced with the above mentioned regulations to account for and streamline the process of commuting to schools within the CNMI.

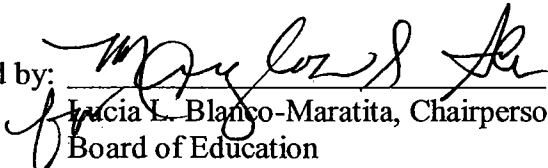
DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Rules and Regulations shall be published in the Commonwealth Register in the section/s on emergency and proposed regulations (*see* 1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district. (1 CMC § 9104(a)(1))

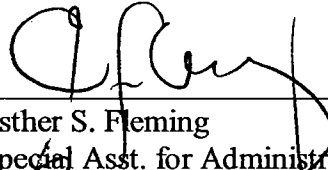
The Board of Education shall take appropriate measures to make these Rules and Regulations known to the persons who may be affected by them (1 CMC § 9105(b)(2)).

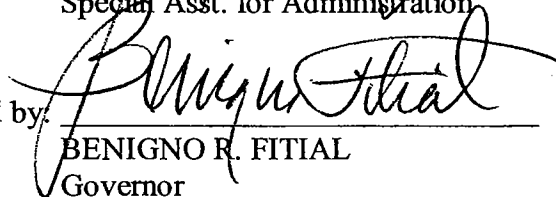
IMMEDIATE EFFECT: These emergency rules and regulations become effective immediately upon filing with the Commonwealth Register and delivery to the Governor. (1 CMC § 9105(b)(2))


TO PROVIDE COMMENTS: No comments are required for these emergency rules and regulations. However, the related Notice of Proposed Rules and Regulations will specify comment procedures.

This emergency regulation was approved first by the Fiscal, Personnel & Administration Committee Meeting on September 7, 2010 and then by the full Board of Education at a Special Board of Education Meeting on September 10, 2010.

Submitted by:  Sept 16, 2010
Lucia L. Blanco-Maratita, Chairperson
Board of Education
Date

Received by:  9/20/10
Esther S. Fleming
Special Asst. for Administration
Date


Concurred by:  9/20/10
BENIGNO R. FITIAL
Governor
Date

Filed and Recorded by:  9.20.10
ESTHER M. SAN NICOLAS
Commonwealth Register
Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed regulations

attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the 22 day of September, 2010.



EDWARD T. BUCKINGHAM
Attorney General

**NORTHERN MARIANA ISLAND ADMINISTRATIVE CODE
TITLE 60
BOARD OF EDUCATION**

**Regulation Title: Northern Mariana Islands Administrative Code
Chapter 60-20 Public School System Rules and Regulations**

Subchapter § 60-20-720 is repealed in its entirety and replaced by with the following emergency regulations: § 60-20-720 Accounting and Reporting: Travel Outside the CNMI and § 60-20-721 Accounting and Reporting: Travel Within the CNMI.

§ 60-20-720

Accounting and Reporting: Travel Outside the CNMI

(a) Applicability

This section applies to official travel outside the CNMI performed in the interest of the Public School System by Public School System employees and the Board of Education. Other individuals covered by this section include, but are not limited to, consultants, employees eligible for repatriation and individuals, such as students and parent chaperones, and advisory council members who are traveling on official business for the Public School System. This section shall not apply to travel for repatriation or other travels for which additional regulations may be established and approved by the Board of Education.

(b) General Rules

Only official travels that are considered necessary to accomplish a specified purpose shall be authorized.

(c) Travel Authorizations (TA)

(1) All official travel shall be authorized with an approved travel authorization (TA). Situations requiring emergency official travel shall be permitted upon approval of a written justification.

(2) Trip-by-trip authorization shall be issued to allow an individual to perform official travel. This authorization shall include:

- (i) Specific purpose
- (ii) Itinerary (schedule of departure, arrival and destination)
- (iii) Estimated cost.

(3) All travel outside of the CNMI by PSS employees, students, parents and appropriate consultants and guests shall be requested by the principal or program manager through the Commissioner and authorized by the Chairperson of the Board or his designee as the approving officer.

(4) All travel outside of the CNMI by the Commissioner, BOE key staff, and BOE members other than the Chairperson of the Board of Education shall be signed by the traveler as requester and the Chairperson of the Board or his designee as the approving officer.

(5) All travels outside of the CNMI by the Chairperson of the Board shall be requested by the Chairperson of the Board and approved by the Vice-chairperson of the Board of Education.

(6) The following information must be attached to the TA before being presented to the Chairperson of the Board and to the Commissioner as appropriate:

(i) Justification memorandum for the travel

(ii) Document of invitation and/or agenda

(iii) Specific purpose

(iv) Itinerary (schedule or departure, arrival and destinations)

(v) Estimated cost.

(7) Out of CNMI travel requests shall be submitted to the Commissioner or the Chairperson of the Board of Education, as appropriate, no later than 10 working days prior to commencement of travel, except for extenuating circumstances.

(8) Instructions for travelers shall be attached to all approved travel authorizations notifying travelers of their responsibilities in accounting for all procurement documents such as unused tickets, coupons, receipts, and other documents that will be required for completion of vouchers or for accounting for travel cancellations.

(9) TAs shall not be issued if there is an outstanding voucher or if an outstanding expense by the traveler has not been verified. Exceptions to this rule may be made at the discretion of the Commissioner or the Chairperson of the Board, as appropriate.

(10) TAs may be amended only upon approval by the requesting and approving officials. A justification memorandum for the amendment must be attached. Any diversion from what was specified on the approved TA must be presented as an amended TA and shall be approved by the appropriate requesting and approving officials. Amendments to TAs must be in the interest of the Public School System.

(d) Travel Expenses

Expenses anticipated in the fulfillment of an official travel may include the following:

(1) Transportation: PSS will authorize the mode of transportation which will result in the greatest advantage to the PSS considering factors such as per diem, overtime, lost work-time, transportation costs, distance of travel, number of travelers, and stopovers. Travel by common carrier, which is most efficient and economical to the PSS, shall be selected unless this will impose undue hardship upon the traveler or would seriously interfere with the performance of business by the traveler.

(2) Individual travel: Payment for ground transportation will be \$30 per day per individual. No receipts are necessary as this is a per diem travel expense. In certain circumstances the traveler

may find it more convenient to rent a car. The rate for the car should not be higher than the federal rates for the economy car. Please check with the travel section of PSS for the allowable rate for the rental car. (Rates will vary by city.) The traveler will be paid the difference between the car rental cost and the ground transportation per diem. The traveler will be expected to pay the car rental agency. Receipts for the car rental are necessary for reimbursement. PSS will not pay car rental agencies directly.

(3) Group travel: Payment for transportation expenses for group travel will be handled in a different manner. Ground transportation of \$30 per diem will not be issued to any traveler. One person in the group shall receive an advance to pay for the cost of the van. No other person will receive any funds for transportation expenses. The person who receives the cash for the rental of the van must rent the van or be liable for the reimbursement of the funds to PSS. Receipts must be submitted to PSS to certify the rental. Actual cost of the van rental is allowable. The difference between the funds advanced and the actual cost will be reconciled immediately upon submission of the travel voucher to the mutual benefit of the traveler and PSS.

(4) Termination of travel due to illness may be authorized prior to completion of temporary duty assignment. Termination of travel as a result of the travelers own misconduct shall be at the expense of the traveler.

(5) Travel routes other than what was authorized shall be allowed if it can be established as necessary and will not incur additional expense to the PSS and if the trip is related to official business to be performed by the traveler.

(6) Insurance for collision damage and liability shall be paid by PSS for official travel requiring the use of a vehicle and as authorized in the TA. Travelers are required to obtain collision damage and liability insurance when renting or otherwise obtaining a vehicle. Damages to rented vehicles may be paid up to the deductible amount shown in the rental contract if it can be proven that the damage occurred while the vehicle was used for official business only. Personal accident insurance is reimbursable.

(7) Expenses incurred due to cancellation of flights by the airline shall be the responsibility of the airline. Lodging and meal expenses incurred as a result of flight cancellation shall be the responsibility of the airline. It is the responsibility of the traveler to ensure that the airline covers these costs.

(8) Voluntary cancellation of reservation on the part of the employee shall be at the expense of the employee and not the PSS. Employees on official travel status shall not voluntarily cancel their reservations if it will interfere with performance of official duties. Employees who voluntarily delay their travel while on official duty en-route to home destination shall be charged annual leave for additional hours or days that they miss as a result of voluntary postponement of travel, if approved in advance per the annual leave regulations. Those employees who voluntarily delay their travel while on official duty en-route to home destination without prior approval will be charged absence without leave (AWOL) and may be otherwise disciplined, including losing future travel privileges.

(9) Miscellaneous expenses such as excess baggage, communication costs, gasoline, baggage transfer and others that are incidental to performance of official business shall be reimbursed only when authorized and when accompanied by explanation for each expense item.

(10) Per diem rates shall be established by the Board of Education in accordance with board policy and CNMI law. Per diem rates shall be the standard form of travel reimbursement for PSS travelers unless otherwise requested and authorized. It is assumed that the per diem rate will cover all expenses other than airplane transportation and ground transportation.

(11) Actual subsistence rates may be requested, if appropriate for the nature of business to be conducted, and must be authorized by the Commissioner or Chairperson of the Board. Appropriate circumstances may include conferences held in hotels where the per diem rate would not be sufficient to cover travelers expenses. To determine the actual subsistence rate, reasonable cost of lodging for the number of days authorized plus the amount established by the Board for meals per day. Cost of ground transportation related to official business activity may be reimbursed in addition to the set amount per day for meals and miscellaneous subsistence expenses. Receipts for ground transportation expenses shall be attached to the voucher for reimbursement. Actual subsistence reimbursement shall not exceed 55% of the established per diem rate. Lodging, transportation and receipts for any claimed miscellaneous expenses must be submitted with the travel voucher.

(12) Whenever a traveler interrupts his/her travel for personal reasons or due to illness or injury not due to his/her own misconduct, the proper leave application must be filed with the voucher and approved by the authorized official.

(e) Travel Authorization with No Expense to PSS

Travel sponsored by agencies other than PSS must be approved with a travel authorization showing zero travel expense. All travel performed by PSS staff at the expense of agencies other than the PSS must be in the interest of the PSS. Proper leave must be applied if the traveler requires additional days from duty station for personal reasons not related to the purpose of the travel. The leave application must be attached to the TA.

(f) Travel Advance

(1) General rules: A travel advance form shall be filed by the traveler to authorize release of checks. The travel advance form shall be submitted with the TA.

(2) Travel advance checks shall be released on a timely basis. Ninety percent of the travel advance allowed shall be issued to the traveler. The remaining ten percent shall be issued only upon travelers completion and filing of the appropriate support documents with the fiscal office within fifteen working days upon completion of travel.

(3) Travel advance should be considered as a loan to the traveler until proper reconciliation of approved travel expenses has been authorized and no outstanding amount is due to either the traveler or the PSS.

(g) Travel Voucher

(1) General rules: Travelers are solely responsible for the preparation and submission of all travel vouchers and shall be held accountable for any missing documents or any failure to file in a timely manner. Travelers must file a travel voucher with supporting documentation within fifteen working days upon completion of travel. Travelers who fail to meet this deadline will forfeit the remaining ten percent of the cost of travel. Travelers who fail to submit travel vouchers and supporting documentation will be subject to payroll deduction of the entire amount of the advance.

(2) The traveler must complete and file a travel voucher form following these procedures.

(i) Front page (self explanatory)

(ii) Reverse page: Complete the form by filling in the appropriate space the local date, time of arrival and departure, and location. Note any departure from approved travel routes and delays.

(3) For travelers using the per diem rate, the following items must be submitted with the voucher:

(i) An approved detailed trip report explaining the purpose of the travel, the event or meeting attended (if appropriate) and the benefit to the traveler and the PSS. All trip reports must be submitted to the traveler's supervisor for approval before submission to the fiscal office. The sufficiency of the trip report shall be determined by the traveler's supervisor, who shall approve the report and return to traveler for submission to the fiscal office if the report is sufficient. If insufficient and not approved, the supervisor shall return the trip report to the traveler and request more information from the traveler for re-submission to the supervisor;

(ii) Conference receipt, if applicable;

(iii) Airline ticket stub/Boarding Pass

(iv) Any unused ticket coupons.

(4) For travelers using the actual subsistence rate, the following documents must be submitted with the travel voucher:

(i) An approved detailed trip report following the same procedures set forth above in (g)(3)(i);

(ii) A detailed statement justifying why the actual subsistence rate is/was necessary for the business conducted;

(iii) Airline ticket stub/Boarding Pass;

(iv) Conference receipt, if applicable;

(v) Lodging receipt;

(vi) Car rental receipt;

(vii) Receipts for any claimed miscellaneous expenses other than for meals; and

(viii) Any lack of receipts must be fully explained.

(5) TAs approved by PSS but at the expense of agencies other than PSS require submission of a voucher upon completion of travel.

(6) Traveler must submit any appropriate leave applications.

(7) Within fifteen working days after the voucher was or should have been submitted, the travel section of the Fiscal and Budget Office will issue the employee a statement notifying him/her of any discrepancies in the submitted documents and all amounts owed to PSS. This statement shall include the following:

- (i) The date of each travel resulting in an outstanding balance;
- (ii) The place of each travel resulting in an outstanding balance;
- (iii) The amount advanced for each trip;
- (iv) The amount owed for each trip;
- (v) The total amount owed;
- (vi) Any discrepancies or problems with the submitted documents; and
- (vii) Notification that the amount will be deducted from the employees paycheck for the next pay period unless resolved.

(8) In no case shall a payroll deduction exceed more than thirty percent of the employee's gross paycheck unless the employee is leaving PSS. Payments owed to PSS may be deducted over several pay periods, if necessary.

(9) If the travel advance exceeds reimbursement due, the balance will be deducted from the travelers paycheck subsequent to the notice of the balance due, but no later than fifteen days after travel has been officially notified of amount due to PSS. For Board members, deductions shall be made from honorarium payments. For all non-employee travelers, including Board members, if future travel is approved as an exception under subsection (c)(10) of this section, deductions for amounts owed may be made from the per diem advance for the next travel.

(10) If travel is cancelled for any reason, immediate refund of the travel advance must be made. Employee must notify the travel section that the travel was cancelled and the purchased tickets or unused GTRs must be returned to PSS. Employee will be notified that a payroll deduction shall be made from the employees next pay check and the deduction shall be made no later than 15 days after the notice.

(11) Responsibility for examination of voucher and supporting documentation rests with the fiscal staff of the PSS. Vouchers must be accurate and expenses claimed authorized. If necessary, the voucher examiner shall initiate the voucher for review by the appropriate officials. Notes shall be made by the examiner if any discrepancy exists and forwarded to the traveler for clarification or correction. Employees must respond with the requested supporting information to avoid forfeiture of the 10% and/or to avoid any paycheck deductions.

(12) Appropriate procedures including possible legal action may be initiated in case of fraudulent claims. Documentation of this process must be made in writing by the fiscal section and the appropriate official of PSS.

60-20-721 Accounting and Reporting: Travel Within the CNMI

(a) Applicability

This section applies to official commutes performed in the interest of the Public School System by Public School System employees and the Board of Education. Other individuals covered by

this section include, but are not limited to, consultants, and individuals, such as students and parent chaperones, and advisory council members who are traveling on official business for the Public School System. This section shall not apply to travel for repatriation or other travels outside the CNMI for which additional regulations may be established and approved by the Board of Education.

(b) General Rules

Only official commutes that are considered necessary to accomplish a specified purpose shall be authorized.

(c) Definitions

(1) "Commuting Costs"—Travel within the CNMI

(2) "Commuters"--- Individuals identified in the applicability section traveling within the CNMI.

(3) "Frequent Commuters"— PSS Commuters who travel within the CNMI on a frequent basis including but not limited to the Commissioner of Education, Special Education and Early Childhood staff.

(4) "Semi-Frequent Commuters" --- PSS Commuters who travel often within the CNMI including but not limited to; Board Members, Principals and Leadership.

(5) "Infrequent Commuters"--- PSS Commuters who rarely travel within the CNMI including but not limited to, Teachers, Students, Parents, Chaperones.

(d) Frequent Commuters:

(1) Commuting costs of frequent commuters will require a yearly scope of purpose for the duties performed on neighboring islands of the CNMI.

(2) A yearly schedule of visits to other islands of the CNMI from the home island of the employee will also be required. (The exact dates are not necessary, but a fairly accurate estimate of trips per month to the various islands is expected.)

(3) The scope of work and yearly schedule will be approved by the respective department heads.

(4) The travel section will then compute a monthly amount of estimated commuting expense based on this yearly schedule.

(5) The estimated amount will be advanced to the employee at the beginning of the month.

(6) At the end of every month, the employee will submit the following to the Finance Department to provide a method of accounting for the Federal Commuting and Local Commuting departments.:

(i) Boarding passes to and from the neighboring islands

(ii) Auto rental receipts,

(iii) parking receipts

(7) Commuters will compute the exact amount of funds expended every month from these monthly reports.

(8) Reports must be submitted by the 27th of every month.

(9) In the event that the monthly reports are not submitted by the 27th of the month, the advance payment will be stopped.

(10) The overage and underage of the monthly advances will be carried forward to the next month if it is less than a cumulative \$50, if the overage and underage is greater than \$50, it will be adjusted in the next monthly advance.

(e) Semi-Frequent Commuters

- (1) A yearly scope of work and yearly schedule of commutes for the semi-frequent commuters will be submitted in the same manner as frequent commuters.
- (2) Rota and Tinian Principals will be allowed up to three days per month of commuting to Saipan unless specifically authorized by the Commissioner.
- (3) Leadership will be allowed two days per month to visit Rota and Tinian every other month.
- (4) Board members are automatically authorized as necessity requires.
- (5) The reports of the expenditures are the same requirements as the frequent commuters.

(f) Infrequent Commuters

- (1) Commuting expenses of infrequent commuters to neighboring islands will be advanced on an estimated advance form.
- (2) A scope of work will be provided on the advance request form.
- (3) After the commute is performed, the commuter will submit the following documents within 10 days of their commute:
 - (i) Boarding passes,.
 - (ii) Auto rental receipts.
 - (iii) Parking receipts.
- (4) An advance has no deadline to be submitted since these commutes must be attended to immediately.

(g) General rules:

- (1) Commuters are solely responsible for the preparation and submission of all yearly reports and advances and shall be held accountable for any missing documents or any failure to file in a timely manner.
- (2) Commuters must file the appropriate report with supporting documentation within set forth in each section above.
- (3) Commuters who fail to submit reports and supporting documentation will be subject to payroll deduction of the entire amount of the advance.
- (4) Summer conferences attended within the CNMI will be paid with commuting advances not with TA's and GTR's.
- (5) All inter-island commutes require a scope of work, and estimated schedule.
- (6) The commuter is required to handle their own airline tickets, hotel reservations.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



STATE BOARD OF EDUCATION
PUBLIC SCHOOL SYSTEM
P.O. BOX 501370
SAIPAN, MP 96950

Lucia L. Blanco-Maraitta
Chairperson

Marylou S. Ada
Vice-Chairperson

D. Tanya King
Secretary/Treasurer

Members
Herman T. Guerrero
Galvin S. Delaun Guerrero

Non Public School Rep.

Student Representative

Teacher Representative

Commissioner of Education
Rita A. Sablan, Ed.D.
coe.rus@cnmipss.org

PUBLIC NOTICE OF CERTIFICATION AND ADOPTION
OF REGULATIONS OF
THE COMMONWEALTH BOARD OF EDUCATION

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED
RULES AND REGULATIONS
Volume 32, Number 07, pp 030566-030572, of July 15, 2010

Regulations of the Commonwealth Board of Education: § 60-30.2-225

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands State Board of Education ("Board") HEREBY ADOPTS AS PERMANENT REGULATIONS the Proposed Regulations which were published in the Commonwealth Register at pages 030566-030572 in Volume 32, Number 07 on July 15, 2010 pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Board announced that it intended to adopt them as permanent, and now does so. (Id.) I also certify by signature below that, as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations, and that they are being adopted without modification or amendment.

PRIOR PUBLICATION: The prior publication was as stated above. The Board adopted the regulations as final at its meeting of August 20, 2010.

AUTHORITY: The Board is required by the Legislature to adopt rules and regulations regarding those matters over which the Board has jurisdiction, including its regulation of the policies of the Public School System,, pursuant to Article XV of the CNMI Constitution and to 1 CMC § 2261.

EFFECTIVE DATE: Pursuant to the APA, 1 CMC § 9105(b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after publication in the Commonwealth Register.


COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC § 9104 (a)(2), the agency has considered fully all written and oral submissions respecting the proposed regulations. Upon the adoption of the regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a

concise statement of the principal reasons for and against adoption, incorporating therein its reasons for overruling the considerations urged against its adoption. Please see the following pages for this agency's concise statement, if any, in response to any filed comments, which requested a response.

ATTORNEY GENERAL APPROVAL FOR MODIFIED REGULATIONS: The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC § 2153(e) (To review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law).

I DECLARE under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 20th day of August, 2010, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:

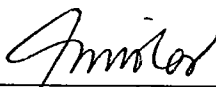


Lucia L. Blanco-Maratita, Chairperson
Board of Education

Aug 20, 2010

Date

Filed and
Recorded by:



Esther M. San Nicolas
Commonwealth Register

09.02.10

Date

60-30.2-225 Types of Certification and Requirements

The Commonwealth shall have five general levels of certification for professionals in the field of education: basic I, specialized, basic II, standard, and professional.

(a) Basic I certificate is a two-year certificate for teachers, librarians, school counselors, related service providers, instructors, and school administrators.

(1) Eligibility Requirements

(i) The basic I certificate requires that teachers, school librarians, school counselors, school administrators and other professional applicants possess either a baccalaureate, masters, or doctoral degree resulting from a course of instruction of at least three and one-half years length at a college or university recognized by U.S. accreditation commissions approved by PSS. An applicant who possesses a baccalaureate, masters or doctoral degree resulting from a course of instruction of at least three and one-half years length at a college or university not accredited from an approved commission shall have his/her transcript of courses evaluated and certified to be equivalent to a degree conferred by accredited schools. The certification and evaluation of program equivalency shall only be conducted by the agencies identified and approved by PSS. The applicant is responsible for the cost of the program equivalency certification. Failure to obtain such certification shall render an applicant disqualified for failure to meet the education requirement(s) of the position.

(ii) A basic instructor certificate may be provided to instructor applicants in specialized areas who submit the required documentation below (§ 60-30.2-225 (iii)(A), (B), (E), and (F)) and meet the minimum requirements as set forth in the PSS classification guidelines.

(iii) Submittal of documentation requirements prior to effective date of employment. Requirements include:

(A) Complete and signed application form,

(B) Two passport size photos,

(C) Official college transcripts,

(D) Teaching certificate (if any),

(E) Receipt of payment from PSS Treasurer for certification processing fee, and

(F) FBI fingerprint submission.

(G) Effective August 1, 2006: Test result showing that an applicant has taken and passed PRAXIS I and II exams, excluding professionally licensed related services providers. Effective May 26, 2010: Alternatively, proof of passage of a rigorous content knowledge test administered by an individual jurisdiction deemed substantially equivalent to passing the PRAXIS I and II exams (as determined by the Board of Education through their representative, the Coordinator of Certification and Licensure) shall satisfy this requirement for an applicant's initial, two-year Basic I certification. Any renewal of certification or subsequent application for Basic I certification shall require that the applicant show that they have passed the PRAXIS I and II exams.

(2) Education; Certification Course Requirements

Prior to the two-year expiration date of the basic I certificate, the applicant must provide an official transcript or certificate of completion of the basic II certificate courses or applicable certification courses.

(3) Term

The basic I certificate is invalid after its expiration date and shall not be reissued. Requirements must be satisfied to upgrade to the next certification level.

Commonwealth of the Northern Mariana Islands
Rota Municipal Scholarship
Maria Sablan-Quitugua, Board Chair
Municipality of Rota, Office of the Mayor
P.O.Box 537
Song song Rota, MP 96951
Telephone # 532-9451
rotascholarship@gmail.com

**PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS
WHICH ARE ESTABLISHMENT OF RULES AND REGULATIONS OF THE
Rota Municipal Scholarship Foundation
“Educational Grant Program”**

INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:
The Commonwealth of the Northern Mariana Islands, Rota Municipal Scholarship Foundation, “Educational Grant Program” (“RMSF”) intends to adopt as permanent rules and regulations the attached Proposed Rules and Regulations.

AUTHORITY: The Municipal Scholarship Board is empowered by the Legislature as per, Senate Local Bill No. 13-2, D. 3 entitled, “To establish a Rota Municipal Scholarship Foundation; and for the purposes, was passed by the Rota Legislative Delegation, Thirteenth Northern Marianas Commonwealth Legislature.
This bill became Rota Local Law No. 13-4 which established the Rota Municipal Scholarship Foundation Board in the Office of the Mayor to promulgate and administer post-secondary financial assistance programs for all eligible Rota residents. Therefore, empowered to adopt rules and regulations for the administration and enforcement of the statute governing it’s activities, as authorized.

THE SUBJECTS AND ISSUES INVOLVED: These rules and regulations:

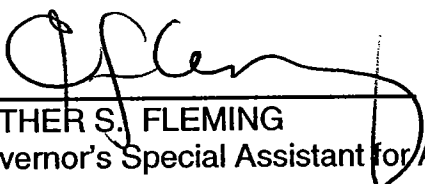
1. Govern the Educational Grant Program
2. Addresses the requirements for eligibility and/or continued financial educational assistance

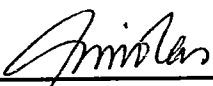
DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(1))

TO PROVIDE COMMENTS: Send or deliver your comments to Maria Sablan-Quitugua, Attn: Rota Municipal Scholarship Board at the above address, fax or email address, with the subject line "Rota Municipal Scholarship-Educational Grant Program Rules and Regulation". Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2))

These proposed regulations were approved by the Rota Scholarship Foundation Board Members on April 07, 2010 on.

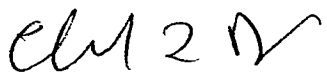
Submitted by:  8.31.10
Maria Sablan-Quitugua Date
Rota Municipal Scholarship Foundation-Chair

Received by:  9/01/10
ESTHER S. FLEMING Date
Governor's Special Assistant for Administration

Filed and Recorded by:  09.02.10
ESTHER M SAN NICOLAS Date
Commonwealth Register

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

Dated the 1 day of sept 2010.


Edward Buckingham,
Acting Attorney General

0 NOPR proposed regs on computer software P&S.wpd

Commonwealth gi Sangkattan na Islan Marianas

Scholarship Munisipât Luta

Maria Sablan-Quitugua, Kabesiyun i Kuetpo

Munisipalidad Luta, Ofisinan Atkâtdi

P.O. Box 537

Songsong, Luta, MP 96951

Telefon # 532-9451

rotascholarship@gmail.com

**NOTISIAN PUPBLIKU GI MAPROPONE NA AREKLAMENTO YAN REGULASION SIHA NI
MA'ESTAPBLESI I AREKLAMENTO YAN REGULASION SIHA GI**

Fondasion Scholarship Munisipât Luta

“Progrâman Educational Grant”

**I AKSION NI MA'INTENSIONA PARA U MA'ADÂPTA ESTE I MANMAPROPONE NA
AREKLAMENTO YAN REGULASION SIHA:** I Commonwealth gi Sangkattan na Islan Marianas
siha, i Fondasion i Scholarship Munisipât Luta “ Progrâman Educational Grant” (RMSF)
ha intensiona para u adâpta komu petmanente na areklamento yan regulasion siha ni
mañechetton i Manmapropone na Areklamento yan Regulasion Siha.

ÂTURIDÂT: I Kuetpon i Scholarship Munisipât inaturisa ni Leheslatura komu, i Senate Bill No.
13-2, D. 3 entitled, “Para u ma'estapblisa i Fondasion i Scholarship Munisipât Luta; yan para i
manera siha, mapâsa ginen i Rota Legislative Delegation, Thirteenth Northern Marianas
Commonwealth Legislature.

Este na bill mama'lain Luta No. 13-4 ni ma'estapblesi i Kuetpon Fondasion Scholarship
Munisipât Luta gi halom Ofisinan Atkatdi ni para u macho'gue yan atministra i post-secondary
na progrâman inasisten fainansiât siha para todû mangkuâlifikâo siha na residenten Luta. Pues
ayo na inaturisa para u adâpta i areklamento yan i regulasion siha para i atministrasion yan u
matattiyi i estatua ni ginebebetna i aktibidât-ña siha, ya komu ma'aturisa.

I SUHETO NI MASUMÂRIA YAN ASUNTO NI TINEKKA: Este na areklamento yan regulasion
siha:

1. Ginebietna i Progrâman Educational Grant
2. Ma address i nisisidât siha para i kuâlifikânte yan/pat makontinuha i inasisten fainansiât edukasion

DIREKSION NI PARA U MAPO'LO YAN MAPUPBLIKA: Este i Manmapropone na Regulasion siha debi na u mapupblika gi halom i Rehistran Commonwealth gi seksiona ni mapropone yan nuebu na ma'adapta na regulasion siha (1 CMC § 9102(a)(1)) yan u mapega gi kombiniente na lugat siha gi halom i civic center yan i ofisinan gobetnamento gi kada distriton senadot, parehu gi fino' English yan i prinsipat na lengguâhen natibu. (1 CMC § 9104(a)(1)).

PARA U MAPRIBENIYI OPIÑON SIHA: Na'hânao pat entrega i opiñon-mu guatu gi as Maria Sablan-Quitugua. *Attn: Kuetpon Scholarship Munisipât Luta* gi sanhilo' na address, fax pat email address, yan i râyan suheto "Rota Municipal Scholarship-Educational Grant Progrâman Areklamento yan Regulasion". Todu imfotmasion debi na u fan hâlom trenta(30) diha siha ginen i fechan publikasion este na notisia. Pot fabot na'hâlom i imfetmasion, opiñon, pat testamoñon kinentra siha. (1 CMC § 9104(a)(2)).

Este i manmapropone na regulasion siha manma'apreba ginen i Rota Scholarship Foundation Board Members gi Abrit 07, 2010 gi.

Nina'hâlom as: 

Maria Sablan-Quitugua
Kabesiyu-Fondasion Scholarhip Munisipât Luta

8.30.10


Fecha

Rinisibi as: 

ESTHER S. FLEMING
Espisiât Na Ayudânten Administrasion Gobetno

9/2/10

Fecha

Pine'lo yan
Rinekot as: 

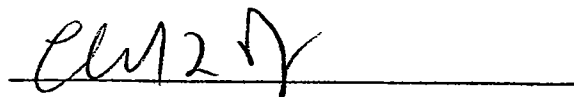
ESTHER M. SAN NICOLAS
Rehistran Commonwealth

09.02.10

Fecha

Sigun i 1 CMC § 2153(e) (Inapreban Abugâdu Henerât ni para u macho'gue komu para fotma) yan 1 CMC § 9104(a)(3) (hentan inapreban Abugâdu Henerât) i manmapropone na regulasion siha ni mañechetton guini ni manmaribisa yan ma'apreba komu fotma yan suficiente ligât ginen i CNMI Abugâdu Henerât yan debi na u mapupblika, 1 CMC § 2153(f) (puplikasion areklamento yan regulasion siha).

Mafecha gi 1 diha seps 2010.



Edward T. Buckingham

Abugâdu Henerât

Commonwealth Téél falúw kka falúwasch Efáng Marianas
Rota Municipal Scholarship
Maria Sablan-Quitugua, Samwoolul Mwiisch
Munisipóódul Luuta, Bwulasiyool Maghalaay
P.O. Box 537
Songsong Luuta, MP 96951
rotascholarship@gmail.com

**ARONGORONGOL TOULAP REEL POMWOL ALLÉGH KKAAL
IKKA AA AKKATÉ ALLÉGHÚL**
Rota Municipal Scholarship Foundation
“Educational Grant Program”

**MÁNGEMÁNGIL IGHA EBWE FILLÓÓY POMWOL ALLÉGH
KKAAL:** Commonwealth Téél falúw kka falúwasch Efáng Marianas, Rota
Municipal Scholarship Foundation, “Educational Grant Program” (“RMSF”)
e tipeli bwe ebwe schéschéél fillóóy alléghúl kka e appasch sángi Pomwol
allégh kkaal.

BWÁNGIL: Mwiischil Municipal Scholarship nge re ngáleeey bwángil
mereel Sów FFéerúl Allégh (Legislature) sángi, Senate Local Bill No. 13-2,
D. 3, Ebwe ayoora Rota Municipal Scholarship Foundation; me bwulul igha,
aa allégheló (passed) mereer Rota Legislative Delegation, Thirteenth
Northern Marianas Commonwealth Legislature.

Allégh yeel nge ebwe toowow bwe alléghúl Luuta No. 13-4 iye ebwe ayoora
mwiischil Rota Municipal Scholarship Foundation llól bwulasiyool
Maghalaay bwe rebwe akkaté me mwóghut ágheli progróomal post-
secondary assistance ngáliir aramasal luuta ikka re fillong (eligible). Bwal
eew, eyoor bwángiir rebwe fillóóy allégh ngáli administration me
mwóghutughutul iye lemeli angaangal, iye re ngáleeey bwángil.

KKAPASAL ME MILIKKA EYOOR: Allégh kkaal ebwe:

1. Ebwe lemeli Progróomal Educational Grant
2. Abwáári tingórol igha ubwe fillong (eligibility) me/ sóbweey alillisil
educational assistance.

AFALAFAL REEL AMMWELIL ME AKKATÉÉL: Pomwol Allégh
kkaal ebwe akkatééló llól Commonwealth Register llól Tálil kka rekke

pomwoli me fillóy allégh kka e ffé (1 CMC Tálil 9102(a)(1)) me appaschetá llól civic center me bwulasiyool gobenno kkaal llól senatorial district, e weewe schagh llól mwaliyeer Amerikkónu, Remeraalis me Refalúwasch. (1 CMC Talil 9104(a)(1)).

REEL ISISILONGOL AGHIYEGH: Afanga me ngáre bwughiiló ischil mángemángúmw reel Maria Sablan-Quitugua, Attn: Rota Municipal Scholarship Board reel address ye elo weiláng, fax me email address, sangi kkepas ye “Rota Municipal Scholarship-Educational Grant Program Rules and Regulation”. Ischil mángemáng nge ebwe kkamall llól eliigh (30) ráálil mwiril yaal akkaté arong yeel. Ów isisilong aghiyegh ghámi. (1 CMC Talil 9104(a)(2)).

Pomwol allégh kkaal nge aa allégheló mereel Mwiischil Rota Scholarship Foundation Board atol Séetá 07, 2010 lóffósch.

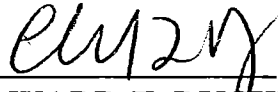
Isaliyallong: 
Maria Sablan-Quitugua
Samwoolul Mwiischil Municipal Scholarship Foundation
8.30.10
Rál

Mwir sáangi: 
ESTHER S. FLEMING
Sów Alillisil Sów Lemelém
9/1/10
Rál

Ammwel sáangi: 
ESTHER M. SAN NICOLAS
Commonwealth Register
09.02.10
Rál

Sáangi allégh ye 1 CMC Talil 2153(e) (alughulugh mereel AG reel allégh ebwe akkaté ighila) me 1 CMC Tálil 9104(a)(3) (bwughi yaal alughulugh AG) reel pomwol allégh kka e appasch nge raa takkal amweri fischi me allégheló mereel CNMI Sów Bwungul Allégh Lapalap me ebwe akkatééló, 1 CMC Tálil 2153(f) (akkatéél allégh kkaal).

Rállil ye 1 llól maramal sep 2010.



EDWARD T. BUCKINGHAM
Sów Bwungul Allégh Lapalap

INTRODUCTION

The Rota Municipal Scholarship Foundation Board hereby establishes an Educational Grant Program for the purpose of assisting applicants who desire to pursue post-secondary study or training from within or outside the Commonwealth of the Northern Mariana Islands.

The following are rules and regulations governing the Educational Grant Program. Eligible residents of Rota are encouraged to apply and participate in this program to supplement their total educational financial requirement.

For additional information or for any assistance that is required, we urge you to visit us at the Rota Mayor's Office, you may contact us at (670) 532-9451-3.

SECTION ONE

STATUTORY AUTHORITY: Senate Local Bill No. 13-2, D. 3 entitled, "To establish a Rota Municipal Scholarship Foundation; and for the purposes, was passed by the Rota Legislative Delegation, Thirteenth Northern Marianas Commonwealth Legislature.

This bill became Rota Local Law No. 13-4 which established the Rota Municipal Scholarship Foundation Board in the Office of the Mayor to promulgate and administer post-secondary financial assistance programs for all eligible Rota residents.

SECTION TWO

MISSION: The mission of the Rota Municipal Scholarship Foundation Board is to invest in the limited human capital resources of qualified residents of Rota through a supplementary financial assistance program from direct or indirect existing resources pursuant to Rota Local Law 13-4, SB 13-2, D. 3, for purposes of pursuing post-secondary education in the CNMI or abroad, in recognition of the need for an educated workforce on Rota with the high expectation that all recipients of the Rota Municipal Scholarship Foundation assistance return to Rota to work or provide services upon completion.

SECTION THREE

FUNDING SOURCE AND BUDGET AUTHORITY: The Rota Municipal Scholarship Foundation Act of 2002" authorized the Board to receive money, loans, donations, appropriations and contributions from the Marianas Public Land Trust and from all other sources public or private for purposes of scholarship grants, educational loans and operational needs of the Board.

SECTION FOUR

ROTA MUNICIPAL SCHOLARSHIP FOUNDATION BOARD: The Board is created under "Rota Local Law No. 13-4 pursuant to Chapter 4 of Division 1 of Title 1 of the Commonwealth code and its duties and responsibilities are:

- (a) Advertise the availability of scholarship and education loan assistance;
- (b) Establish priorities for field of study (including but not limited to higher education, professional schools, and vocational specialties);
- (c) Receive, review, approve or reject applications for scholarship grants and educational loans submitted to the Rota Municipal Scholarship Foundation Board; provided that the Board shall state the reason for rejecting an application;
- (d) Establish criteria for eligibility for scholarship assistance;
- (e) Have the authority to raise funds for the Foundation through activities not prohibited by law;
- (f) Have the authority to receive money, loans, donations, appropriations, and contributions;
- (g) Execute loan agreements with the Marianas Public Land Trust (MPLT) or any other financial institution setting forth the terms and conditions of the loan of funds to the Foundation;
- (h) Subject to the availability of funds and approved by the Rota Legislative Delegation, establish necessary office, and hire an executive director for the Rota Municipal Scholarship Foundation and hire or retain such other employees or professionals as may be needed from time-to-time, by the Foundation;
- (i) Make the final decision as to who should receive grants and loans;
- (j) Promulgate necessary rules and regulations to carry out the purposes of this act; and
- (k) On or before December 1st of every year, issue an annual report.

SECTION FIVE

ELIGIBILITY FOR SCHOLARSHIP GRANTS:

- (a) No person other than a person whose domicile is the Municipality of Rota shall be eligible for or receive assistance from the Rota Municipal Scholarship Foundation.
- (b) No person whose program of study leads to a degree in theology, divinity, or religious studies is eligible for this grant.
- (c) Applicant must be able to demonstrate a financial need for such grant, taking into account other financial resources from the individual applicant and/or his/her family.

SECTION SIX

ADDITIONAL ELIGIBILITY REQUIREMENTS FOR EDUCATIONAL GRANT PROGRAM (EGP):

- a. **NEW APPLICANTS – UNDERGRADUATE STUDENTS:** To qualify for funding under the EGP, an applicant must:
 - i. Submit a completed and signed Application Form; and,
 - ii. Ensure that the most recent sealed official transcript is mailed or Hand-delivered to the Scholarship Foundation Board located at the Rota Mayor's Office.
(A faxed transcript, directly from the Institution' Admissions and Records Office may be accepted until such time the original is received, as required); and

- iii. Provide a letter of acceptance from a recognized U.S. accredited college, university or institution as proof of admission for new students. Non-US Accredited college, university or institution must be approved by the Scholarship Foundation Board (SFB); and,
- iv. Be a two year permanent resident of the 1st Senatorial District with documentation of such, (an original passport or original Birth Certificate and CNMI Annual tax return, driver's license, CNMI voter's registration card or other documents as appropriate); and
- v. Be a graduate from High School, Advance Development Institute, General Education Development (GED) or higher

b. NEW APPLICANTS – GRADUATE STUDENTS: To qualify for funding under Educational Grant Program (EGP), an applicant must:

- i. Meet all of the requirements listed in Section Six.

c. CONTINUING STUDENTS: To continue eligibility for funding students must:

- i. Submit a completed and signed Renewal Application Form; and,
- ii. Ensure that the most recent sealed official transcript is mailed or hand-delivered to the Scholarship Foundation Office. (A transcript faxed directly from the Institutions Records department may be accepted until such time the original is received, as required); and submit verification of enrollment or a class schedule for the proceeding semester.
- iii. Provide a letter of acceptance from an eligible institution as proof of admissions for transferring students or those pursuing a higher degree; and,
- iv. Maintain Satisfactory Academic Progress in a course of study according to the standards established by the Scholarship Foundation Board.

d. PART-TIME STUDENTS - CERTIFICATE PROGRAM/ VOC/TRADE PROGRAM/ ON-LINE PROGRAM: To qualify for funding under Educational Grant Program (EGP), an applicant must:

- i. Meet all of the requirements listed in Section Six.
- ii. Submit documentation relating to the description of the training/certification, costs involved and other documentation as may be required by the Board in order to establish legitimacy of such training/certification

SECTION SEVEN

APPLICATION DEADLINE: It is the student's responsibility to obtain and complete forms by the established deadline in order to be considered for Educational Grant Program. Complete and signed applications must be received or post-marked by: July 1st for Fall Term and December 15th for Winter/Spring Term. Denial of Educational Grant Program awards based on the receipt of a late application is not subject to appeal.

NOTE: IF THE DEADLINE FALLS ON A WEEKEND OR A HOLIDAY, THE DEADLINE WILL BE THE NEXT WORKING DAY.

SECTION EIGHT

SATISFACTORY ACADEMIC PROGRESS (SAP): A student is qualified to receive Educational Grant Program (EGP) only if both quantitative and qualitative SAP is being maintained. SAP for EGP is defined as:

a. Quantitative measure is completing the following number of non-repeat credits:

- | | | |
|------|---|---|
| i. | EGP Undergraduate Full-time: | Twelve (12) credits |
| ii. | EGP Undergraduate Part-time,
VOC, Trade, Certificate, On-line: | credits registered or
awarded |
| iii. | Graduate & Professional Full-time: | Nine (9) credits or as
defined by the institution. |

b. Qualitative measure is maintaining the following grade point average (GPA):

- | | | |
|------|---|--|
| i. | EGP Undergraduate: | 2.25 Cumulative GPA |
| ii. | Graduate & Professional: | as required by the institution to remain enrolled. |
| iii. | Vocational Education,
Trades School, Certificate,
On-line, Part-time: | acceptable performance as required by the |

NOTE: FIRST-TIME RECIPIENT OF EGP WILL BE CONSIDERED FOR FINANCIAL ASSISTANCE EVEN IF HIS/HER GRADE POINT AVERAGE (GPA) IS BELOW THE SAP REQUIREMENT. HOWEVER, IN ORDER TO CONTINUE IN THE EGP PROGRAM THE RECIPIENT MUST ACHIEVE THE CUMULATIVE GPA REQUIREMENT OF 2.25 AT THE END OF THE TERM REWARDED.

SECTION NINE

STUDENTS WHO EITHER DROP OR WITHDRAW FROM CLASSES:

- a. EGP recipient who either drop or withdraw from classes and failed to complete the minimum required number of credits will be suspended from the program and disqualified from further participation until he/she fulfills the requirement of the award given. A student on suspension may be reinstated upon completion of hours lacking from the last term awarded.
- b. An EGP recipient who falls below the required SAP will be suspended from the program and disqualified from further participation until he/she meets the required cumulative grade point average (GPA).
- c. Letter Grades for Incomplete Courses must be submitted to the Scholarship Foundation Office prior to the first day of the following instructional term. Full awards will not be released until an acceptable letter grade is submitted to the Scholarship Foundation Board.
- d. A recipient who received an award and is not enrolled will be required to return the funds immediately. Failure to repay/return the funds will result in immediate referral to a Collection Agency.

SECTION TEN

DURATION OF AWARD: All programs that the Scholarship Office administers will be considered in determining the duration of award. No EGP will be awarded once a recipient has completed a "Level of Education". EGP grants will then only be awarded for the next level of education.

a. UNDERGRADUTE DEGREES

- i. Two and half (2 ½) academic years for full-time undergraduate program leading toward an associate's degree.
- ii. Four (4) academic years for part-time undergraduate programs leading toward an associate's degree.
- iii. Four and half (4 ½) academic years for full-time undergraduate programs leading toward a bachelor's degree. A maximum of five (5) years is allowed for completion of specialized majors, as required by the Institution.
- iv. Eight (8) academic years for part-time undergraduate programs leading toward a bachelor's degree. A maximum of ten (10) years is allowed for completion of specialized majors, as required by the Institution.
- v. EGP Assistance provided for Certificate and Associate's Degree will be included when determining the duration of award for a Bachelor's degree program.

NOTE: FULL-TIME FIRST YEAR STUDENTS ENROLLED IN DEVELOPMENTAL COURSES AS REQUIRED BY THE INSTITUTION MAY BE ELIGIBLE FOR FINANCIAL ASSISTANCE FOR A TOTAL OF 12 PAID CREDITS. HOWEVER, THIS DOES NOT EXEMPT THE RECIPIENT IN COMPLETING THE PROGRAM WITHIN THE ESTABLISHED DURATION PERIOD. DURATION OF AWARDS WILL NOT APPLY TO STUDENTS WITH CERTIFIED DISABILITY.

b. GRADUATE DEGREES

- i. Two (2) academic years for graduate level students, leading to a master's degree.
- ii. Four (4) academic years for Doctorate Degree or other professional beyond master's degree.

- iii. Six and half (6 ½) academic years for advance degree directly providing health care (not Administrative), e.g. MD, DDS, DO which generally require additional years of study as specified in the catalog in force at the time the student is enrolled.

NOTE: COMMENCING WITH ACADEMIC YEAR 2010-2011 FINANCIAL ASSISTANCE FOR ALL LEVELS OF GRADUATE RPOGRAMS WILL ONLY BE MADE UPON AVAILABILITY OF FUNDS.

SECTION ELEVEN

FRAUDULENT INFORMATION: All documents received by the Scholarship Foundation Office are subject to verification. The applicant is personally responsible for the integrity of these documents. Recipients and/or their authorized representative who submit documents that are false or tampered with in any way will result in the recipients' immediate and permanent removal from any of the program administered by the Scholarship Foundation Board. Documents include but are not limited to application, supporting documents, grade reports, transcripts, letters of reference or letters of recommendation.

SECTION TWELVE

APPEALS:

- a. A recipient who is denied Educational Grant Program has the right to appeal a decision of the Scholarship Foundation Board.
- b. Appeals must be in writing addressed to the Chairperson of the Rota Municipal Scholarship Foundation Board.
- c. Appeals must be postmarked or hand-delivered no later than twenty-one (21) calendar days after notification of the decision by the Scholarship Foundation Board. Notification of denial if mailed shall be given via certified mail, return receipt requested.
- d. Appeals to the Scholarship Foundation Board shall be heard and decided pursuant to applicable CNMI law, including, but not limited to, the CNMI Administrative Procedures Act, 1 CMC Section 9101 et..seq.

- e. All decisions by the Scholarship Foundation Board on appeals are final regarding the administrative review process.
- f. Denials based on late submission of an application or due to a repeated course are not subject to the appeal process.

SECTION THIRTEEN

EFFECTIVE DATE: The Rules and Regulations governing the administration of the Educational Grant Program shall take effect upon its publication and adoption in accordance with the Administrative Procedures Act.

SECTION FOURTEEN

ROTA MUNICIPAL SCHOLARSHIP FOUNDATION APPLICATION FORM: Incorporated as part of the rules and regulations governing the Rota Municipal Scholarship Foundation Grant is the Application Form, for both new applicants and on-going applicants. No application, either new or on-going for grant assistance, will be considered or reviewed unless such application is completed and accompanied by all required supporting documents indicated on the application form.

DEFINITIONS

- a. **EDUCATIONAL ASSISTANCE GRANTS:** Financial assistance awarded for the purpose of post-secondary studies.
- b. **DOMICILE:** means that place in which a person's habitation is fixed, and to which, whenever the person is absent, the person has the present intention to return; however, a person who is temporarily away from the Municipality of Rota for reasons of business, education, government representation, military service, medical reasons including medical referral, natural disaster or environmental conditions, or employment by the Commonwealth shall be considered a domiciliary of the First Senatorial District if during that period, he maintains a residence in the First Senatorial District to which he has a present intention of returning
- c. **DEVELOPMENTAL COURSES:** Courses that are below college level courses. (Recipients who are taking developmental courses towards fulfillment of a fulltime status are not eligible for merit incentive awards.)
- d. **FULL-TIME STATUS:** Fulltime status for undergraduate enrollment is a semester/quarter term earning 12 or more credits, for graduates, enrollment in a semester/quarter term earning 9 or more credits or determined by the Institutions definition of semester/term.
- e. **PART-TIME STATUS:** Part-time status for undergraduate enrollment is a semester/quarter earning 1-11 credits. Courses that are repeated as defined on section II(i) are not counted towards fulfillment of a part-time status. Funding for part-time applicants will be determined upon availability of funds.
- f. **CORRESPONDENCE SCHOOL:** An educational institution offering courses (instructions, lessons, exercises, grades) through the mail.
- g. **ON-LINE COURSES:** Courses available electronically or through telecommunication systems.
- h. **REPEAT COURSE:** Course/s/ students repeat due to failing grades or retaking to earn a higher grade which originally paid by the Rota Municipal Scholarship Program.
- i. **CERTIFIED DISABILITY:** A person who is certified disabled by a licensed physician.



Commonwealth of the Northern Mariana Islands
Department of Public Health
Office of the Secretary of Public Health



P.O. Box 500409CK, Saipan, MP 96950
Tel: (670) 236-8201; Fax: (670) 234-8930
jkvsaipan@gmail.com

PUBLIC NOTICE OF PROPOSED REGULATIONS

PROPOSED REGULATIONS TO IMPLEMENT PROVISIONS OF THE SMOKE-FREE AIR ACT OF 2008, PUBLIC LAW 16-46, 6 CMC §§ 3171-3187

INTENDED ACTION TO ADOPT THESE PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, Department of Public Health, intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations will become effective on December 1, 2010 or 10 days after compliance with 1 CMC §§ 9102 and 9104 (a), whichever date is later. (See 1 CMC § 9105(b))

AUTHORITY: The Department of Public Health, under 1 CMC §§ 2603 and 2605, is empowered to maintain and improve the health conditions and is authorized to adopt rules and regulations regarding those matters over which it has jurisdiction. The Smoke-Free Air Act of 2008, PL 16-46, § 3181(a) mandates the enforcement of its provisions by the Department of Public Health.

THE TERMS AND SUBSTANCE: The purpose of the Smoke-Free Air Act of 2008 is to protect the public health and welfare by prohibiting smoking in public places and places of employment; and to guarantee the right of nonsmokers to breathe smoke free air, and to recognize that the need to breathe smoke free air shall have priority over the desire to smoke. These Proposed Regulations are intended to clarify and implement the provisions of the Smoke-Free Air Act of 2008, PL 16-46.

THE SUBJECTS AND ISSUES INVOLVED: These regulations address the following subjects and issues:

1. Provide definitions for words used in PL 16-46 and these regulations.
2. Address the protection of the public health and welfare by the prohibition of smoking in public places and places of employment.
3. Compliance with PL 16-46 by affected persons and entities.
4. Who shall enforce PL 16-46 and these regulations.
5. How PL 16-46 and these regulations shall be enforced and the process due an

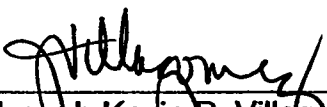
alleged violator.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(1)).

The Secretary will take appropriate measures to make these Regulations known to the persons who may be affected by them.

TO PROVIDE COMMENTS: Send or deliver your comments to Joseph K. Villagomez, *Attn: Public Law 16-46 Regulations*, at the above address, fax or email address, with the subject line "Public Law 16-46 Regulations". Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2))

These proposed regulations were approved by the Secretary of Public Health on this 20th day of September 2010.

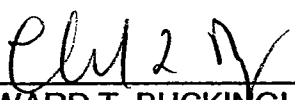
Submitted by:  9-20-2010
Joseph Kevin P. Villagomez
Secretary of Public Health
Date

Received by:  9/20/10
Esther S. Fleming
Special Assistant for Administration
Date

Filed and Recorded by:  9.20.10
Esther M. San Nicolas
Commonwealth Register
Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

Dated the 22 day of September 2010.


EDWARD T. BUCKINGHAM
Attorney General

COMMONWEALTH GI SANGKATTAN NA ISLAS MARIANAS SIHA

Dipattamenton Hinemlo' Pupbliku
Ofisinan i Sekretarion i Hinemlo' Pupbliku

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jkvsaipan@gmail.com

NOTISIAN PUPBLIKU POT I MANMAPROPONEN REGULASION SIHA

I MANMAPRONE NA REGULASION SIHA NI PARA U MA'IMPLEMENTA I AKTON I 2008 NA PROBENSION SIHA NI PARA I SMOKE-FREE AIR GI LAI 16-46, 6 CMC §§ 3171-3187

MA'INTENSIONA NA AKSION PARA U MA'ADAPTA ESTE SIHA I MANMAPROPONE NA REGULASION SIHA: I Commonwealth gi Sangkattan na Islas Marianas siha, i Dipattamenton Hinemlo' Pupbliku, ha intensiona na para u adapta komu petmanente na regulasion siha ni mafechetton i Manmapropone na Regulasion siha, sigun gi maneran i Akton 1 CMC § 9104(a) gi Administrative Procedure. I Regulasion siha para u ifektibu gi Disembre 1, 2010 pat dies(10) dihas despues di makumpleña yan i 1 CMC §§ 9102 yan 9104 (a), amánu nai mafecha despues. (Atan i 1 CMC § 9105(b))

ATURIDÁT: I Dipattamenton Hinemlo' Pupbliku, gi papa' i 1 CMC §§ 2603 yan i 2605, inaturisa para u sustieni yan adilánta i kondision i hinemlo' siha yan ma'aturisa para u adapta i areklamento yan i regulasion siha sigun guihi na manera siha gi anai guaha aturidát. I Akton i Smoke-Free gi 2008, Lai Pupbliku 16-46, § 3181(a) ha mánda i enforcement i probension-ña ginen i Dipattamenton Hinemlo' Pupbliku.

I SUSTANSIAN I PALÁBRA SIHA: I minito' i Akton Smoke-Free gi 2008 para u protehi i hinemlo' pupbliku yan i inadahi ginen i maprohibibi i chipa gi halom i lugát pupbliku siha yan sagan cho'cho' siha; yan para u garentia i direchon i ti manchichipa siha ni para u fanhágong smoke free air, yan para u marekoknisa na i nesisidát para un hágong smoke free na aire debi na u mana'presisu kontra i minalago' chumupa. Este i Manmapropone na Regulasion siha ma'intensiona para u maklarifika yan ma'implementa i probension siha gi Akton Smoke-Free Air gi 2008, PL 16-46.

SUHETO NI MASUMÁRIA YAN ASUNTO NI TINEKKA: Este na regulasion siha ha pacha i sigiente na suheto yan asunto siha:

1. Ha pribeniyi definasion siha para i palábra ni ma'usa gi halom PL 16-46 yan este na regulasin siha.
2. Para u pacha i proteksion gi hinemlo' pupbliku yan i inadahi ginen i prohibision i chumupa gi halom i lugát pupbliku yan lugát cho'cho' siha.

3. Kinemple yan i PL 16-46 ginen i manenafekta na petsona siha yan pumalu siha.
4. Håyi debi para u ma'aturisa ni PL 16-46 yan este na regulasion siha.
5. Taimanu i PL 16-46 yan este na regulasion siha debi u ma'aturisa yan para u chine'gui i process due yanggen ha kontra i lai.

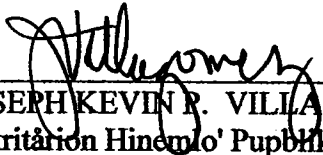
DIREKSION PARA U MAPO'LO YAN MAPUPBLIKA: Este i Manmapropone na Regulasion siha debi na mapupblika gi halom i Rehistran Commonwealth gi seksiona ni mapropone yan nuebu na ma'adapta na regulasion siha (1 CMC § 9102(a)(1) yan mapega gi kombiniente na lugat siha gi halom i civic center yan gi halom i ofisinan gobetnamento siha gi kada distriton senadot, parehu gi English yan gi lengguâhen natibu. (1 CMC § 9104(a)(1))

I Sekretario para u na'siguru na machule' este na inadahi siha para u na'magâhet na este na Regulasion siha matungo' ni todû petsona siha ni siña maninafekta ginen siha.


PARA U MAPRIBENIYI OPIÑON SIHA: Na'hânao pat entrega i imfetmasion-mu guatu gi as Joseph K Villagomez, *Attn: Lain Pubblica 16-46 na Regulasion siha*, gi sanhilo' na address, fax pat email address, yan i râyan suheto "Lain Pubblica 16-46 na Regulasion Siha". Todû asunto siha debi na u fanhâlom trenta(30) dihas ginen i fechan publikasion este na notisia. Pot fabot na'hâlom i imfetmasion, opiñon, pat testamoñon kinentra siha. (1 CMC 9104(a)(2)).

Este i manmapropone na regulasion siha manma'apreba ginen i Sekretarion i Hinemlo' Pubblica guini gi diha 20th gi Septiembre, 2010

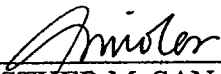
Nina'hâlom as:


JOSEPH KEVIN P. VILLAGOMEZ
Sekretarion Hinemlo' Pubblica

9-20-2010
Fecha

Rinisibi as: 
ESTHER S. FLEMING
Espisiât Na Ayudânte Para Administrasion


9/20/10
Fecha

Pine'lo Yan
Rinikot as: 
ESTHER M. SAN NICOLAS
Rehjstran Commonwealth

9.20.10
Fecha

Sigun i 1 CMC § 2153(e) (I Abugâdu Henerât ha apreba i regulasion siha na para u macho'gue komu fotma) yan 1 CMC § 9104(a)(3) (hentan inapreban Abugâdu Henerât) i manmapropone na regulasion siha ni mafiechetton guini ni manmarebisa yan manma'apreba komu fotma yan sufisiente ligât ginen i CNMI Abugâdu Henerât yan debi na u mapupblika, 1 CMC § 2153(f) (publikasion areklamento yan regulasion siha).

Mafecha guini gi diha 22, gi Septiembre 2010


EDWARD T. BUCKINGHAM
Abugâdu Henerât

**COMMONWEALTH TÉÉL FALÚW KKA FALÚWASCH EFÁNG MARIANAS
BWULASIYOOL IMWAL LIMILIMAL ILIGH
BWULASIYOOL SAMWOOL MELLÓL IMWAL LIMILIMAL ILIGH**

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jkvsaipan@gmailcom

ARONGOL TOULAP REEL POMWOL ALLÉGH KKAAL

POMWOL ALLÉGH KKAAL IKKA EBWE AYOORA AWEEWEL SMOKE-FREE AIR ACT LLÓL 2008, ALLÉGHÚL TOULAP 16-46, 6 CMC Tálil kka 3171-3187

MÁNGEMÁNGIL IGHA EBWE FILLÓÓY POMWOL ALLÉGH KKAAL:
Commonwealth Téél falúw kka falúwasch Efáng Marianas, Bwulasiyool imwal limilimal iligh, e tipeli ebwe schéschéél fillóóy pomwol allégh kka e appasch, bwelle reel Administrative Procedure Act, 1 CMC Tálil 9104(a). Allégh kkaal ebwe kkamalló atol Tuwmur 1, 2010 me seigh ráálil (10) igha schagh e tabweey 1 CMC Tálil kka 9102 me 9104 (9104) (a), ese lefil atol. (Amweri 1 CMC Talil 9105(b))

BWÁNGIL: Bwulasiyool Imwal Limilimal Iligh, faal 1 CMC Talil kka 2603 me 2603 me 2605, iye eyoor bwángil ebwe lemeli me aghatchúwuló lamal iligh me lighiti ngáli ebwe fillóóy allégh kkaal bwelle mwóghututugh kka elo ngáli. Smoke-Free Air Act llól 2008, PL 16-46, Tálil 3181(a) nge e alléghewow mwóghutughutul aweewe kka e toowow mereel Bwulasiyool Imwal Limilimal Iligh.

AWEEWEL ME ÓUTOL: Bwulul Smoke-Free Air Act llól 2008 ebwe afelli limilimal iligh me malaweer ngáre ayúwuló suubwa mellól bwuleyir aramas (public places) me llól leliyel angaang; me alughulugh bwe schóókka rese kke suubwa re ssóbw ngúrú bwool suubwa, me e ghatch rebwe ghuleey bwe breathe smoke free mmwal rebwe suubwa. Pomwol kkaal nge eyooratá bwe ebwe affat me ayoora aweewel Smoke-Free Air Act llól 2008, PL 16-46.

KKAPASAL ME AWEEWE KKA EYOOR: Allégh kkaal nge ekke bwáári tálil aweewe kkaal me milikka e téétá:

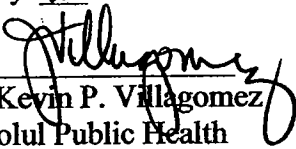
1. Ayoora faal reel tapelal ye elo llól PL 16-46 me allégh kkaal.
2. Abwáári ammwelil ilighiir toulap me malaweer reel akkayúúlóól suubwa mellól bwuleyir toulap me llól leliyel angaang.
3. Attabweey PL 16-46 sáangi schóókka raa sesmwaay me inaamwo iyo.
4. Aramas ye ebwe mwóghut ágheli PL 16-46 allégh kkaal.
5. Efaisúl PL 16-46 allégh kkaal ebwe mwóghut ágheli me kkapasal reer schóókka rese tabweey alléghúl.

AFALAFAL REEL AMMWELIL ME AKKATÉÉL: Pomwol allégh ebwe akkatééló llól Commonwealth Register llól tálib kka re pomwoli me fillóoy allégh kka ffé (1 CMC Tálib 9102(a)(1)) me appaschetá igha e fis iye me llól bwulasiyool gobenno kkaal me bwal llól senatorial district, llól mwaliyeer Amerikkónu, Remeraalis me Refalúwasch. (1CMC Talil 9104(a)(1)).

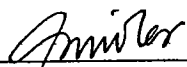
Samwool yeel nge ebwe mwóghut ágheli Allégh kkaal ngáliir aramas ikka re aweiresiir.

REEL ISISILONGOL AGHIYEGH: Afanga me ngáre bwughiiló ischil mángemángumw reel Joseph K. Villagomez, Attn: "Public Law 16-46 Regulations, reel address ye weiláng, fax me email address, reel kkapas ye "Public Law 16-46 Regulations". Ischil mángemáng ebwe atotoolong llól eliigh (30) ráalil igha schagh e akkaté arong yeel. Ów ischilong máfiyámi. (1 CMC Talil 9104(a)(2)).

Pomwol allégh kkaal nge aa allégheló mereel Samwoolul Public Health (Limilimal Iligiir toulap llól ráalil ye 20 wóol Maan 2010.

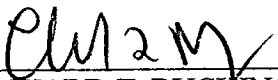
Isaliyallong:  9-20-10
Joseph Kevin P. Villagomez Rál
Samwoolul Public Health

Mwir sangi:  9/20/10
Esther S. Fleming Rál
Sów Alillisil Sów Lemelem

Ammwel Sangi:  9-20-10
Esther M. San Nicolas Rál
Commonwealth Register

Sángi allégh ye 1 CMC Talil 2153(e) (AG Alughulugh reel allégh kka aa akkatééló ighila) me 1 CMC Tálib 9104(a)(3) (bwughi yaal alughulugh AG) pomwol allégh kka e appasch nge raa takkal amweri fischi allégheló mereel CNMI Sów Bwungul Allégh Lapalap me ebwe akkatééló, 1 CMC Talil 2153(f) (akkatéél allégh kkaal).

Ráalil ye 22 llól maramal Maan 2010.


EDWARD T. BUCKINGHAM
Sów Bwungul Allégh Lapalap

**DEPARTMENT OF PUBLIC HEALTH
BUREAU OF ENVIRONMENTAL HEALTH**

**PROPOSED RULES AND REGULATIONS TO IMPLEMENT PROVISIONS OF
THE SMOKE-FREE AIR ACT OF 2008, PUBLIC LAW 16-46, 6 CMC §§ 3171-3187**

100 SCOPE AND AUTHORITY

101 The purpose of the Smoke-Free Air Act of 2008 and these regulations is to protect the public health and welfare by prohibiting smoking in public places and places of employment; and to guarantee the right of nonsmokers to breathe smoke free air, and to recognize that the need to breathe smoke free air shall have priority over the desire to smoke. The Act shall not be construed to prohibit or otherwise restrict smoking in outdoor areas. The Act shall not be construed to permit smoking where it is prohibited or otherwise restricted by other applicable law, ordinance, or resolution. The Act and these regulations shall be liberally construed to further its purpose.

102 The regulations throughout this chapter implement the provisions of the Smoke-Free Air Act of 2008, PL 16-46. The Department of Public Health, under 1 CMC §§ 2603 and 2605, is authorized to promulgate rules and regulations to effect its duties under PL 16-46 (Title 6, Division 3, Chapter 1, Article 4 of the Commonwealth Code).

103 These regulations shall become effective on December 1, 2010.

200 DEFINITIONS

Act means the Smoke-Free Air Act of 2008

Attached Bar means a bar area of a restaurant

Bar means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

Business means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for profit or not for profit, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.

Employee means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.

Employer means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.

Enclosed area means an area or space bounded by walls, with or without windows, continuous from floor to ceiling and enclosed by one or more doors, including but not limited to an office, function room, or hallway. If an outdoor area, as defined herein, has structure capable of being enclosed by walls or covers, regardless of the materials or removable nature of the walls or covers, that area will be considered enclosed when the walls or covers are in place.

Entrance means the opening of a building. For the purposes of these regulations, it can be a door used for entry or exit or an operable window.

Health care facility means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals or other clinics, including nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

Outdoor area means any space open to the outside air at all times.

Outdoor Arena means a location in which an organized event takes place

Person means any individual, firm, fiduciary, partnership, corporation, trust or association, however formed, club, trustee, agency or receiver.

Place of employment means an area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, work area, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.

Public place means an enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, health care facilities, Laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.

Restaurant means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering

facilities in which food is prepared on the premises for serving elsewhere. The term “restaurant” shall include an attached bar.

Retail tobacco store means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

Service line means an indoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the services involves the exchange of money.

Shopping mall means an enclosed public walkway or hall area that serves to connect retail or professional establishments.

Smoking means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, plant, or other combustible substance in any manner or in any form.

Sports arena means sports pavilions, stadiums, gymnasium, health spas, boxing arenas, swimming pools, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

300 PUBLIC PLACES and PUBLIC MEETINGS

301 Prohibition of Smoking in Government Facilities: Smoking is prohibited in all enclosed areas and outdoor areas within 25 feet of any doorway entrance or exit to a government facility that is owned, leased, or operated by the Government of the Commonwealth of the Northern Mariana Islands (CNMI) or any instrumentality thereof, including but not limited to office buildings, warehouses and vehicles owned and leased by the same. For the purposes of determining compliance within these regulations, the Department will confer with the CNMI Department of Public Works and the CNMI Building Code as to all applicable standards for buildings and enclosure requirements.

302 Prohibition of Smoking in Public Places: Smoking is prohibited in all enclosed areas of public places, including but not limited to areas available to and customarily used by the general public and other common-use areas. For the purposes of determining compliance within these regulations, the Department of Public Health will assess these areas according to the following requirements:

(1) Sports arenas including enclosed places in outdoor arenas. Smoking shall be prohibited in:

(a) Any open field used for a sporting event including sitting areas (bleachers/stands) and non-designated parking areas with the exception of designated parking.

(b) Within the fenced perimeter; common areas; fields; and general premises of the Gilbert C. Ada Gymnasium; Tan Ko Palacios Baseball Field; Miguel Pangelinan Softball Field; and the track & field/soccer area, with the exception of the parking lot.

(2) Smoking shall be prohibited in the lobby areas of motels or hotels except in designated smoking areas in an outdoor area 25 feet or farther from the entrances, exits, operable windows, and ventilation intakes that serve an enclosed public place or workplace in which smoking is prohibited.

303 Prohibition of Smoking in Places of Employment: Smoking is prohibited in all enclosed facilities within places of employment, or within 25 feet of any person who is not smoking if the place or site of work is an outdoor area or area other than an enclosed area, without exception. For the purposes of determining compliance within these regulations, employers must adhere to the following:

- (1) Inform employees, agents, subagents, contractors, customers and all other persons who are physically present on the premises of the prohibition against smoking.
- (2) Prominently posting "Smoking" or "No Smoking" signs, or the international "No Smoking" symbol,
- (3) Removing all ashtrays,
- (4) Asking any person who smokes in an area where smoking is prohibited to refrain from smoking,
- (5) If the person does not refrain from smoking, asking the person to leave,
- (6) Refusing service to a person who is smoking.

If the person refuses to leave, the proprietor or other person in charge shall handle the situation in the same manner as for violations of other laws, employee policies, or house rules.

Nothing in this section prohibits the owner, manager, or other person in charge from taking more stringent measures to protect individuals from secondhand smoke.

304 Prohibition of Smoking on Property of the Public School System and the Northern Marianas College: [Reserved]

400 REASONABLE DISTANCE

Smoking is prohibited within a reasonable distance of 25 feet outside an enclosed area where smoking is prohibited. For the purposes of determining compliance within these regulations, the Department will assess reasonable distance according to the following requirements:

- (1) Any smoking shall be no less than 25 feet away from any entrances including window openings and ventilation systems or any other means of possible infiltration to an enclosed area.
- (2) Any smoking shall be no less than 25 feet away from any person who is not smoking, if the place or site of work is an outdoor area or area other than an enclosed area; and
- (3) In no case shall this provision be used to permit smoking on school grounds or property of the CNMI Public School System; the Northern Marianas College; and any school or college-related functions, events, or activities on Saipan, Tinian, or Rota.
- (4) There shall be no smoking permitted or allowed outside of nor on any balconies of any motel or hotel room regardless of whether such room is designated as a smoking room. Any smoking shall be confined to the area within the smoking-designated room.

500 WHERE SMOKING NOT REGULATED

Smoking may be allowed by owners or operators as to entities or locations not regulated under Public Law 16-46 and as incorporated into these regulations, including bars (including open-air bars); private residences or homes; private apartments or condominiums; within specific and limited hotel/motel rooms that are rented to guests and are designated as smoking rooms; private and semiprivate rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing for a designated smoking room; outdoor areas of places of employment except those covered by the provisions of §3174 and § 3176; enclosed gaming areas of a casino establishment; and fully enclosed and well-ventilated smoking areas at the departure terminal of the Commonwealth airports.

For the purposes of determining compliance within these regulations, the following are to comply with the prohibition against smoking as regulated entities or areas:

- (1) Attached bars at the earlier of an established time when the kitchen ceases servicing dinner meals or 10:00 p.m., provided that smoke does not infiltrate into areas where smoking is prohibited. Because ventilation systems are inadequate to prevent second-hand smoke, whenever smoking occurs or is permitted in an attached bar area of a restaurant under this provision, any smoking including second-hand smoke shall be controlled through complete and separate enclosures such as enclosed glass windows; separate entrances; and sealed doors from the dining area and/or dining patrons, after 10 pm. Ventilations or exhaust fans are deemed insufficient to control infiltration or drift of smoke from the permitted smoking area. Total and separate enclosures are required.
- (2) Private residence used as a licensed child care, adult day care, or health facility; and

(3) No more than 20% of rooms rented to guests in an establishment may be designated as smoking. Room reservations should be for non-smoking rooms unless a customer specifically requests for a smoking room.

600 COMPLIANCE

The person, firm, corporation, or other entity that owns, leases, manages, operates, or otherwise controls the use of a public place, workplace, or public transportation regulated by this law shall take necessary steps to prevent smoking by:

- (1) Informing employees, agents, subagents, contractors, customers and all other persons who are physically present on the premises of the prohibition against smoking.
- (2) Prominently posting "Smoking" or "No Smoking" signs, or the international "No Smoking" symbol,
- (3) Removing all ashtrays,
- (4) Asking any person who smokes in an area where smoking is prohibited to refrain from smoking,
- (5) If the person does not refrain from smoking, asking the person to leave,
- (6) Refusing service to a person who is smoking,

If the person refuses to leave, the proprietor or other person in charge shall handle the situation in the same manner as for violations of other laws or house rules

Nothing in this section prohibits the proprietor or other person in charge from taking more stringent measures to protect individuals from secondhand smoke.

700 ENFORCEMENT

This act shall be enforced by the Department of Public Health (DPH) through the Bureau of Environmental Health (BEH) or an authorized designee. Such enforcement will include, but is not limited to, the following measures:

- (1) BEH, in conjunction with the Community Guidance Center Program Manager for Substance-Abuse or Tobacco Prevention ("CGC") shall conduct a Community Outreach and Information Program designed to inform the community of the provisions of Public Law 16-46 and these regulations through the following activities:
 - (a) BEH and CGC shall develop an information brochure and "Frequently Asked Questions" or "FAQs" for the community and for regulated entities or businesses in order to inform the community of the provisions of P.L. 16-46.
 - (b) This community outreach effort shall take place through December 1, 2010 on a regulator basis.

(c) BEH and CGC shall conduct presentations to the Alcohol Beverage and Tobacco Control Board; the Marianas Visitor's Bureau; the Saipan Chamber of Commerce; Rotary Club of Saipan; Rota and Tinian Mayor's Offices; the Department of Public Safety officers and personnel; the CNMI Fire Division; the Hotel Association of the Northern Mariana Islands; faith-based organizations or groups; and any other civic, community or business organizations.

(d) After December 1, 2010 BEH and the Community Guidance Center shall conduct at least two (2) quarterly orientation sessions on Saipan regarding Public Law 16-46 until December 1, 2012.

(e) There shall be at least one additional orientation or presentation on Tinian and Rota after December 1, 2010.

(f) The CNMI Business Licensing Office, CNMI Zoning Office, and Registrar of Corporations shall provide a copy of this act to all applicants submitting an application to do business in the CNMI and/or any Information Brochure or FAQs prepared by BEH which summarizes the provisions of Public Law 16-46 and its requirements.

(2) BEH and/or the Fire Division of the Department of Public Safety (DPS) shall conduct inspections for compliance of this act during regular scheduled mandated inspections including sanitation and/or fire safety inspections in addition to the following activities:

(a) BEH shall make itself available for courtesy inspections for compliance under this chapter without any penalty in order to provide feedback and information to affected businesses seeking to comply with Public Law 16-46;

(b) BEH may solicit or may request information from business owners or regulated entities in order to answer any questions or to resolve any issues or concerns relating to the Act and its provisions or these regulations;

(c) BEH shall, in addition to being familiar with Public Law 16-46 themselves, have available any handouts or brochures to distribute.

(3) A proprietor, owner, or operator of an establishment regulated by this Act shall inform persons violating or disregarding the provisions of the Act of the appropriate requirements. Offending persons shall be instructed to cease smoking or relocate or to leave the premises should they refuse to comply.

(4) Any citizen may report a violation to BEH or the Department of Public Safety to initiate enforcement of the Act;

(5) An employee or private citizen may bring legal action to compel enforcement and may seek injunctive relief to enforce these provisions in any court of competent jurisdiction.

800 CITATIONS, HEARING, AND PENALTIES FOR VIOLATIONS

- (1) BEH shall develop a citation form (which may be part of a general citation form under its other areas of jurisdiction) for the specific purpose of issuing a Citation or Notice of Violation, including any Warning thereof, for violations of Public Law 16-46 by any owner, operator, or business entity regulated by law under this chapter. The Citation or Notice of Violation shall, at a minimum, indicate the date, place, time and manner of the violation; identify the complaining party; the section of Public Law 16-46 and/or this chapter violated; a short and plain statement of the factual basis and findings; and a notice to appear for a hearing should the violator wish to dispute the Citation.
- (2) BEH shall designate a Hearing Officer under its existing procedures for any administrative hearings under this chapter. All administrative hearings for any citations, shall be coordinated and handled by BEH. Alternately, any proceedings shall be conducted in a manner consistent with the Administrative Procedure Act at 1 CMC Section 9101 et. seq.
- (3) In addition to the BEH, the Department of Public Safety may issue a Citation or Notice of Violation to any person violating Public Law 16-46 or issue any Warning, written or verbal, to any person or business owner or operator and provide a copy of such Citation or Warning to BEH. All citations shall be heard by the BEH Hearing Officer.
- (4) After hearing, notice, and opportunity to be heard, the BEH Hearing Officer may issue any Order, Administrative Penalty or Fine; and other appropriate relief under the statute as authorized.
- (5) Any decisions by the BEH Hearing Officer shall be a final agency decision and any aggrieved party may seek judicial review to the CNMI Superior Court.
- (6) If Public Law 16-46, § 3182(c) is applicable, BEH and/or the Department of Public Safety shall refer the matter to the Secretary of the Department of Finance or an authorized designee for possible action pursuant to 4 CMC § 5611(g).



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Eloy S. Inos
Lt. Governor

1 **EXECUTIVE ORDER 2010-10**

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4

DECLARATION OF A STATE OF DISASTER EMERGENCY:

5

COMMONWEALTH UTILITIES CORPORATION'S

6

IMMINENT GENERATION AND OTHER FAILURE AND THE NEED TO

7

PROVIDE IMMEDIATE RELIABLE POWER, WATER AND WASTEWATER

8

SERVICES

9

10

CONTINUATION #26

11

12

I, **BENIGNO R. FITIAL**, pursuant to the authority vested in me as Governor of the

13

Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth

14

Constitution and 3 CMC § 5121 of the Commonwealth Disaster Relief Act of 1979, do hereby

15

declare a State of Disaster Emergency for the Commonwealth of the Northern Mariana Islands

16

due to the inability of the Commonwealth Utilities Corporation (CUC) to provide critical power

17

generation service to the CNMI and the extreme, immediate and imminent threat such condition

18

poses to the Commonwealth of the Northern Mariana Islands.

19

20

This Executive Order is intended to, and does, continue in effect portions of the Governor's

21

preceding disaster emergency declarations on this matter, EO 2009-01 through -09, and 11-13,

22

and EO 2010-01 through -06, and -08 through -09, except as specifically modified. As more

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fully stated below, this Executive Order shall expire on the 31st day following the date of my

1 **EXECUTIVE ORDER 2010-10**

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DECLARATION OF A STATE OF DISASTER EMERGENCY:
COMMONWEALTH UTILITIES CORPORATION'S
IMMINENT GENERATION AND OTHER FAILURE AND THE NEED TO
PROVIDE IMMEDIATE RELIABLE POWER, WATER AND WASTEWATER
SERVICES

10 **CONTINUATION #26**

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I, BENIGNO R. FITIAL, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth Constitution and 3 CMC § 5121 of the Commonwealth Disaster Relief Act of 1979, do hereby declare a State of Disaster Emergency for the Commonwealth of the Northern Mariana Islands due to the inability of the Commonwealth Utilities Corporation (CUC) to provide critical power generation service to the CNMI and the extreme, immediate and imminent threat such condition poses to the Commonwealth of the Northern Mariana Islands.

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This Executive Order is intended to, and does, continue in effect portions of the Governor's preceding disaster emergency declarations on this matter, EO 2009-01 through -09, and 11-13, and EO 2010-01 through -06, and -08 through -09, except as specifically modified. As more fully stated below, this Executive Order shall expire on the 31st day following the date of my

signature. The following findings and conclusions further support continuation of the
Declaration and issuance of directives.

☐
Table of Contents

DECLARATION OF A STATE OF DISASTER EMERGENCY:..... Page 1 of 25

FINDINGS..... Page 3 of 25

MANPOWER CRISIS DUE TO RESTRICTIVE LEGISLATION..... Page 3 of 25

Summary..... Page 3 of 25

Background..... Page 3 of 25

Staffing CUC with the technical experts to permit continued electric service..... Page 5 of 25

Complying with the federal court order on disposal of used oil..... Page 10 of 25

Complying with the federal court order on managing the water and wastewater systems..... Page 12 of 25

Meeting US District Court and CNMI Public Utilities Commission requirements to produce timely, accurate
financial reports..... Page 16 of 25

MANAGEMENT CRISIS IN ABSENCE OF A PROPER BOARD/CEO STRUCTURE..... Page 17 of 25

Forestalling corporate paralysis..... Page 18 of 25

Fixing CUC’s technical insolvency..... Page 19 of 25

Providing the basis for proper CPUC oversight..... Page 20 of 25

Addressing a critical financial challenge..... Page 20 of 25

CRISIS FROM THE LACK OF LEGISLATIVE ACTION..... Page 22 of 25

CONCLUSION AND ORDER..... Page 22 of 25

DIRECTIVES..... Page 23 of 25

Directive 9: The Executive Director of CUC shall have all the powers of the CUC Board..... Page 23 of 25

Directive 10: The following strike-out-formatted language of the quoted provisions of the following statute
regulating government employment is, as indicated, suspended..... Page 24 of 25

1
2 **FINDINGS**

3
4 I find that:

5
6 1. All findings and conclusions of EO 2009-01 through -09, and 11-13, and EO 2010-01
7 through -06, and -08 through -09 are incorporated by reference, except as specifically varied in
8 this Executive Order.

9
10 ⓐ

11 **MANPOWER CRISIS DUE TO RESTRICTIVE LEGISLATION**

12
13 2. **Summary.** A shortage of manpower forced by legislation limiting skilled foreign workers
14 has continued to place CUC operations at risk. Incipient failures in the CUC water, wastewater
15 and power transmission and distribution networks have underscored the importance of having in
16 place a well-funded and functioning preventive maintenance program. Skilled workers and a
17 responsive support system are key to the success of the operations, particularly of preventive
18 maintenance. Presently CNMI law (PL 16-14) prohibits CUC from hiring any more non-US
19 technical workers than the 19 skilled professionals recently with CUC. CUC has repeatedly
20 asked the Legislature for relief from this statute regulating the Government's workforce, to no
21 avail. Further, errors in wording in the CUC enabling legislation recently re-enacted, PL 16-17,
22 as amended, would bar the Executive Director from day-to-day management of the corporation,
23 effectively shutting CUC down. This EO eliminates these problems while it is in effect.

24
25 3. **Background.** CUC has substantially minimized the risk of losing the services of its owned
26 generating capacity, which losses created intermittent blackouts on portions of its system. It
27 therefore allowed the Aggreko year-long temporary power contract to terminate, as provided in
28 the agreement, effective September 12, 2009. This saves CUC customers at least \$6 million per
29 year in fees. But it still presents risks, as the strategy requires proper operation and maintenance
30 of CUC's owned engines by CUC's technical staff, and the timely securing of materials and
31 supplies.

32
33 4. CUC bears a substantial obligation to deliver highly technical work on time to the satisfaction
34 of the US District Court and the US EPA, pursuant to two consent, or "stipulated", orders.

- 35
36 a. The first requires the upgrade and smooth functioning in virtually all aspects of
37 CUC's water and wastewater divisions. The second requires CUC to properly
38 eliminate over 400,000 gallons of used oil and to institute measures to avoid
39 uncontrolled buildup of such inventories. Failure to meet the requirements of the
40 federal court orders could subject CUC and the CNMI to substantial fines and
41 charges, and, in the extreme, to a federal takeover of their finances. Presently

1 CUC is “accruing” substantial fines. Most of the fines have not been levied; but
2 they could be. The EPA has, however, levied two fines, in the amount of \$29,000
3 and \$140,000 (June 2010 letter).
4

5 b. On February 24, 2010, the US District Court entered an additional stipulated
6 order. It provided, among other things, that a professionally-developed Interim
7 Financial Plan (“IFP”) would be provided to the US EPA within 30 days, by
8 March 26, 2010. This additional stipulation requires CUC to meet a number of
9 deadlines, each involving the application of technical expertise. CUC has timely
10 filed the IFP. It now has the task of implementing the IFP and meeting these
11 deadlines. Failure to meet these requirements would subject CUC to the
12 described sanctions.
13

14 c. Of concern to CUC are the tight deadlines for Stipulated Order 2 (Oil
15 Management) projects that are funded by a \$4.05 million CIP grant awarded in
16 February, 2010, by the US Department of the Interior’s Office of Insular Affairs.
17 The funding is to assist CUC is disposing of the used waste oil discussed in this
18 Executive Order. Failure to meet the deadlines could subject CUC to additional
19 EPA sanctions.
20

21 d. The coordination of the approvals from the various agencies calls for a responsive
22 procurement system at CUC, including the trained technical staff to implement
23 the system.
24

25 5. CUC is thoroughly regulated by the Commonwealth Public Utilities Commission (“CPUC”).
26 The regulator has plenary power over CUC rates, charges, fees, operations and capital
27 investments. CUC’s failure to timely and competently meet CPUC orders and other
28 requirements can result in severe rate discipline, and fines and other penalties. For example, the
29 Commission required CUC to meet certain requirements, including the filing of a technically
30 complex rate case (Docket No. 10-01) by the end of January 2010, or face fines of \$500 per day.
31 CUC must also file an additional, complex electric power rate case by October 3, 2010.
32

33 6. CUC is the sole electricity supplier to the Government of the CNMI, including all public
34 safety activities, the schools, and the only hospital. CUC also supplies electricity to most of the
35 CNMI’s businesses and homes. While some businesses and agencies own backup generators,
36 they are not generally organized to use the backups as permanent power sources; and the diesel
37 oil purchased to run these generators is substantially more expensive than that used for CUC
38 power.
39

40 7. Without CUC electricity:
41

- 1 a. most CNMI economic activity would come to a halt, the courts would soon close,
2 much refrigeration and air conditioning would end, and the airports and ports
3 would be forced to rely on emergency generation and the limited, expensive oil
4 supply for it;
5
6 b. the CNMI's health and safety would immediately be at risk, since traffic signals
7 and street lighting would cease to function, emergency, fire and police facilities
8 and their communications systems, and the Hospital and island clinics would have
9 to rely on limited oil supplies for emergency generation and then cease
10 functioning, much refrigeration of food and medicines would end, as would air
11 conditioning for the elderly and medically fragile;
12
13 c. the public schools and the Northern Marianas College would close. Other
14 educational institutions would close as their backup oil supplies for emergency
15 generators were exhausted; and
16
17 d. water and sewage treatment would soon end. One of CUC's largest electric
18 customers is the combined CUC Water and Wastewater Divisions. CUC is the
19 sole supplier of electricity for these systems. CUC's water system relies on
20 electricity to maintain the system pressure needed to avoid the backflow of
21 pathogens, to chlorinate, and to pump, store and to distribute water supplies.
22 CUC's wastewater system requires electricity to collect, pump, process, treat and
23 discharge sewage. The lack of electricity could result in sewage overflows,
24 contamination of land and water and rendering unsafe the CNMI's beaches,
25 which are also principal tourist destinations.

26
27 8. As discussed below, CUC is currently advertising for about 20 vacancies, including the
28 Executive Director, the Water Distribution Manager, the Wastewater Manager, five engineers, a
29 general counsel, an internal auditor, a grants writer and/or a grants specialist, two wastewater
30 level 2 treatment operators, two wastewater level 2 collection operators, and two water treatment
31 /distribution levels 1 and 2 operators for Rota. CUC also seeks to renew 18 technical and
32 professional contracts for non-US citizens. Without these positions filled CUC's operations
33 would be severely compromised.



36 **Staffing CUC with the technical experts to permit continued electric service**

37
38 9. CUC continues to maintain and rehabilitate its owned power plants. CUC tries to maintain
39 and rehabilitate the operating units to adequately meet load. CUC has secured federal funds to
40 buy many needed parts to avoid outages. CUC began the needed overhaul of PP #1 unit DE-5 in

1 September 2009. In October four other units began required overhaul, which will take 12
2 months.

3
4 10. In November 2009, the following work started: The critical replacement of the PP #1
5 anchor bolts, in order to stop the shifting and vibration that has ruined the plant; and foundation
6 repairs to Engines 1 and 8. Shortly thereafter the replacement of turbochargers and oil-water
7 separators began. All of this work is essential.

8
9 11. This work has been successful. Power Plant 1 Engines 1, 2, 3, 5, 6, 7 are available. Engine
10 8's critical foundation repair and anchor bolt replacement have been completed. The major
11 engine overhaul is under way.

12
13 12. In effect, CUC management, with generous federal financial assistance, has brought its
14 generation back from the brink of system failure. There are adequate reserves. If maintained
15 properly, the system can provide the CNMI's citizens and residents with adequate power.

16
17 13. Adequate technical staff is essential to this work. A major challenge to carrying out this
18 rehabilitation has been finding the trained technicians needed to carry out these rehabilitation
19 projects, and maintain and run the equipment. The technicians must be ready for service when
20 needed and their services must be affordable. Any significant reduction in CUC's present
21 technical workforce could seriously compromise CUC's ability to generate and distribute power.

22
23 14. With respect to CUC's lines, equipment used by CUC's Transmission and Distribution unit
24 ("T & D"), including many vehicles, is dilapidated and bordering on being unsafe. There is an
25 insufficient number of skilled workers to operate T & D. The linemen must be trained to, and
26 skillful in, meeting US standards. Fortunately, a federal DOI/OIA grant paid for some lineman
27 training in June. The critical upcoming projects in T & D include the replacement of the
28 antiquated, rundown and unsafe vehicle fleet; the redesign of T & D using national Rural Utility
29 Service standards; the replacement/installation of insulators, transformers, overcurrent
30 protection, sectionalizers and the installation of efficient LED street lighting.

31
32 15. For example, Saipan's early-September 2009 brush with Typhoon Choi-Wan 15W that
33 passed to the north of Saipan, and typhoon Melor, which passed just north of Saipan in October
34 2009, underscored the extreme vulnerability of CUC's power transmission and distribution
35 system. In September 2009, over 150 calls of no- power and line faults were fielded by crews
36 when, for a storm of this size, there should have been no more than a score. Fortunately, last
37 year's typhoon season ended with no direct hits on the CNMI and the power distribution system.
38 Accelerating improvements to the T & D system, with proper staff under an Emergency Order,
39 would allow CUC to "harden" the system in anticipation of a bigger storm event. The
40 alternative, in a more serious storm, is CUC's inability to recover in any reasonable time period.
41 The year 2010 will see a new typhoon season.

1
2 16. Nonetheless, outages due to Power Transmission & Distribution were extremely low: May
3 saw only 11 minutes; April just one minute. These are the lowest such figures in the last seven
4 years, reflecting an extraordinary accomplishment for an understaffed, overworked CUC work
5 group.

6
7 17. Further, utility industry safety margins for isolated, island systems typically require a
8 reserve equal to the capacity of the two largest generating units. In CUC's case this would be
9 another 15 MW of load, equivalent to the departed Aggreko temporary units. Meeting this
10 reserve requirement means CUC must have an adequate repair and maintenance staff.

11
12 18. The Legislature, through PL 17-1 (Mar. 22, 2010), has limited CUC's ability to hire
13 technical staff; eliminating prior statutory permission to hire up to 19 foreign workers, and
14 reinstating a moratorium on the Government's hiring foreign nationals, even if needed for
15 highly technical positions for which no local or Mainland citizens are available. The CUC Act,
16 as subsequently re-enacted by PL 16-17 (Oct 1, 2008), provides that CUC shall hire such persons
17 as are necessary for operations, *except as otherwise limited by other law.* 4 CMC § 8123(h).

18
19 19. PMIC at PP #4 and Telesource on Tinian, and the Rota Resort on Rota, as Independent
20 Power Producers (IPPs), are not subject to the Legislature's limitation or prohibition on foreign
21 workers. Nor are consulting firms that provide specialty utility industry services.

22
23 20. There are not enough technical specialists at CUC to get the power generation work done,
24 particularly specialists with experience in the type of engines that CUC uses. CUC believes that
25 the vast majority of skill sets must come from non-US personnel.

26
27 21. CUC has tried to hire diesel mechanics in the CNMI, but has been unsuccessful in finding
28 all the qualified candidates. In the summer of 2009 CUC identified 16 potential new staff after
29 interviews – 7 mechanics, 1 welder, 1 machinist, and 7 operators. Two of the operator
30 candidates were US citizens.

31
32 22. CUC has hired some local staff in time thanks to the aggressive steps of CUC HR, the
33 Executive Director and earlier versions of Directive 10.

34
35 23. CUC has hired skilled trade technicians needed on Saipan for power plant operations and
36 maintenance. For Rota, CUC announced the need for a mechanic-operator and an electrical
37 operator. As more units begin working after the rehabilitations are largely complete, CUC will
38 need more staff to operate and maintain them. For the foreseeable future, CUC needs to
39 maintain its complement of skilled workers. In the meantime, CUC continues to work with the
40 Northern Marianas Trade Institute ("NMTI") to find local trainees, part of a multi-year

1 apprenticeship program. CUC has about a dozen of these trainees, but requires fully trained,
2 experienced technicians to keep the power plants running.

3
4 24. With generous grant funding and the use of in-house technical specialists and outside
5 contractors, CUC has undertaken substantial rehabilitation of its power system. Future projects
6 include replacing turbochargers, conserving and reclaiming used lube and waste oil, retrofitting
7 streetlights with low-wattage LED's, and restoring power generation and adequate distribution
8 on Rota. Even if contractors do the work, CUC technical staff must research and prepare bid
9 documents, review technical proposals, and oversee the work.

10
11 25. The bottom line on CUC's technical work has been a substantial increase in reliability,
12 specifically the availability of CUC's generation. CUC's transmission and distribution has
13 similarly improved – January 2010 saw 10 hours 44 minutes of outages, April 2010 saw one
14 minute. It was critical to this latter improvement that CUC had the skilled, trained work force to
15 maintain power lines.

16
17 26. But even as power becomes more reliable, CUC must reduce its distribution losses from the
18 reported level of 8%. With world oil prices increasing CUC's power costs, such losses already
19 account roughly for \$4.8 million, which CNMI customers must cover. CUC requires a team of
20 skilled technicians to find and eliminate power theft and line losses.

21
22 □

23 27. The impact of an inadequate workforce would be four-fold:

- 24
25 a. First, there would be a direct negative effect on the existing consumers. There
26 would be brownouts, or area blackouts, with the above-mentioned loss of service.
27
28 b. Second, the power plants would again degrade, producing more of these outages.
29
30 c. Third, there would be an indirect effect, increasing rates over the longer term,
31 because small consumers would have to shoulder more of the fixed costs of the
32 CUC system. First, there would be loss of large customers. By contrast, if the
33 hotels were to become part of the system, they could help pay CUC fixed costs,
34 which would lower everyone else's rates. The hotels need reliable, 24/7 power.
35 But with unreliable power, CUC would be unable to convince large commercial
36 customers, particularly the hotels, to join, or rejoin, its system. Second, would
37 come additional expenses. If CUC fails to meet federal court deadlines for the
38 stipulated orders, the Court could appoint a federal receiver and its consulting
39 team – with all expenses charged to CUC customers. The EPA has already
40 imposed stipulated order penalties; it recently required the payment of a \$140,000

1 penalty. Thus, the indirect effect of an inadequate workforce would be to boost
2 rates.

- 3
4 d. Fourth, with the recovery of the world economy, advise CUC experts, oil prices
5 can be expected to rise. If CUC's generators become less efficient, because
6 technical staff are unavailable to maintain CUC's engines' efficiency, that much
7 more oil would be needed to generate a given amount of electricity. The price
8 rise will thereby harm CUC's customers and electricity-dependent services with
9 higher rates. (Fortunately, as of mid-September, CUC's consultants and staff
10 have determined, with PUC experts, that oil prices should remain flat for the next
11 six months.)

12
13 28. Rota's status today is precarious and financially un-sustainable. Rota has suffered blackouts
14 from inadequate generator maintenance. The power plant's other facilities and the island's
15 distribution system similarly need the attentions of additional manpower. The Rota power plant
16 needed additional generating sets to come on line, as there are only 1.5 dependable sets in the
17 plant. The third of two feeders was, until June 2010, powered by the Rota Resort, a private
18 resort, at a cost of \$200,000/month to CUC. The revenues to CUC from the customers on this
19 feeder fall far below this cost. CUC has negotiated with a Mainland supplier for a new
20 generating set, with funding from the US Department of the Interior. The alternative for Rota
21 was akin to Saipan's recent Aggreko situation – purchasing higher cost, reliable power from the
22 Rota Resort. Therefore, in June 2010, two 0.9 MW Cummins generating sets were transported
23 from Power Plant 4 on Saipan to Rota in order to augment the power generation. These two
24 generating sets were commissioned by the end of July, 2010.

25
26 29. Since E0 2009-8 in August, and the suspension of the harmful legislative employment
27 restriction, CUC has taken steps to hire the expertise to operate and maintain the Saipan and
28 Rota power generation facilities. CUC needs to be able to hire the workers it needs when it
29 needs them. Otherwise, if CUC had to discharge these workers, its staffing levels would return
30 to those which overworked its limited staff. For example, over pay period numbers 2 through 11
31 of the year 2009, CUC accumulated 18,053 hours of overtime from technical employees who
32 each worked 40 or more hours of overtime in a pay period. This condition is extreme, and a
33 repeat can result in inefficiencies and poor work quality. It can lead to dangerous mistakes,
34 producing injury or death.

35
36 30. CUC has repeatedly asked the Legislature to lift the restrictions on foreign workers. The
37 Legislature has failed to act on the CUC request. Without relief, this inaction will effectively set
38 the stage for loss of service and higher rates. Among other things it will thereby reverse the \$6
39 million-per-year benefit of terminating the Aggreko temporary power contract.

40

1 31. CUC points out that the power distribution system is highly vulnerable because, like the
2 sewer system, so much of the maintenance and replacement was deferred for one reason or
3 another over the past 20 years. Since 1995, 26 villages on Saipan were identified as needing
4 major improvements to the power lines; only five have seen those improvements. Power T & D
5 fails in bits and pieces. One of the big pieces that failed in February 2010 was one of 12
6 termination cables on the Kiya Substation (Transformer One). A power outage to the southern
7 parts of Saipan lasted from one to five hours. CUC management states that the excellent
8 response from the crews in both Power Generation and Power T & D demonstrated the
9 importance of having skilled workers. The top two engineers were non-residents. Without this
10 EO in place, given present statutes, it is unlikely CUC would be able to secure the services of
11 such valuable individuals.

12
13 32. The extended dry season this year (see below) means that vegetation must be cleared away
14 from the lines early and often. Brush fires can damage the power lines, telephone facilities, and
15 television cables. Meanwhile, CUC crews must replace failing insulator bolts and failing
16 switches in order to avoid distribution-related power outages.

17
18 33. CUC has demonstrated that the required workers are available as nonresident workers, and
19 cost-effectively so. In the last two months it was able to renew the contracts for approximately
20 two dozen essential foreign expert workers, thereby sustaining the integrity of CUC's systems.
21 Thus, continued relief from the legislative prohibition of hiring foreign national workers is
22 necessary to ensure the delivery of uninterrupted power services to the people of the
23 Commonwealth.



25
26 **Complying with the federal court order on disposal of used oil**

27
28 34. CUC has taken concrete steps to address the storage and disposal of used oil, consonant
29 with the federal court's Stip Order 2. Federal court Stipulated Order 2 relates to the used oil
30 from the engines for four facilities (Power Plants 1, 3, 4 and Rota) and all CUC transformers.
31 *USA v. CUC & CNMI*, Civ. No. 08-0051 (D. NMI Mar. 11, 2009) ("Stip Order 2"). With an
32 adequate complement of trained technical employees, complemented by expert contractors, CUC
33 believes that it can meet the Stip Order requirements. On August 12, 2010, the Court issued the
34 Second Joint Stipulation ("SJS"), which replaced many otherwise unattainable deadlines, but
35 provided other deadlines and stiff penalties for a host of technical and management positions.
36 The SJS also provided for firm dates for reporting on the use of grant funds, on the progress of
37 secondary containment facilities, providing a facilities response plan ("FRP"), and cleaning out
38 Tank 104.

39
40 35. A September 2009 inspection by the US Coast Guard (USCG) resulted in the imposition of
41 another cost that was unanticipated even with Stip Order 2. The USCG now requires additional

1 and more stringent measures to contain or eliminate the possibility of any oil reaching the ocean
2 from Power Plants 1, 2 and the power plant on Rota. Further, as of October 2009, CUC has
3 faced the following staffing needs in this area: It critically needs the resources to inspect and
4 redesign the entire fuel storage, pumping and handling system in order to meet the more
5 stringent requirements of today. The clean fuel storage tanks at Lower Base were originally
6 designed for another application. The fuel line from the oil company's terminal is in danger of
7 rupturing during a transfer; the pumping rate has to be reduced to prevent this. Fixing all of this
8 requires trained CUC staff.

9
10 36. Serious deficiencies in the waste oil handling system at Lower Base have come to light in
11 the past year and are being addressed by both CUC and EPA. One deficiency is that the oily
12 water separators are not functioning as such because of the excessive amount of oil (as opposed
13 to water) entering the system. As a result, oil was spilling onto the ground rather than being
14 separated and skimmed off properly. Power Plant #1 has been sealed off to prevent any waste
15 oil from leaving the plant and flowing into the oily water separators. To prevent oil from
16 accumulating uncontained in the plant itself, emergency measures have been taken to store waste
17 oil and to fabricate above-ground tanks. The oily water separators, pipes, holding tanks, and
18 baffles are being cleaned out so that the entire system can be carefully inspected and
19 re-engineered. All of the additional work is expensive. Regardless of who does the work
20 initially, CUC staff, EPA contractors, or a combination thereof, CUC requires skilled, trained
21 workers for the clean-up. Failure to correct this situation could harm the nearby environment,
22 CUC's ability to generate electricity properly, and the assurances given pursuant to Stip Order 2.
23 CUC has hired an Oil Technical Manager.

24
25 37. Incinerators play a crucial role in helping CUC meet Stip Order 2. The two incinerators at
26 Lower Base (Power Plants 1 and 2) are now operating, and burning about 1000 gallons of used
27 oil per day. One had to be taken out of service due to mechanical issues, is being repaired by a
28 contractor, and the contractor's work must be approved by the Deputy Director for Power
29 Systems, a non-US-citizen. This EO has permitted Power Generation the flexibility of hiring
30 skilled non-US-citizens to not only repair and overhaul the generating sets, but to fix and
31 supervise such important auxiliary equipment as the incinerators.

32
33 38. Nonetheless, the EPA on February 18, 2010, filed a status report with the US District Court
34 for the Northern Mariana Islands which is highly critical of the progress in CUC's efforts to
35 comply with Stip Order 2's requirements to solve the used oil situation. Since that report CUC
36 has contracted with the GRESCO firm to remove waste oil from Tank 104. The EPA has
37 strongly urged CUC to accelerate the removal, bringing the "empty" date forward from October
38 2010 to July 30, 2010. CUC found two additional special double-walled "ISO" tanks for use in
39 the project, to add capacity to the contractor's six tanks. As a result, GRESCO transferred just
40 under 180,000 gallons of used oil to Guam by July 15.

41

1 39. Presently CUC is in process on these specific efforts to comply with Stip Order 2's
2 requirements, with federal funding authorized: Technical Manager secured for the oil disposal
3 management position; secondary containment (new and repair) has received permits and NEPA
4 clearance, and construction has begun; oil disposal for Saipan's Tank 104; oil transfer pipeline
5 for Lower Base design work commenced, construction contract under review by CPUC, with a
6 target in-service date of February 24, 2011; oil handling and training commenced; used oil
7 sampling laboratory in California contracted; used oil tank system integrity testing and
8 cleanout's RFP published; oil-water separators in planning stage; used oil transfer and solid
9 waste disposal for Saipan and Rota are in planning stage; the section of the facility response plan
10 ("FRP") which provides services for oil spills from a new Saipan-based firm has been executed
11 and awaits the final signatures.
12
13



15 **Complying with the federal court order on managing the water and wastewater systems**
16

17 40. As long as the Water and Wastewater Divisions can hire competent staff and receive power
18 from the Power Division, they can function.
19

20 41. The U.S. Department of Justice ("DoJ"), Environment and Natural Resources Division, has
21 sued CUC in federal court to come into compliance with critical water and sewage treatment
22 requirements. *USA v. CUC & CNMI*, Civ. No. 08-0051 (D. NMI Mar. 11, 2009) ("Stip Order
23 1"). *See also* http://www.usdoj.gov/enrd/Consent_Decrees.html. In July 2008 CUC, the CNMI
24 and (in September 2008) the U.S. Environmental Protection Agency ("EPA") stipulated to this
25 first of two orders lodged with the U.S. District Court on the date the Complaint was filed. This
26 order requires CUC to implement a series of improvements to its water and wastewater systems
27 that respond to years of neglect, for which it presently lacks the funds and the complete technical
28 capability. On August 12, 2010, the Court issued the Second Joint Stipulation ("SJS"), which
29 replaced many otherwise unattainable deadlines, but provided other deadlines and stiff penalties
30 for a host of technical and management positions. The SJS also provided for firm dates for an
31 Interim Financial Plan, Reorganization Plan, full metering and billing, a complete chlorination
32 and disinfection program, the hiring of qualified operators in direct responsible charge ("DRC"),
33 and procedures to generate the scope of work for CUC's Master Plan.
34

35 42. Sewage collection piping failures are continuing at an accelerated rate. The Wastewater
36 Division must respond to acid damage in the asbestos cement piping system, the product of over
37 30 years of anaerobic conditions in sewers. This has caused significant damage to cement and
38 metal infrastructure, so that key pipe systems have collapsed. Replacement involves complex
39 excavations, avoiding electric, phone and water utilities, blocking traffic, stopping the infiltration
40 of seawater (which damages treatment plant facilities), and pumping sewage around blocked and

1 excavated areas. The Division has already far exceeded its repair budget. Without this EO, says
2 CUC, procurement for such repair work would constitute a significant impediment.

3
4 43. Providing and improving water service presents new challenges. With DEQ's classification
5 of Rota's cave-based domestic water as "surface water" CUC has had to expand water quality
6 monitoring and testing, requiring more manpower and more equipment. In May 2010, CUC
7 experienced failures in water pipes as the Cross-Island road project's contractors' equipment
8 broke pipes, requiring CUC staff to be pulled from other jobs, with required equipment, to
9 address the emergency. In addition, a substantial section of the As Terlaje sewer line collapsed,
10 requiring an emergency procurement to hire an outside firm to make the repair.

11
12 44. The Sadog Tasi Wastewater Treatment Plant is undergoing long-planned rehabilitation.
13 But, without such redundant equipment as a clarifier, CUC must devote extra resources to the
14 facility while the contractor repairs the only unit. Such work has to be conducted within strict
15 parameters by properly trained technicians to prevent contamination of the environment. Due to
16 equipment malfunctions, sludge is not pressed, which may have produced unacceptably high
17 July levels of enterococci in effluents from both the Sadog Tasi and Avingan Point treatment
18 plants.

19
20 45. The Division also needs serviceable vehicles to move its workers to and from job sites.
21 Presently six vehicles are in such bad shape that they are dangerous. The resulting reduced
22 vehicle problem raises costs and hurts service, as staff and materials cannot be brought to job
23 sites on time. Starting in September, CUC has had to rent vehicles in order to get its crews to
24 trouble areas.

25
26 46. Sewage lift station failures continue, requiring CUC crews to install newly received pumps.
27 Approximately 17 of the 45 CUC sewage lift station are in poor condition and require significant
28 rehabilitation. CUC anticipates an EPA grant for the rehabilitation of these lift stations. But
29 that construction will not occur for approximately one year. In July there was a sewer blockage
30 in the CK and Susupe areas, and CUC lacked the equipment to repair it; its usual contractor also
31 suffered equipment problems.

32
33 47. CUC engineer staff shortages continue to hamper CUC's ability to anticipate and fix
34 technical problems. While CUC's Water/Wastewater Division employs four engineers, the poor
35 condition of the CUC sanitation assets requires at least two more engineers. But, significant
36 engineering resources are already focused on addressing EPA Stip Order 1 issues. These issues
37 include staffing plans, pre-treatment programs, materials management programs, customer
38 inventory, and cross-connection control programs. CUC water and wastewater engineers are the
39 lead with several on-going construction projects, which also stretches the limited engineering
40 resources, including the Well Isolation Project, Sadog Tasi Sewer Plant Rehabilitation, and

1 Agingan Sewage Treatment Plant Rehabilitation. Recruitment and retention of engineering staff
2 to meet these challenges is difficult.

3 □

4 48. Incipient failures include the failure of 98 submersible pumps in the water system over a
5 period of twelve months. Higher grade stainless steel grates have to be specified that are resistant
6 to pitting. The pitting causes the grates to fail and consequently the pump motors. CUC has
7 had to purchase higher quality equipment, rather than the cheap units that fail prematurely.

8
9 49. CUC must be able to hire the staff to perform the required technical functions. The Water
10 and Wastewater Divisions cannot carry out their missions without adequate staff. These staff are
11 essential to producing clean, safe water supplies and removal of stormwater and sewage in a
12 safe, timely manner. While the bulk of CUC employees are drawn from local and US
13 populations, the Division management estimates that at least six trained technicians will be
14 required – three experienced Level 3 wastewater treatment operators, two Level 3 wastewater
15 collections operators, and an instrumentation /low voltage controls specialist. An experienced
16 Water/Wastewater Division operations manager will be required. CUC requires a chemist to
17 meet federal requirements, but has been unable to find a qualified one in the local population, or
18 a cost-effective professional from the US Mainland; a foreign hire has been identified, however.
19 CUC has also announced a vacancy of the position for Deputy Director for Water and
20 Wastewater. Seven candidates have been reviewed and evaluated by a team which includes the
21 Executive Director.

22
23 50. There are special reasons why the water system must be adequately staffed and maintained
24 this year. This was an El Nino year, and water was relatively scarce. As predicted in the Pacific
25 ENSO bulletin forecast back in February 1, 2010, the CNMI dry season brought below normal
26 rainfalls into June 2010. CUC went into an emergency mode, conserving water, accelerating
27 water line replacements, and locating and repairing leaks. There was greater danger of fires this
28 year, with less water available to fight them. For Capital Hill, the drought and a tank
29 rehabilitation project required that the distribution system in this area be reconfigured in June
30 2010 in order to supply water at least two hours per day to Wireless Ridge. Upper reaches of
31 Navy Hill were without water for several days until leaks were repaired. With the rainy season
32 the aquifers are only slowly replenished. As a result Garapan is seeing in July fewer hours of
33 water service. Unfortunately, the leaks were noted several months before, but lack of manpower
34 and funds prevented the pressurization required for leak repair. In July the Kagman booster
35 pump failed, and until it is replaced the Papago area will see less water delivered.

36
37 51. Recently CUC suffered severe setbacks in its ability to supply water and to develop a
38 system for 24/7 water supply. For example, CUC has not been able to serve San Jose under
39 standard "Water Watch" scheduled valve opening practice. There had to be a second opening of
40 the Kannat Tabla tank in mid-September in order to provide San Jose two hours of water in one
41 week. But this second opening of Kannat Tabla for San Jose created conditions that would

1 impede opening the next day from the Kannat Tabla tank for Chalan LauLau and Southern
2 Garapan. Also, September has seen system water leaks, and pump and motor failures. CUC
3 nearly failed to provide water to the Tanapag School on the first day of classes, and to the San
4 Roque and Oleai Schools in mid-September.

5
6 a

7 52. Put simply, Saipan does not have enough water. Pump and motor problems perpetuate the
8 problem. There are 13 pumps down, including four big ones (over 30 hp). But CUC's water
9 system in mid-September experienced several pump/motor failures.

10
11 53. Meanwhile, CUC must install meters to meet the requirements of federal Stipulated Order
12 #1, the PUC, and its own need for system revenue.

13
14 54. CUC lacks water staff and recently lost staff. CUC's water & wastewater workforce is
15 shrinking. It takes a long time to recruit. Sadly, one of CUC's "Water Watch" supervisors died
16 suddenly in mid-September. Skeleton crews are handling system repairs. Having access to
17 foreign skilled and semi-skilled technicians and trades people is critical, as with CUC's Power
18 Division's generation operations. CUC's foreign contract employees have good formal training
19 and education, and they show up to work religiously, in order to provide the services our
20 population requires.

21
22 55. For its water and wastewater businesses, CUC has tried to hire water and wastewater
23 certified operators. There has not been enough interest by qualified professionals. But CUC
24 must hire such technical staff in order to comply with stiff EPA requirements, as expressed in the
25 latest version of the Stipulated Orders.

26
27 56. CUC also requires a constant supply of electricity to run its water and wastewater treatment
28 systems. CUC has very limited on-site emergency generation capability, and for only portions
29 of these systems.

30
31 57. Meanwhile CUC continues to pay for power, chlorine, lab testing costs, and repairing
32 collapsing sewer lines. CUC has hired a consulting team to assist it in achieving full cost
33 recovery for the water and wastewater systems through the processes of the CNMI Public
34 Utilities Commission ("CPUC"). CUC filed a wastewater rate increase request, complete with
35 hundreds of pages of written expert witness testimony and technical support, on January 31,
36 2010. The Commission addressed the filing in May, authorizing a June 21, 2010, rate increase in
37 wastewater rates and full cost recovery for the electric costs of the water and wastewater
38 divisions.

39
40 58. Nonetheless, the EPA on July 21, 2010, filed a status report with the US District Court for
41 the Northern Mariana Islands which was highly critical of the progress of CUC's efforts to

1 comply with Stip Order 1's requirements to solve the water and wastewater situations. It
2 included a statement that tests in June and July each showed violation of the maximum
3 contaminant level drinking water standard for total coliform bacteria. (7-21-10 Status Report, p
4 6 fn 5) The Court held a hearing which began on August 5, 2010, and continued on for five days
5 until a Second Joint Stipulation ("SJS") was reached and executed by the DOJ/EPA, CUC and
6 the Attorney General on behalf of the CNMI.

7
8
9 ■
10 **Meeting US District Court and CNMI Public Utilities Commission requirements to**
11 **produce timely, accurate financial reports**
12

13 59. The federal Stip Orders require CUC to produce and carry out an Interim Financial Plan,
14 beginning in September, 2009. The "IFP" must develop over time, becoming more than
15 "interim". CUC cannot do this unless it has a staff of trained accounting and other financial
16 experts who can gather data, put the data in the required form and generate the IFP and its later
17 versions. EPA has reviewed CUC's most recent version of the IFP. CUC must submit its final
18 IFP on or before November 30, 2010.

19
20 60. Further, CUC is comprehensively regulated by the Commonwealth Public Utilities
21 Commission ("CPUC"). The CPUC is charged by statute to oversee carefully CUC's operations
22 and capital expenditures, and to develop rates that fully pay the costs of safely operating CUC's
23 water and wastewater systems.

24
25 61. In electric and water/wastewater orders, of September 3 and November 20, 2009, the CPUC
26 addressed CUC's inability to deliver complete on-time financial reports, requiring CUC, in
27 effect, to enhance its staff capability to provide critical regulatory information. (Docket No.'s
28 09-1 and 09-2.) The Commission revisited CUC rates, fees, charges and operations during this
29 year, including in the recent rate case, Docket No. 10-01. CUC's Executive Director was a lead
30 witness in the case, having filed written testimony (on January 31, 2010) and supplemental
31 testimony (on April 1, 2010).

32
33 62. CUC cannot upgrade its financial and accounting operations unless it has a staff of trained
34 accounting and other financial experts who can gather data, put the data in the required form and
35 generate the required reports and filings with the CPUC, as well as provide the CPUC consulting
36 staff with the data required for their oversight. CUC has obligated itself to provide an updated,
37 compliant Interim Financial Plan and an organizational evaluation, both pursuant to Stip Order 1,
38 to the US District Court, and most recently, according to the August 12, 2010, SJS. EPA has yet
39 to approve it.
40

1 63. CUC's procurement system is lengthy and complex. A relic of other decades, with their
2 own challenges, it requires extensive technical experience in specifications and the procurement
3 process, and often must be coordinated with the CNMI's separate procurement procedures,
4 adding months to processes that must respond to the immediate challenges outlined in this
5 Executive Order.

6
7 64. CUC last year lost 2 senior accountants plus a related specialist. The IT and billing
8 department in August 2009 was reduced by one staffer, having advertised for a replacement for 4
9 weeks to no avail. While it appeared that CUC might have to look to employing foreign
10 technical specialists, CUC hired back 2 former accountants in September 2009 and brought a
11 third person aboard in October. All are US citizens. Nonetheless, CUC must have the flexibility
12 to hire competent professionals as needed. CUC is still short-staffed, and needs an accounting
13 assistant, and an accounting specialist. On February 17, 2010, CUC's new Chief Financial
14 Officer reported for duty.

15
16 65. CUC's decades-old financial and accounting system computer failed repeatedly during the
17 last three months, including for a complete week. Already-over-committed finance and
18 accounting staff were required to put in days of extra time in hand-recording customer payments
19 and hand-generating bills. It failed again in August.

20
21 66. Nonetheless, the EPA on July 21, 2010, filed a status report with the US District Court for
22 the Northern Mariana Islands which was highly critical of the progress in CUC's efforts to
23 comply with Stip Order 2's requirements to provide timely and complete financial and other
24 operating reports and plans.

25
26 67. To summarize: Without properly trained technical staff CUC's ability to supply power is at
27 risk. So is its ability to manage the rest of its systems, including its complex procurement, its
28 finances and accounting. CUC's services could not be adequately staffed without the lifting of
29 the artificial legislative regulation of CUC's workforce, in EO 2009-08, Directive #10,
30 suspending the limitations on CUC hiring foreign workers. It is obvious that the hiring authority
31 must be continued.

32
33 68. In fact, during July - September 2010 over 18 CUC employment contracts for non-citizen,
34 technical specialists have required renewal. Failure to timely renew could have crippled CUC's
35 efforts to provide service and meet federal requirements. There is no indication that any of the
36 above manpower situation will be resolved in the next month without continuing in effect this
37 EO and Directive #10.



39 **MANAGEMENT CRISIS IN ABSENCE OF A PROPER BOARD/CEO STRUCTURE**

1 69. **Summary.** CUC is a \$70 million-per-year business, critical to the CNMI's economy and
2 the public health. Yet, the recently-renewed statute organizing it places the Board of Directors
3 in the position of day-to-day management of the corporation, and requires a complex mix of
4 technical, geographic and other qualifications for Board membership. There is no Board because
5 it has been impossible to meet these criteria. Without the Board, or its equivalent, CUC cannot
6 take a critical step toward solvency and the ability to borrow to finance its work.



9 **Forestalling corporate paralysis**

10
11 70. A critical concern is that the CUC Act's constricted scope of authority for the Executive
12 Director, and the complementary daily management by a host of Board volunteers, would
13 paralyze the corporation. This is particularly worrisome in light of the above-listed tasks before
14 CUC.

15
16 71. A careful reading of the CUC Act, PL 16-17, as amended, particularly its sections 4 CMC
17 §§ 8131 (Bd qualifications), 8134 (Bd approval of all "allocations" of money and property), and
18 1 CMC § 8247 (limited daily reimbursement of \$60.00); 4 CMC §§ 8132 (E.D. described), 8133
19 (limited E.D. functions listed), and 8134 (Bd approval of all "allocations" of money and
20 property), demonstrates that the Executive Director is to be left with little more to do than
21 provide reports to a Board of volunteers who are nonetheless to run CUC, a complex \$70
22 million/year corporation, on a day-to-day basis. This includes such decision-making as
23 purchasing materials and supplies, signing paychecks and other checks, hiring staff, assigning
24 work crews, connecting customers, deciding on making repairs, collecting debts, complying with
25 the details of federal and CPUC regulatory requirements, making and funding long-term
26 technical power and water/wastewater plans, overseeing filings with the CPUC, including rate
27 cases, and insuring that, on a day-to-day basis, the power and water flow and the sewage is
28 treated.

29
30 72. Permitting CUC to be managed this way would plunge the CNMI into economic chaos and
31 a public health care crisis, as corporate activity and the Hospital's operations ground to a halt –
32 with or without a Board in place. The complex technical problems listed above simply cannot be
33 managed on a day-to-day basis by a group of non-expert volunteers. For example, the Executive
34 Director had to be available to renegotiate CUC's fuel oil contract this year, and insure that fuel
35 supplies reached Tinian and Rota, as well as Saipan. Also, as a key witness in the recent CPUC
36 Docket 10-01, and in future rate cases, the Executive Director must be enabled to testify in favor
37 of the requested rate increase in order to fully present the required evidence.

38
39 73. No private or public utility company in the United States runs this way – with a group of
40 volunteers managing a \$70-million corporation's day-to-day operations. No other legislature in
41 the United States has mandated this form of corporate management for a public utility.

1
2 74. CUC has applied for and become eligible for millions of dollars of US ARRA grants,
3 which can substantially benefit the CNMI's infrastructure and create jobs. CUC has been
4 awarded \$11 million in grants from the EPA. But developing the grant requests and
5 implementing the grants requires management attention and expertise, part of a professionally-
6 run business organization. CUC has placed ARRA grants out for bid, so that these benefits can
7 start flowing. CUC must evaluate its needs, and hire and contract for the needed technical
8 specialists to manage the grant-funded projects. This requires a corporate structure capable of
9 making and sustaining important decisions.

10
11 75. I can only conclude that the legislation's extraordinary structure for CUC is the result of a
12 drafting error, and the People, through their elected representatives, wish their utility company to
13 continue to supply them with essential services at a reasonable cost, meeting industry standards.

14
15 □

16 **Fixing CUC's technical insolvency**

17
18 76. CUC has been unable to borrow money to run its operations since the inception of this State
19 of Disaster Emergency due to (a) its poor financial condition and (b) the existence on its books
20 of a liability to the Commonwealth Development Authority ("CDA") of approximately \$115
21 million. This situation may be corrected if the Executive Director is recognized to have the
22 authority to correct it. Part of this situation, the CDA relationship, has been corrected precisely
23 because the Executive Director was empowered by this Executive Order to do so.

24
25 77. Meanwhile, billings and collections are substantially below the levels required to prudently
26 manage CUC's current operations and provide for system repairs, replacements and upgrades.
27 For example, billings alone for water and wastewater are less than 70% of requirements to run
28 those two systems. This has changed slowly as the PUC's June 2010 rate increase takes effect.
29 CUC's cash position continues to be perilous.

30
31 78. The booked CDA obligation rendered CUC nominally insolvent. While CUC was deemed
32 insolvent, CUC could not borrow money. But CUC must be able to borrow money to bridge the
33 gap between (a) the need to spend money on essential goods and services to provide electricity,
34 water and sewage service, and (b) the lagged collection of already-determined-insufficient
35 revenues from the sale of those services. Recent improvements in CUC finances, including the
36 issuance of audit reports, have been insufficient to allow CUC to go to market.

37
38 79. The CPUC, in its September 3, 2009, electric order, Docket No. 09-1, approved a CUC-
39 CDA settlement converting the CDA debt to preferred stock. But the deal has required CUC's
40 Board to agree to it.

1 80. There is no Board. CUC has functioned without a Board of Directors, because it has had to.
2 While CUC's enabling act, reenacted as PL 16-17, as amended, authorizes a Board, there is no
3 CUC Board yet because, while the staff of the Governor's Office have diligently tried to find
4 Board volunteers who meet the complex statutory qualifications, they have been unable to do so.
5 Nonetheless, CUC must continue to function, including borrowing money.

6
7 81. EO 2009-08's Directive # 9 provides the required authority to the Executive Director. It
8 also permits him to continue to run CUC, carefully manage cash to pay tens of millions of
9 dollars annually for fuel oil and purchased power, and do all the things necessary to providing
10 power, water and wastewater services, until the remaining members of a properly constituted
11 Board can be identified, confirmed, and convened for business. In February 2010 the Executive
12 Director delivered to CDA management the stock certificates required for the debt-equity
13 conversion. CUC has received the fully executed copy of the Stipulated Notice of Dismissal
14 (with prejudice) in CDA v. CUC, Superior Court Civil Action No. 01-0248D (4/21/2010), which
15 the CPUC has required that CDA provide to make effective the conversion of the CDA debt to
16 preferred equity. CUC has sought Public Utilities Commission final approval. The Commission
17 provided that approval in the rate order authorized at its May 28, 2010, business meeting. Soon,
18 CUC must be able to demonstrate to the financial community that it is properly managed, so that
19 it can borrow and pay back long term capital.



22 **Providing the basis for proper CPUC oversight**

23
24 82. The broad and comprehensive statutory scheme of utility regulation in the Public Utility Act,
25 4 CMC §§ 8401-84, provides that the utility regulator, the CPUC, will carefully examine CUC
26 activities, particularly financial activities.

27
28 83. This extensive oversight satisfies the policy need for a body of arms-length, well-informed
29 citizens to watchdog the activities of this, the Commonwealth's key resource. Thus, the statute's
30 error-infused creation of a volunteer Board which would run the corporation on a day-to-day
31 basis, becomes much less important than satisfying CPUC requirements.

32
33 84. What becomes very important is CUC's capability to provide the CPUC with accurate and
34 timely financial and accounting information. But such reporting is not possible without a
35 competent, trained staff of accounting and financial experts at CUC, and a properly-empowered
36 Executive Director to lead them.



39 **Addressing a critical financial challenge**

40
41 85. CUC faced a financial crisis in June 2010. It was critically short of funds to buy oil.
42 Without oil CUC would be forced to shut down its generation, bringing the economy of the

1 CNMI to a halt, and endangering health and welfare as electricity-dependent operations ceased –
2 sewage treatment, water pumping, traffic lights and security lighting, air conditioning for the
3 elderly, infants, and other medically fragile persons, and equipment at the CNMI’s Hospital and
4 health clinics. The principal reason for the shortage was the Government's failure to pay
5 millions of dollars of utility bills. The Government was in arrears about four months on its bills.
6 Only by eliminating restrictions on the Governor's power to reprogram funds to address this
7 issue was crisis averted.

8
9 86. CUC only had a day or two’s worth of purchased oil to power its system because it lacked
10 the funds to buy oil from its sole, cash-only supplier.

11
12 87. The Executive Director was required to spend substantial time on a concentrated basis
13 interacting with high CNMI government officials as well as developing contingency plans for
14 the orderly shut-down of the CUC system.

15
16 88. Fortunately, the Administration was able to develop a multi-stage plan to enable the
17 payment of enough CNMI Government bills, and the reprogramming of CUC funds to forestall
18 disaster. The Government is still, however, about two months in arrears on its bills.

19
20 89. In order to facilitate this solution, the Governor issued a Declaration of Disaster Emergency
21 (June 8, 2010).

22
23 90. Development of this temporary financial rescue plan would not have been possible without
24 the dedicated, focused effort of a properly empowered Executive Director. Such financial
25 conditions may continue unless the Government, and other large CUC customers, can be brought
26 current, and remain current, on their bills. This may present a challenge for CUC, given the
27 stressed financial conditions of the Commonwealth. A properly empowered Executive Director
28 will be required to address this challenge.

29
30 91. On May 11, 2010, CUC submitted to EPA a draft organization evaluation and
31 reorganization plan. But on June 14, 2010, the EPA assessed CUC a \$140,000 penalty for
32 failing to submit timely such a plan. EPA has yet to approve a master plan for CUC. In a July
33 1, 2010, official letter EPA stated its belief that CUC still lacked the technical capability to put
34 together “adequate” submissions. Importantly, CUC requires a functioning management,
35 including a properly empowered Executive Director to forestall any such additional EPA
36 punitive action.

37
38

1 **CRISIS FROM THE LACK OF LEGISLATIVE ACTION**

2
3 92. There is no Legislative relief coming. For months CUC has repeatedly asked the
4 Legislature for such relief, including submission of draft legislation in July. The Legislature has
5 declined to respond. There is no alternative to providing this relief other than an order from the
6 Governor. Inaction will produce a disaster in which CUC is unable to provide its critical
7 community services. Directives # 9 and #10 were designed to avert this crisis. (The other
8 Directives, #1 through #8, are no longer relevant, and were discontinued.)
9

10 93. This Declaration is necessary to protect the health and safety of our children, our senior
11 citizens, businesses and all other CNMI residents and visitors.
12

13
14  **CONCLUSION AND ORDER**

15
16
17 Therefore, I hereby invoke my authority under Article III, § 10, of the Commonwealth
18 Constitution and 3 CMC § 5121(f) to take all necessary measures to address the imminent threat
19 facing the Commonwealth of the Northern Mariana Islands.
20

21 Exercise of the Constitutional and statutory authority invoked herein will be effectuated by the
22 issuance of Executive Directives setting forth the measures to be taken to address the State of
23 Disaster Emergency pursuant to 3 CMC § 5121(f), which states:
24

25 (f) In addition to any other powers conferred upon the Governor by law, the Governor
26 may, during a state of disaster emergency:

27
28 (1) Suspend the provisions of any regulatory statute prescribing the procedures
29 for conduct of the Commonwealth's business, or the orders, rules, or regulations
30 of any Commonwealth activity or agency, if strict compliance with the provision
31 of any such statute, order, rule or regulation would in any way prevent, hinder, or
32 delay necessary action in coping with the emergency;

33
34 (2) Utilize all available resources of the Commonwealth as reasonably necessary
35 to cope with the disaster emergency of the Commonwealth;

36
37 (3) Transfer the direction, personnel, or functions of the Commonwealth
38 departments and agencies or units thereof for the purpose of performing or
39 facilitating emergency services;
40

41 3 CMC § 5121(f)(1)-(3).

1 By today's disaster emergency declaration, I intend to enable CUC to continue to provide
2 necessary service to the people of the Commonwealth.

3
4 This Declaration of a State of Disaster Emergency shall take effect immediately and all
5 memoranda, directives and other measures taken in accordance with this Declaration shall
6 remain in effect for thirty (30) days from the date of this Executive Order unless I, prior to the
7 end of the thirty (30)-day period, notify the Presiding Officers of the Legislature that the state of
8 emergency has been lifted or has been extended for an additional period of thirty (30) days. 1
9 CMC § 7403(a); 3 CMC § 5121(c).

10
11 A comprehensive report on the exercise of my constitutional authority shall be transmitted to the
12 presiding officers of the Legislature as soon as practicable in accordance with 1 CMC § 7403(a).

13
14
15 **DIRECTIVES**

16 I direct the following:

17
18 Directive 1: Deleted.

19
20 Directive 2: Deleted.

21
22 Directive 3: Deleted.

23
24 Directive 4: Deleted.

25
26 Directive 5: Deleted.

27
28 Directive 6: Deleted.

29
30 Directive 7: Deleted.

31
32 Directive 8: Deleted.

33
34
35 Directive 9: The Executive Director of CUC shall have all the powers of the CUC Board,
36 thereby enabling him to carry out all critical business of CUC, pending the earlier of either (1)
37 the confirmation and convening of an operating CUC Board, or (2) the termination of the
38 authority of this order. In particular, the Executive Director shall have full power and authority
39 to agree to swap CDA debt and related obligations for preferred stock and related features and
40 rights.

1 Directive 10: The following strike-out-formatted language of the quoted provisions of the
2 following statute regulating government employment is, as indicated, suspended immediately:

3
4 § 4532. Exemptions.

5
6 Persons other than citizens and permanent residents may be exempted from the
7 employment restriction in 3 CMC §4531 and employed within the following government
8 entities and positions, on a case by case basis:

- 9
10 ~~(a) Department of Public Health. United States or Canadian board-certified physicians~~
11 ~~and dentists licensed to practice in the Commonwealth.~~
12 ~~(b) Department of Commerce. Temporary or part-time employees as needed for censuses~~
13 ~~and statistical surveys.~~
14 ~~(c) Government translators. Approved foreign national translators for: the Department of~~
15 ~~Labor, the Office of the Attorney General, the Office of the Public Defender, the~~
16 ~~Department of Public Safety, the Commonwealth Superior Court, the Commonwealth~~
17 ~~Supreme Court, and the Marianas Visitors Authority. The Attorney General shall~~
18 ~~establish guidelines for the approval of foreign national translators for the Executive~~
19 ~~Branch. The Supreme Court may establish guidelines for the approval of foreign national~~
20 ~~translators for the Judiciary.~~

21
22
23 3 CMC § 4532, as most recently amended by PL 17-1. (Strikeout is deliberately added) That is,
24 the following language is suspended: "the following", " on a case by case basis" and the
25 following listing:

- 26
27 " (a) Department of Public Health. United States or Canadian board-certified physicians
28 and dentists licensed to practice in the Commonwealth.
29 " (b) Department of Commerce. Temporary or part-time employees as needed for censuses
30 and statistical surveys.
31 " (c) Government translators. Approved foreign national translators for: the Department of
32 Labor, the Office of the Attorney General, the Office of the Public Defender, the Department of
33 Public Safety, the Commonwealth Superior Court, the Commonwealth Supreme Court, and the
34 Marianas Visitors Authority."

35
36 I further suspend and delete the "moratorium" of sec. 4601:

37
38 § 4601. Moratorium.

39
40 There is hereby enacted a moratorium on the hiring of foreign national workers,
41 as defined in 3 CMC §4911. This moratorium shall be read in conjunction with

1 ~~Section 4532 of Chapter 2 of this part, and said moratorium shall be strictly~~
2 ~~construed and adhered to by all agencies and instrumentalities of the~~
3 ~~Commonwealth government.~~
4

5 3 CMC § 4601 as most recently amended by PL 17-1. (Strikeout is deliberately added) That is,
6 the following language is suspended immediately: “There is hereby enacted a moratorium on the
7 hiring of foreign national workers, as defined in 3 CMC §4911. This moratorium shall be read in
8 conjunction with Section 4532 of Chapter 2 of this part, and said moratorium shall be strictly
9 construed and adhered to by all agencies and instrumentalities of the Commonwealth
10 government.”
11

12 I hereby direct that the effect of the suspension of the indicated language shall be that CUC shall
13 have the complete power, without regard to citizenship or otherwise lawful immigration status,
14 to hire engineers, professional employees in technical or trade areas, power plant mechanics and
15 utility technicians, either directly or indirectly. I further direct that these professional employees
16 may include, but shall not be limited to, sanitarians, engineers, accountants, financial experts,
17 information technology specialists, mechanics, electricians, well-drillers, pipefitters, plumbers,
18 wastewater treatment facilities operators, laboratory specialists and other trades technicians and
19 their professional managers.
20

21 I further direct generally that the suspension of the language for specified agencies and the
22 specified positions shall not be held as a limitation as to unnamed agencies and instrumentalities,
23 but shall continue to permit other government entities to continue to fill needed positions,
24 particularly in the areas of health care, census and translation/interpretation. Additionally,
25 suspension of the term “on a case by case basis” shall permit government entities, including,
26 notably, CUC, to develop programs and procedures that avoid the delays inherent in creating or
27 obtaining case-by-case reviews and approvals. Finally, suspension of the moratorium is not
28 intended to impede the efforts of CNMI agencies and instrumentalities in lawfully identifying
29 and filling positions with qualified citizens and legal residents.
30

31
32 Done this 20th day of September, 2010.
33
34
35
36

37
38 _____
39 BENIGNO R. FITIAL,
 Governor

0 EO 2010-10 CUC Dis Decl (20Sep10) Governor.wpd

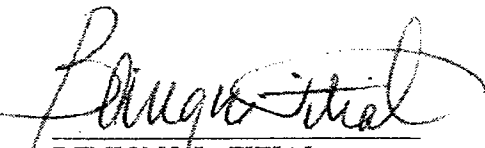
1 Section 4532 of Chapter 2 of this part, and said moratorium shall be strictly
2 construed and adhered to by all agencies and instrumentalities of the
3 Commonwealth government;
4

5 3 CMC § 4601 as most recently amended by PL 17-1. (Strikeout is deliberately added) That is,
6 the following language is suspended immediately: "There is hereby enacted a moratorium on the
7 hiring of foreign national workers, as defined in 3 CMC §4911. This moratorium shall be read in
8 conjunction with Section 4532 of Chapter 2 of this part, and said moratorium shall be strictly
9 construed and adhered to by all agencies and instrumentalities of the Commonwealth
10 government."

11
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20

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22 specified positions shall not be held as a limitation as to unnamed agencies and instrumentalities,
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25 suspension of the term "on a case by case basis" shall permit government entities, including,
26 notably, CUC, to develop programs and procedures that avoid the delays inherent in creating or
27 obtaining case-by-case reviews and approvals. Finally, suspension of the moratorium is not
28 intended to impede the efforts of CNMI agencies and instrumentalities in lawfully identifying
29 and filling positions with qualified citizens and legal residents.
30

31
32 Done this 20th day of September, 2010.
33

34
35 
36
37 BENIGNO R. FITIAL
38 Governor
39

3 EO 2010-10 CUC Dis Decl (20Sep10) Governor.wpd



Commonwealth of the Northern Mariana Islands
Office of the Attorney General

2nd Floor Hon. Juan A. Sablan Memorial Bldg.
Caller Box 10007, Capital Hill
Saipan, MP 96950-8907

AG Opinion 2010 – 11

Concerning the requirements necessary to prevent a government shutdown under Article III, Section 9(a), of the Northern Mariana Islands Constitution, and if the government shutdown occurs, what constitutes essential services.

QUESTIONS PRESENTED AND CONCLUSIONS

1. What is required to satisfy the conditions of Article III, Section 9(a), of the Northern Mariana Islands Constitution to prevent a government shutdown?

CONCLUSION: An appropriations bill must be a law to be considered “passed,” (i.e., the test is whether, as of October 1, 2010, an appropriations act is in effect) or the conditions of Article III, Section 9(a), of the Northern Mariana Islands Constitution take effect. These conditions *inter alia* require all but essential services to be ceased, as well as cessation of legislative salaries.

2. If a government shutdown occurs pursuant to Article III, Section 9(a), of the Northern Mariana Islands Constitution, what constitutes “essential services?”

CONCLUSION: The Constitutional provision is new and no definition of “essential services” relative to its implementation presently exists. If a new statute is passed to define the term “essential services,” such statute shall govern. In the absence of a statute, the Governor shall be responsible to define and implement appropriate provisions related to “essential services.”

ANALYSIS

When Provisions of Article III, Section 9, Take Effect

During the 2009 General Election, Commonwealth voters passed House Legislative Initiative 16-11, amending the language of Article III, Section 9, of the NMI Constitution concerning the creation of a balanced budget.¹ The stated purpose of the House Legislative Initiative was “to prohibit the withdrawal of any funds from the General Fund except by appropriations made by law.”² The legislature found that this amendment was necessary because the CNMI Government has continuously failed to pass a balanced budget for the succeeding fiscal year by the September 1 deadline.³ Consequently, the legislature found, this failure has contributed to “the Commonwealth Government’s cumulative deficit of approximately \$170 million dollars which is in violation of Article X, Section 6, of the Constitution of the Commonwealth of the Northern Mariana Islands.”⁴

¹ This initiative was voted on by 10,753 registered voters, and was approved by 59% of those who voted on the issue.

² House Legislative Initiative 16-11, introduced by Rep. Diego T. Benavente on 2/29/08.

³ Id. at Section I, Findings (stating that the Legislature and Governor failed to pass a budget for fiscal years 2000,2001,2002,2004, 2005, and 2006 by the September 1 deadline.

⁴ Id.

For that reason the legislature found that “As a result of the lack of other stringent penalty provisions, the annual budgetary appropriation often fails to meet the deadline, or no budget is enacted at all.”⁵ Accordingly, House legislative Initiative 16-11 amended the Constitution to impose penalties to ensure a budget would be passed (signed by the Governor and in effect) by October 1. These penalties include the shutdown of the government, except for “essential services,” in order to ensure that no money is drawn from the General Fund if it is not appropriated, and a suspension of the legislators’ salaries if a balanced budget is not passed by October 1.⁶

To avoid a government shutdown and a suspension of legislators’ salaries, the appropriations act must become a law by October 1. The language of the amendment states:

“If a balanced budget is not approved before the first day of the fiscal year, no money shall be drawn from the General Fund, provided that certain government services and employees shall remain available as provided by law in order to deliver services essential to the health, safety, and welfare of the people of the Commonwealth and to protect against damage to and destruction of property; provided further, that if the governor does not submit a detailed and balanced budget to the legislature by April 1st, the governor’s salary shall be suspended until such time that detailed and balanced budget is submitted to the legislature and if the legislature does not pass a balanced budget by October 1st, the legislators’s (sic) salaries shall be suspended until such time that a balanced budget is passed by the legislature.”⁷

As stated in the constitutional amendment, the balanced budget must be approved prior to the first day of the fiscal year.⁸ Pursuant to 1 CMC, § 7201, entitled “Preparation of Proposed Annual Budget,” subsection (f): “No later than 30 days prior to the

⁵ Standing Committee Report No. 16-29, House Legislative Initiative 16-11, June 26, 2008, pg. 3.

⁶ NMI Const., Art. III, § 9(a): “If a balanced budget is not approved before the first day of the fiscal year, no money shall be drawn from the General Fund”.

⁷ NMI Const. Art. III, § 9(a), amended by House Legislative Initiative 16-11 (2009)(Emphasis added).

⁸ Id.

beginning of the budget year, the legislature shall take final action upon the proposed budget for the budget year by enacting and transmitting to the Governor all of the annual appropriation acts.”

Once the appropriations act is transmitted to the Governor, one of three things can occur:

[1] if the governor signs the bill, it becomes law.

[2] If the governor vetoes the bill, it is returned to the legislature and does not become law unless the veto is overridden by a subsequent vote.

[3] If the governor takes no action, neither signing nor vetoing the bill, it becomes law.⁹

Interpretation of Legislative Initiative 16-11 must begin with discerning the legislative intent leading to its passage.¹⁰ “[C]onstitutional amendments are adopted for the express purpose of making a change in the existing system. The addition or change should be considered as having been made for some purpose...”¹¹ Here, the legislative intent was to add penalties to ensure passage of a budget that is in effect by the first day of the fiscal year.¹²

⁹ Analysis of the Constitution of the Commonwealth of the Northern Mariana Islands, Art. II, § 7(a), pg 45.

¹⁰ The process of interpreting should commence with “consideration of the legislative history to uncover any indications of legislative intent.” *Sutherland, Statutory Construction* § 48:01 (6th ed., Singer 2001), see, e.g., *United States v. Taylor*, 882 F2d 1018 (CA6 1989)

¹¹ *Conflict of Laws to Constitutional Law*, 16 Am Jur 2d, § 88, See, e.g., *Steele, Hopkins & Meredith Co. v. Miller*, 92 Ohio St 115, 110 NE 648.

¹² Standing Committee Report No. 16-29, House Legislative Initiative 16-11, June 26, 2008, pg 3. Moreover, Attorney General Edward T. Buckingham issued an informal attorney general opinion stating that Senate Legislative Initiative 16-11 was not effective until October 1, 2010, the start of the next full budget year following its passage, which gave the legislature and executive nearly a year to prepare and enact a balanced budget.

The language of the amendment states that the balanced budget must be “approved” by the first day of the fiscal year.¹³

Interpreting the constitutional amendment to conclude that merely proposing legislative action that purports to be a “balanced budget,” but does not take effect on October 1, 2010, would be contrary to the requirement for actual change (i.e., a working, balanced budget). The Legislative Initiative focused on the outcome with a simple test: is a balanced budget in effect or not?

In creating Legislative Initiative 16-11 the legislature found that, without severe penalties, the legislature and the governor had failed to pass a budget in the past. Therefore, the legislature wanted to ensure the enactment of a balanced budget or to require severe, immediate consequences to the public through reduction of government to only “essential services” and to the Legislature itself through suspension of legislators’ salaries¹⁴.

The constitutional amendment must be read in the context of the legislative history stating “as a result of the lack of other stringent penalty provisions, the annual budgetary appropriation often fails to meet the deadline” and that the legislature and the governor’s failure to meet the deadline has contributed to the deficit.¹⁵

¹³ NMI Constitution Art. III, § 9(a), amended by House Legislative Initiative 16-11 (2009).

¹⁴ Reading the amendment to state that the legislature need only enact a proposed budget prior to the first day of the fiscal year is inconsistent with the legislative findings and standing committee report. For example, if the legislature is able to enact a proposed budget by October 1, and therefore their salaries are not suspended, what would happen if, on October 2, the Governor vetoed the appropriations act? Would the legislators’ salaries be suspended because another, or an amended, appropriations act had to be enacted? Or would the legislature need only enact the first appropriations act and any amendments thereafter would not invoke the penalty of legislative salary suspensions?

¹⁵ Standing Committee Report No. 16-29, pg 3, House Legislative Initiative 16-11, Section 1, entitled “Findings.”

From the language concluding that the lack of “stringent penalty provisions” was instrumental in the failure to enact timely budgets in the past, it is evident that the legislature clearly intended to supply some “stringent penalty provisions” through Legislative Initiative 16-11, those penalties including the suspension of the salaries of the legislators. It is equally clear that, in order for the suspension of the salaries of the legislators to be a “stringent penalty,” the suspension of salaries must be defined as the permanent and irrevocable loss of all salary and emoluments accruing to legislators during the period commencing on October 1 of any year in which a budget must be passed if no balanced budget has been passed. This permanent and irrevocable suspension will continue until a balanced budget has been passed and is in effect. Neither would it be appropriate for legislators to access discretionary funds of their respective offices for the purpose of replacing their salaries during a period of suspension, as this would fly in the face of the stringent penalties mandated by Legislative Initiative 16-11.

Essential Services

Pursuant to the constitutional amendment, if the legislature and the Governor are unable to pass a balanced budget by the first day of the fiscal year:

“no money shall be drawn from the General Fund, provided that *certain government services and employees shall remain available as provided by law in order to deliver services essential to the health, safety, and welfare of the people* of the Commonwealth and to protect against damage to and destruction of property.”¹⁶ [Emphasis added]

During a government shutdown only services that are deemed to be “essential” will be provided. Although the constitutional amendment provides that, during a

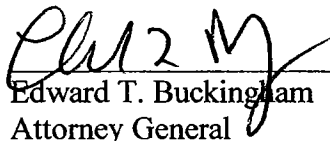
¹⁶ NMI Constitution, Art. III, § 9(a), amended by House Legislative Initiative 16-11 (2009).

government shutdown some services must remain funded and operational, it does not state which ones. Consequently, it becomes the duty of the legislature to enact legislation defining which government agencies/positions are essential during a period of government shutdown. However, if the legislature does not enact a statutory definition of “essential services,” the duty to clarify this term will fall to the Governor under his emergency powers¹⁷.

CONCLUSION

House Legislative Initiative 16-11 declared the necessity for a balanced budget on the first day of each fiscal year and prescribed stringent penalties for noncompliance. A balanced budget must be in effect or all but essential services shall be discontinued and legislators’ salaries shall be suspended until a balanced budget is in effect.

Date: 9-7-10


Edward T. Buckingham
Attorney General

¹⁷ Pursuant to the Northern Mariana Islands Constitution, Article II, Section 10, the governor already has the duty and authority to manage emergency situations: “The governor may declare a state of emergency in the case of invasion, civil disturbance, natural disaster, or other calamity as provided by law, and may mobilize available resources to respond to that emergency.” As a contingency, in the event (1) a government shut down occurs due to provisions of Article III, Section 9, and (2) the term “essential services,” for purposes of Article III, Section 9, has not been defined by statute, an emergency would exist. And therefore, the governor would need to define what services are essential.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Eloy S. Inos
Lt. Governor

DIRECTIVE NO. 270

DATE : **June 10, 2010**
SUBJECT : **Qualified Application Plan**

WHEREAS, the Low-Income Housing Tax Credit Program (LIHTC), created by the Tax Reform Act of 1986, is intended to encourage the construction or rehabilitation of low income rental units;

WHEREAS, Section 42 of the United States Tax Code (the "Code") provides for the issuance of low income housing tax credits to subsidize the private development of affordable housing;

WHEREAS, the Commonwealth of the Northern Mariana Islands receives a minimum allocation of such credits every year, which total \$2,665,000 credits annually for 2009 and \$2,430,000 credits annually for 2010;

WHEREAS, heretofore the Commonwealth of the Northern Mariana Islands has not utilized its annual allocation of such tax credits;

WHEREAS, the Commonwealth of the Northern Mariana Islands has increasing demand for quality affordable housing for its citizens;

WHEREAS, pursuant to Federal Regulation Section 1.42-IT a "State housing credit agency" must be authorized by gubernatorial act to allocate Credits and administer the program;

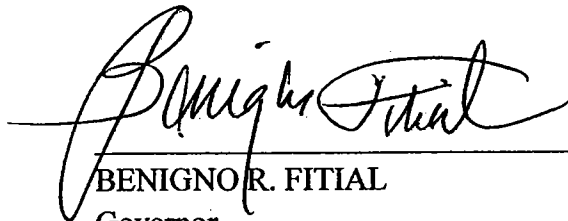
WHEREAS, in accordance with the Omnibus Spending Bill of 2000, Omnibus Budget Reconciliation Act of 1989 and the Budget Reconciliation Bill of 1990, the Northern Marianas Housing Corporation developed a "Qualified Allocation Plan" which sets forth (1) the criteria to evaluate and allocate tax credits to projects which best meet the housing needs of the State, and (2) the procedure to monitor for compliance with the provisions of the Low-Income Housing Tax Credit Program;

WHEREAS, this office has determined that instituting the Commonwealth of the Northern Mariana Islands' first implementation of the Federal Low Income Housing Tax Credit Program will provide significant and lasting benefits to the people of the Commonwealth of the Northern Mariana Islands and promote the public welfare of the island by providing much needed affordable housing options at little or no cost to the tax payers of the Commonwealth of the Northern Mariana Islands; and

WHEREAS, I appointed the Northern Marianas Housing Corporation (the "Agency") to administer, oversee and serve as the Commonwealth of the Northern Mariana Islands' official "State housing credit agency" for allocating and monitoring the Commonwealth of the Northern Mariana Islands' Low Income Housing Tax Credits pursuant to Section 42 of the Code.

NOW THEREFORE, I, Benigno R. Fitial, Governor of the Commonwealth of the Northern Mariana Islands do hereby approve in its full and current form the Qualified Application Plan for the Commonwealth of the Northern Mariana Islands for 2010 which was submitted for review from the Agency. This action will advance the interests of the island and benefit the people of the Commonwealth of the Northern Mariana Islands in many direct and indirect ways and provide meaningful housing opportunities for the less fortunate residents.

In witness whereof, I place my hands this 10th day of June, 2010.



BENIGNO R. FITIAL
Governor

Commonwealth of the Northern Mariana Islands

Government of the Commonwealth of the Northern Marianas Islands
LOW-INCOME HOUSING TAX CREDIT PROGRAM
2010 QUALIFIED ALLOCATION PLAN

I. Introduction

The Low-Income Housing Tax Credit Program (LIHTC), created by the Tax Reform Act of 1986, is intended to encourage the construction or rehabilitation of low-income rental units. The regulations which govern this Program are contained in Section 42 of the Internal Revenue Code. This Program provides Federal tax credits to qualified project owners who agree to maintain all or a portion of a project's units for low-income individuals or families. The Northern Marianas Housing Corporation ("NMHC") has been designated as the agency responsible for the administration of the Federal Low-Income Housing Tax Credit Programs for the Commonwealth of the Northern Marianas Islands ("CNMI").

In accordance with the Omnibus Spending Bill of 2000, Omnibus Budget Reconciliation Act of 1989 and the Budget Reconciliation Bill of 1990, NMHC developed this "Qualified Allocation Plan" which sets forth (1) the criteria to evaluate and allocate tax credits to projects which best meet the housing needs of the State, and (2) the procedure to monitor for compliance with the provisions of the Low-Income Housing Tax Credit Program.

The allocation plan will utilize a point system to rank projects based upon the evaluation criteria established. The ranking of projects, along with all other relevant data, will determine the priorities to be followed by NMHC in allocating tax credits to the projects under consideration. The scores derived from the point system will be a component of the overall evaluation, and not the sole determining factor for the awarding of tax credits. In addition to the scores derived, NMHC will review all relevant data required in the application. Projects selected under this allocation plan shall then be evaluated as to the minimum amount of tax credits required in order to make the project feasible.

This allocation plan shall be effective for reservations and awards of LIHTC for calendar years 2010 and 2011. The allocation plan is subject to amendment by the NMHC Board of Directors.

II. Application Process

Applications for the Low-Income Rousing Tax Credit are available at NMHC's office or by submitting a written request to NMHC at the address shown below.

Northern Marianas Housing Corporation
c/o Executive Director
Middle Road, Garapan
Saipan, MP 96950

Applications for tax credits should be submitted to NMHC by no later than the deadline indicated below. Upon receiving an application for tax credits, NMHC shall review the application to ensure that the application is complete and contains all required information. The executive director shall have the right to defer the consideration of any application if, in his sole discretion, such deferral is deemed in the best interests of meeting housing needs.

Complete applications shall then be evaluated in accordance with the allocation plan to determine the project's rank in relation to other projects in the evaluation. Projects receiving the highest ranking shall then be evaluated to determine the minimum amount of tax credits required to make the project feasible. The amount of tax credits reserved or allocated to a particular project will be limited to the amount NMHC, in its sole discretion, deems necessary to make the project feasible.

III. Selection Criteria Point System

Each application will be evaluated and awarded points in accordance with the following criteria. Unless otherwise indicated, all references to low-income unit(s) or low-income rental unit(s) shall mean low-income housing tax credit unit(s).

	CRITERIA	POINTS
1.	Project will provide low-income units for a longer period than is required under Section 42 of the Internal Revenue Code.	1 - 5 *
2.	Project will provide a greater percentage of low-income units than required under Section 42 of the Internal Revenue Code.	1 - 10 *
3.	Project has the appropriate zoning or the applicant has secured the necessary exemptions/variances to construct the project as proposed.	0 or 7 *
4.	Applicant demonstrates that all low-income units will be made available to people holding valid Section 8 vouchers.	0 or 6*
5.	Project will serve tenant populations of individuals with children and provide 3-bedroom units or larger.	0 or 10*
6.	Project will give preference to special tenant populations.	0 or 3*
7.	Project is participating with a local tax-exempt organization and is sponsored by a qualified non-profit, as defined in Section 42 of the Internal Revenue Code.	0 or 1 *

8.	The ratio of total tax credits requested as a percentage of total project cost.	0 - 5 *
9.	Project will be receiving project-based rental assistance subsidies which would result in eligible tenants paying approximately 30% of their gross monthly income towards rent. Eligible programs shall include, but not be limited to, the Rural Development 515 Loan Program and HUD Section 8 project-based Rental Assistance Program.	0 - 4 *
10.	Local Government Support.	0 - 2 *
11.	Developer will sell the units with a preference towards selling to current residents after 15 years.	0 or 7 *
12.	Project is located in a qualified census tract, the development of which contributes to a concerted community revitalization plan as determined by NMHC.	0 or 2 *
13.	Project location and market demand.	0 - 10 *
14.	Developer experience.	-8 - 10 *
15.	Overall project feasibility.	0 - 10 *

* See pages 4 - 9 for description.

Criteria 1.

If, under the Restrictive Covenant Document, the project is "affordable" for:

15 years or less	1 point
16 years through 20 years	2 points
21 years through 25 years	5 points

Criteria 2.

With respect to the set-aside affordability, if project provides:

20% of the project to households earning less than 50% of AMGI, OR 40% of the project to households earning less than 60% of AMGI	1 Point
40% of the project to households earning 50% or less of AMGI, OR 60% of the project to households earning 60% or less of AMGI	2 Points
60% of the project to households earning 50% or less of AMGI, OR 80% of the project to households earning 60% or less of AMGI	3 Points
100% of the project to households earning 60% or less of AMGI	10 Points

Criteria 3.

The applicant's readiness to proceed with the development of this project with respect to development approvals:

The applicant has obtained all necessary zoning and entitlements for the property, including subdivision approvals and upon receipt of credits, is ready to proceed with the development of the project without any additional development approvals other than customary land disturbance and building permits. 7 Points

Project is not appropriately zoned and/or does not conform to State Land Use regulations or requires 201 G, variances, subdivision approval or any other exemption from any local or state land use restrictions. 0 Points

Criteria 4.

The applicant demonstrates that all low-income units will be available to people holding valid Section 8 vouchers.

If the answer to the question is NO 0 Points

If the answer to the question is YES 6 Points
and the applicant is able to demonstrate that all low-income units will be available to people holding valid Section 8 vouchers.

Criteria 5.

The project will serve tenant populations of individuals with children and will provide three (3) bedroom units or larger for at least 60% of all low-income units in the project.

If the answer to the question is NO 0 Points

If the answer to the question is YES 10 Points

Criteria 6.

Project will commit to serve the following tenant populations:

- 1) Tenant populations with special housing needs. Special needs groups are "persons for whom social problems, age or physical or mental disabilities impair their ability to live independently and for whom such ability can be improved by more suitable housing conditions."

Projects may receive 3 points for this criterion if it commits to the following:

The project will set-aside at least 20% of all units for tenant populations with special housing needs. Persons with special housing needs may include the physically and mentally disabled. To receive consideration for this criterion:

- The project must commit to provide case management or services specific to this population or special facilities to accommodate the physically disabled.
- The Market Study shall specifically address the housing needs for the special needs group. 3 Points

-Or

- 2) Elder or elderly households. Projects may receive a total of 3 points, if all residential units in the project are set-aside for elders or elderly households. 3 Points

Applicants may receive points for electing to serve one of these tenant populations.

Criteria 7.

Project is participating with a local tax-exempt organization and is sponsored by a qualified non-profit, as defined in Section 42 of the Internal Revenue Code.

If the answer to the question is NO 0 points
If the answer to the question in YES 1 Point

Criteria 8.

If total federal tax credit requested (gross) as a percentage of total project cost is:

Greater than 90% of total project cost	0 Points
81 % through 90% of total project cost	1 Point
71 % through 80% of total project cost	2 Points
61 % through 70% of total project cost	3 Points
51 % through 60% of total project cost	4 Points
50% or less of total project cost	5 Point

Criteria 9.

Project will be receiving project-based rental assistance subsidies which would result in eligible tenants paying approximately 30% of their gross monthly income towards rent. Eligible programs shall include, but not be limited to, the Rural Development 515 Loan Program and HUD Section 8 project-based Rental Assistance Program.

If the answer to the question is NO 0 points are awarded

If the answer to the question is YES 1 to 4 points are awarded *

* If the whole project has project based subsidies then 4 points is awarded, if only a portion of a project has project based subsidies, then the scoring will be adjusted based upon the percentage of units subsidized. The percentage is derived as "Number of Subsidized Units / Tax credit and non-tax credit subsidized units," provided they are developed simultaneously.

Criteria 10.

Local government support. The project will receive a below market loan or grant from a State or local governmental agency other than NMHC which, in total amounts to 10% or more of the total development cost.

The project has not applied for a below market loan or grant from a government agency, or if the total amount applied for is less than 10% of total development costs. 0 points

The project has applied for a below market loan or grant from a government agency. Documentation must be provided evidencing that an application for financing has been submitted. 1 point

The project has received a commitment from a government agency. A copy of a commitment letter or contractual agreement must be included in the application. 2 points

Criteria 11.

Developer will commit to offer the units to sale at the end of the fifteen-year compliance period first to existing tenants who can qualify through currently available home ownership programs or other funding sources.

If the answer to the question is NO 0 points

If the answer to the question in YES 7 points

Criteria 12.

Project is located in a Qualified Census Tract. The project will redevelop existing housing, which contributes to a concerted community revitalization plan as determined by NMHC. For example: site is located in an Enterprise Community, Empowerment Zone, or part of a County redevelopment plan.

If the answer to the question is NO 0 Points

If the answer to the question in YES 2 Points

To receive consideration for this criteria, applicant must provide an explanation on how this project is in compliance with such plan and its benefit to the overall community. The applicant must provide a letter of interest or a binding agreement with the government agency administering the community revitalization plan.

Criteria 13.

Project location and market demand.

0 to 10 Points

A comprehensive Market Study of the housing needs of low-income individuals in the area to be served by the project by a disinterested party approved by the NMHC must be completed no later than thirty days after NMHC issues a Tax Credit Reservation. A final Market Study is not required at the time of the initial application. The Market Study must be completed at the Owner's expense. Any application which fails to submit a Market Study or submits a Market Study dated over 6 months from the time of application, shall be returned to the applicant and will not receive further consideration.

Market Study requirements are specified in Appendix I.

The points awarded will be based on NMHC's evaluation of following factors:

- Employment opportunities, schools, medical facilities located in the immediate vicinity of the project site 5 points
- Recreational facilities, shopping facilities, located in the immediate vicinity of the project site; 2 points
- Documented/supported market demand; 2 points
- Proposed rental rates are below market rents for the immediate surrounding area? 2 points
- Housing characteristics (e.g., design, density) appropriate for neighborhood; 2 points
- Neighborhood conducive for senior or family use 2 points

Criteria 14.

Developer experience.

-8 to 10 points

The points awarded will be based on NMHC's evaluation of following factors:

- Development Team has successfully met program objectives on past proposals; 8 points
- Development Team' has failed to meet program objectives on past proposals or any NMHC programs; -8 points
- Development Team has successfully completed similar projects; 2 points

Criteria 15.

Overall Project Feasibility.

0 to 10 points

The points awarded will be based on NMHC's evaluation of the following factors that could impact overall project feasibility:

- Documentation of development costs; 2 points
- Documentation of operating costs 2 points
- Debt Service Coverage Ratio of >1.15x; 2 points
- Operating reserves equal to three months of monthly operating expenses; 2 points
- Financial Commitments in place. 2 points

IV. Rights of NMHC

NMHC reserves the right to disapprove any application or project for any tax credit reservation or allocation, regardless of ranking under the criteria and point system as contained in section III of this allocation plan. The executive director or his designated representative shall have the authority to defer consideration of any application if, in his sole discretion, such deferral is deemed in the best interest of meeting housing needs.

NMHC reserves the right, in its sole discretion, to (i) hold back a portion of the annual state and federal housing credit ceiling for use during later reservation cycles, (ii) carryover a portion of the current year's housing credit ceiling for allocation to a project which has not yet been placed in service, and (iii) under certain conditions, issue a reservation for up to 75% of the next year's housing credit ceiling.

NMHC is required under the I.R.C. of 1986, as amended, to allocate the minimum amount of tax credits required to make a project feasible. The determination of the amount of tax credits to be reserved or allocated to a project shall be made solely at the discretion of NMHC. NMHC may, at the time of issuance of the IRS Form(s) 8609 for the project, decrease the amount of tax credits allocated to a project based on the actual cost and financing of the project.

NMHC may, at its sole discretion under certain circumstances, conduct a special round after the final scheduled round for a year for projects (i) where the applicant's tax counsel has attested to an itemization of how the ten percent test prescribed by Code Section 42(h)(1)(E) will be met; (ii) which have no deficient application items; and (iii) for which all exhibits have been submitted ("Year-End Round"). Year-End Round projects will receive a Carryover Allocation, not a reservation of LIHTCs, which may contain certain conditions and time periods for satisfying them. The circumstances for conducting a Year-End Round are (1) availability of LIHTCs and (2) potential loss of LIHTCs to the national pool. When a Year-End Round is being conducted, applicants need to satisfy the above requirements in order to receive a Carryover

Allocation; and LIHTCs will be processed on a first-come first-served basis and allocated to the extent available and to the extent applications can be processed.

NMHC in no way represents or warrants to any interested party which may include, but is not limited to, any developer, project owner, investor or lender that the project is, in fact, feasible or viable.

No member, officer, agent or employee shall be personally liable concerning any matters arising out of, or in relation to, the reservation or allocation of the Low-Income Housing Tax Credit.

V. Compliance Monitoring Plan

A. Summary

NMHC shall monitor compliance with all applicable Federal Program requirements for the period a project is committed to providing low-income rental units. NMHC will require that all qualified tenants of a project be certified upon occupancy and be re-certified annually to ensure compliance. Projects shall be required to maintain copies of the income certification for each tenant on forms approved by NMHC. Projects will also be required to maintain records regarding number of rental units (including number of bedrooms and size of square footage of each bedroom); percentage of rental units that are low-income units; rent charged on each rental unit including utility allowances; number of occupants in each low-income unit for those buildings receiving tax credits prior to 1990; documentation regarding vacancies in the building; eligible and qualified basis of the building at the end of the first year of the credit period, and at the end of each year until required set-asides are met; and character and use of the nonresidential portion of the building that is included in the building's eligible basis, all in accordance with the rules published by the Internal Revenue Service. NMHC may perform an audit annually but at a minimum, once every three years, and shall have access to all books and records upon notice to the project owner. Annually, owners of low-income housing tax credit projects will be required to certify to NMHC that for the previous year, the minimum set-aside requirement was met; there was no change in the applicable fraction, or an explanation if there was a change; appropriate income certifications and documentation have been received for each low-income tenant; each low-income unit was rent-restricted in accordance with the Code; all units were for use by the general public and used on a no transient basis (except for transitional housing for the homeless as provided for in the Code); each building was suitable for occupancy, taking into account local health, safety and building codes; there was no change in the eligible basis in the project, or an explanation if there was a change; all tenant facilities included in the eligible basis were provided on a comparable basis without charge; rentals of vacancies were done in accordance with the Code; rentals of units were done in accordance with Code if any tenant's income increased above the limit allowed by Code; and a Restrictive Covenant document was in effect for the project, for those buildings receiving credits after 1989, all in accordance with the rules published by the Internal Revenue Service.

If NMHC becomes aware of non-compliance, the Internal Revenue Service shall be notified in accordance with the rules published by the Internal Revenue Service.

Please consult with your tax attorney and/or LIHTC consultant regarding Internal Revenue Code regulations. Owners are responsible for keeping abreast of current Program requirements.

The guidelines outlined below pertain to projects allocated Federal and State Low Income-Housing Tax Credits in CNMI.

B. Compliance

Owner/Manager Training

Owners, managing agents, and on-site managers should attend or document that they have recently attended training on management and compliance prior to leasing any units, but no later than receipt of IRS Form 8609, which certifies an allocation of tax credits. Training may be required following significant or repeated noncompliance events. At minimum, such training should cover key compliance terms, qualified basis rules, determination of rents, tenant eligibility, file documentation, next available unit procedures and unit vacancy rules, agency reporting requirements, record retention requirements, and site visits.

Set Aside

The project must comply with the low-income set-aside requirements of Section 42 of the Internal Revenue Code (the "Code") as chosen by the owner at the time of receiving the credits. The minimum requirements are either:

1. 20 percent or more of the units are occupied by tenants having a household income of 50 percent or less of the area median gross income (the "20-50 requirement"), or
2. 40 percent or more of the units in the project are occupied by tenants having a household income of 60 percent or less of the area median gross income (the "40-60 requirement").

Tenant income is calculated in a manner consistent with the determination of annual income under Section 8 of the United States Housing Act of 1937, as directed by the Internal Revenue Code. Area median incomes are determined annually by the U.S. Department of Housing & Urban Development (HUD), and are available from NMHC.

Rent

Units in the project must be rent-restricted to either thirty (30) percent of the

median income adjusted for family size for the area in which the project is located or rent restricted to thirty (30) percent of the imputed income limitations based on unit size. This rent restriction must be maintained throughout the Term of the Compliance and Extended-use period. See 'D. Rent Restrictions' in this section for further information.

Term of Compliance

Projects must comply with eligibility requirements for the initial 15-year period (compliance period).

Annual Certification

These and other compliance requirements as listed in Section A. Summary must be certified annually by the owner through the submission of the Annual Report. The Annual Report includes the Owner's Certificate of Continuing Program Compliance and shall be submitted by February 1 of each year throughout the compliance/extended-use period. The Annual Report and the supporting documentation verifying the information on the Annual Report must be kept for a minimum of six (6) years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period, however, must be retained for at least 6 years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building, in accordance with published IRS guidelines.

IRS Form 8609

Owner shall complete Part II of IRS Form 8609 and submit with subsequent Annual Report.

Status Reports

This report is to be submitted annually by owners in such format as required by NMHC or its Authorized Delegate to document and track the continuous compliance of tax credit units. The documents report data that tenants are income eligible at move-in, that occupants of LIHTC units are re-certified at least on an annual basis and that the unit rents are restricted. Documentation will also indicate compliance with the vacant unit rule and 140% rule. The tracking of tax credit units substantiates the maintenance, increase or reduction of each BIN's qualified basis.

C. Qualifying Households

Applicants for low-income units should be advised early in their initial visit to the project that there are maximum income limits, which apply for these units.

Management should explain to the tenants that the anticipated income of all persons expecting to occupy the unit must be verified and included on a Tenant Income Certification (TIC) prior to occupancy, and re-certified on an annual basis. Applicants should be informed of other Internal Revenue Services requirements such as the Student Rule and Recertification's.

Unborn Children

In accordance with the HUD Handbook 4350.3, owner shall include unborn children in determining household size and applicable income limits. If permitted by state laws, owner shall require documentation of pregnancy in such circumstances.

Student Households

In accordance with the Internal Revenue Code, a household comprised entirely of full-time students may not be counted as a qualified household, unless the household meets at least one exception. Refer to the Internal Revenue Code for additional guidelines on the exceptions. Owner shall utilize a lease provision requiring tenants to notify managing agent of any change in student status.

Calculating Anticipated Tenant Income

Owner shall qualify tenants by calculating household income using the gross income the household anticipates it will receive in the 12-month period following the effective date of the income verification or Recertification. Anticipated income should be documented in the tenant file by third party verification whenever possible, or by an acceptable alternate method of verification with documentation as to why third party verification was not available. Owner shall use current circumstances to project income, unless verification forms or other verifiable documentation indicate that an imminent change will occur. Owner shall refer to HUD Handbook 4350.3 for guidance on the proper calculation and verification of income and assets per IRC regulations.

Certification

Upon acceptance of an applicant to the project, a TIC must be completed for the applicant and certified to by the applicant and the owner. The form is a legal document which, when fully executed, qualifies the applicants to live in the set-aside units in the project.

The TIC must be executed along with the lease prior to move-in. No one may live in a unit in the project unless he is certified and under lease.

The original copy of the executed TIC form is to be retained in the applicant's file. The TIC and the supporting documentation verifying the TIC must be kept for a minimum of six (6) years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period,

however, must be retained for at least 6 years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building, in accordance with published IRS guidelines.

Recertification

For projects with less than 100% set-aside:

To ensure each unit is complying with the LIHTC income restrictions, NMHC requires (a) the owner to annually recertify each tenant's income and household composition and (b) each tenant is to report certain changes in income and household composition which occur between regularly scheduled recertifications.

If the income of the tenants in a unit who have been previously verified increases above 140 percent of the applicable income limitation, the unit may continue to be counted as a low-income unit as long as the next available unit of comparable or smaller size is occupied by a qualified low-income tenant, and the rent continues to be restricted for the initial unit.

Each tenant's annual recertification is to be completed within one year of last recertification. The request for recertification shall be made between 60 and 90 days before the effective date, and it must clearly state that the tenant has ten (10) calendar days in which to contact the owner to begin recertification processing. The notice must also state the days and hours available for the interview, the information the tenant should bring to the interview, and how and whom to contact to schedule the interview.

Upon reverification of the tenant's income, the owner shall complete a new TIC, which shall be certified to by the owner or owner's designee.

Past-Due Recertification

A recertification is considered past due if the TIC for the tenant is not certified by tenant and owner within twelve months of the last recertification.

D. Rent Restrictions

For projects receiving Low-Income Housing Tax Credits during the years 1987 to 1989, the tenant's gross rent may not exceed thirty (30) percent of the median income adjusted for family size for the area in which the project is located. The gross rent must include an allowance for utilities.

Projects receiving Low-Income Housing Tax Credits after January 1, 1990 must comply with the following procedures:

Units in the project must be rent-restricted to 30% of the imputed income limitations for each unit, based upon HUD area median incomes and size of units.

Rents are imputed by bedroom size in the following manner: a unit which does not have a separate bedroom - 1 individual; and a unit with 1 or more separate bedrooms - 1.5 individuals per bedroom.

Gross rent does not include any payment for various rental assistance programs and supportive service assistance as outlined in Section 42 of the Code. Gross rent must include any allowance for utilities.

HUD publishes the area median incomes for each state annually. Updated income limits must be implemented pursuant to IRS Revenue Ruling 94-57, "Taxpayers may rely on a list of income limits released by HUD until 45 days after HUD releases a new list of income limits, or until HUD's effective date for the new list, whichever is later." Rents may be increased accordingly as the area median income increases.

If the income of the tenants in a unit who have been previously verified increases above 140 percent of the applicable income limitation, the unit may continue to be counted as a low-income unit as long as the next unit of comparable or smaller size is occupied by a qualified low-income tenant, and the rent continues to be restricted for the initial unit.

E. Eviction of Tenants

Once an eligible tenant has been certified and admitted to the project, the tenant may not be displaced solely due to an increase in the tenant's household income beyond the restricted limit.

F. Audits

The project may be subject to a management audit by NMHC or its Authorized Delegate annually but, at a minimum, once every three years. Notification of an audit shall be given to the owner at least 30 days prior to such audit. The results of the management audit and the recommendations for corrective action to protect and maintain the project shall be transmitted to the owner within thirty (30) days following the completion of the audit.

The purpose of the audit will be to conduct a physical inspection of the building and/or project, and, for at least 20 percent of the project's low-income units, to inspect the units and review the low-income certifications, documentation supporting the certifications, and rent records for the tenants in those units. The audit may also consist of a review of first year tenant records, a review of the documentation supporting the Annual Report, and any other documentation necessary for NMHC to make a determination as to whether the project is not in compliance with the Code.

When conducting tenant file reviews, NMHC's and its Authorized Delegate's reviews shall include, but not be limited to:

- completed rental application, including certification of assets and disposal of assets, if applicable;
- tenant income certification completed for move-in and current year, including all required signatures and dates;
- income verification(s) completed and documented;
- assets verified in accordance with IRC regulations;
- student eligibility documentation;
- lease and lease addendums completed at move-in;
- utility allowance on file;
- review of first year tenant records which qualified the project initially for tax credits

The owner shall have a period of thirty (30) days in which to respond to the findings of the management audit. NMHC shall review the owner's response to determine the extent to which the issues raised in the management audit letter are addressed. Findings, whether corrected or not, will be reported to the IRS.

See the following Section J for information on notification to the IRS of any non-compliance found in the management audit.

G. Rural Housing Service (RHS) and Tax-exempt Bond Issue Projects

In accordance with the published IRS guidelines on compliance monitoring, an exception may be granted to RHS projects under its section 515 program and buildings or projects of which 50 percent or more of the aggregate basis is financed with the proceeds of tax-exempt bonds.

The IRC regulations allow for exception of a building from the inspection requirement if the building is financed by RHS under the section 515 program, the RHS inspects the building [under 7 CFR part 1930(C)], and the RHS and the allocating agency enter into a memorandum of understanding, or other similar arrangement, under which the RHS agrees to notify the allocating agency of the inspection results. Irrespective of the physical inspection standard selected by the allocating agency, a low-income housing project under section 42 of the Internal Revenue Code must continue to satisfy local health, safety and building codes. A memorandum of understanding has not been executed between NMHC and RHS.

Annual Reports, QBTS, Compliance Monitoring Status Reports and other reports are still required of RHS projects. Although NMHC has allowed the use of the RD 1944-8, the form does not determine eligibility for specific LIHTC requirements. Owners need to determine whether the TIC will be used or a worksheet will be attached to RD 1944-8 to determine eligibility under the IRC. Management audits will still be conducted as indicated herein.

An owner who for some reason is not able to make any of the required certifications stated on the Annual Report or other requirements must inform the Agency immediately of such inability, as well as explain the reason for said inability.

H. Reporting Requirements

- a. The LIHTC Annual Report must be submitted annually by February 1 of each year throughout the compliance/extended-use period.
- b. Part II of the IRS Form 8609 must be completed by the owner and submitted with initial Annual Report.
- c. Qualified Basis Tracking Sheets (QBTS) are submitted at a minimum annually with LIHTC Annual Report until all set-asides are established.
- d. Status Reports are submitted annually by owners with Annual Report to document and track the continuance compliance of tax credit units throughout the compliance/extended-use period.

These forms must be sent in to NMHC or its Authorized Delegate at the address shown in Section II.

The Certification of Eligibility and LIHTC forms listed above are available from NMHC. Additionally, NMHC has data regarding HUD area median incomes, maximum rental rates, income verification information and third party verification forms.

I. Fees

A compliance monitoring fee of up to \$25 per unit for all units within each project shall be charged annually for administrative expenses. This fee shall be submitted with the LIHTC Annual Report for each year of the compliance/extended-use period. NMHC reserves the right to adjust fees due to changing circumstances annually each January 1. It will be the responsibility of NMHC to inform the owner of any changes in the annual compliance fee prior to the submission of fees. The compliance monitoring fee will be effective as of the Placed in Service date for the first building.

J. Non-compliance Penalties

The penalty for non-compliance with these procedures is the potential recapture of the credits awarded and interest on the amount recaptured. The Internal Revenue Service shall determine penalties for non-compliance.

Upon determination by NMHC of non-compliance with the LIHTC Program, the owner shall be notified and given thirty (30) days to correct any discovered violations. In accordance with the Internal Revenue Service's published guidelines on compliance monitoring, NMHC will be required to notify the IRS within forty-five (45) days after the end of the thirty-day correction period, whether or not the non-compliance is corrected. NMHC will be given the opportunity on the IRS form to indicate whether the owner has corrected the non-compliance. NMHC may extend the correction period, up to a total of six (6) months, if it is

determined by NMHC that good cause exists for granting such an extension. In such case, the IRS will not be notified until the end of the extended correction period.

Appendix 1 Market Study

In accordance with Section 42 (m)(iii) of the Internal Revenue Code, NMHC requires a comprehensive Market Study of the housing needs of low-income individuals in the area to be served by the project by a disinterested party approved by NMHC must be submitted as part of this application. The Market Study shall be completed at the Owner's expense. Any application which failing to submit a Market Study or submits a Market Study dated over 6 months from the time of application, shall be returned to the applicant and will not receive further consideration.

The Market Study shall address the following information:

- A statement of the competence of the market analyst.
- A description of the proposed site.
- Demographic analysis of the number of households in the market area which are income eligible and can afford to pay the rent. Estimate of capture rates for the market areas.
- Geographic definition and analysis of the market area.
- Identification of the project including location, unit counts, income levels and target population. Market Study must be consistent with the proposed project.
- Analysis of household sizes and types in the market.
- A description of comparable developments in the market area.
- Analysis of practically available rents, vacancy rates, operating expenses and turnover rates of comparable properties in the market area.
- Analysis of practically available rents, vacancy rates and turnover rates of market rate properties in the market area. Projected operating funds and expenses, when available at the time of the study.
- Expected market absorption of the proposed rental housing, including a description of the effect of the market area.
- Identification and commentary of proposed projects in the market areas.
- Analysis of market demand for tenants with special housing needs when applicable.

Projects that are requesting credits from eligible basis generated from a Community Service Facility as defined in Section 42 (d) (4) (C) (iii) must provide a market study that addresses the following:

- A description of Services provided that improve the quality of life for community residents
- The market area and demand for services provided.
- The applicability of service provided to the community.
- The affordability of the services provided persons of 60% AMGI or less.



NORTHERN MARIANAS HOUSING CORPORATION

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June 9, 2010

Honorable Benigno R. Fitial
Governor
Commonwealth of the Northern Mariana Islands
Office of the Governor
Caller Box 10007
Saipan, MP 96950

Dear Governor Fitial:

Transmitted herewith for your review and approval is the CNMI's Low Income Housing Tax Credit (LIHTC) Qualified Allocation Plan (QAP) as adopted by the NMHC Board of Directors on June 4, 2010. The Board incorporated one of the three (3) comments received at the public hearing for the QAP that was held on May 21, 2010 adding an additional five (5) points to criteria number 13 for the project being located near employment opportunities, schools and medical facilities.

Please let me know if you should have any comments or questions whatsoever.

Sincerely,

JOSHUA T. SASAMOTO
Corporate Director

Xc: Lt. Governor Eloy S. Inos
NMHC Board of Directors
Mr. James Stump, AGO
NMHC Legal Counsel
File

"NMHC is a fair housing agency and an equal opportunity provider, lender and employer."

Government of the Commonwealth of the Northern Marianas Islands
LOW-INCOME HOUSING TAX CREDIT PROGRAM
2010 QUALIFIED ALLOCATION PLAN

I. Introduction

The Low-Income Housing Tax Credit Program (LIHTC), created by the Tax Reform Act of 1986, is intended to encourage the construction or rehabilitation of low-income rental units. The regulations which govern this Program are contained in Section 42 of the Internal Revenue Code. This Program provides Federal tax credits to qualified project owners who agree to maintain all or a portion of a project's units for low-income individuals or families. The Northern Marianas Housing Corporation ("NMHC") has been designated as the agency responsible for the administration of the Federal Low-Income Housing Tax Credit Programs for the Commonwealth of the Northern Marianas Islands ("CNMI").

In accordance with the Omnibus Spending Bill of 2000, Omnibus Budget Reconciliation Act of 1989 and the Budget Reconciliation Bill of 1990, NMHC developed this "Qualified Allocation Plan" which sets forth (1) the criteria to evaluate and allocate tax credits to projects which best meet the housing needs of the State, and (2) the procedure to monitor for compliance with the provisions of the Low-Income Housing Tax Credit Program.

The allocation plan will utilize a point system to rank projects based upon the evaluation criteria established. The ranking of projects, along with all other relevant data, will determine the priorities to be followed by NMHC in allocating tax credits to the projects under consideration. The scores derived from the point system will be a component of the overall evaluation, and not the sole determining factor for the awarding of tax credits. In addition to the scores derived, NMHC will review all relevant data required in the application. Projects selected under this allocation plan shall then be evaluated as to the minimum amount of tax credits required in order to make the project feasible.

This allocation plan shall be effective for reservations and awards of LIHTC for calendar years 2010 and 2011. The allocation plan is subject to amendment by the NMHC Board of Directors.

II. Application Process

Applications for the Low-Income Rousing Tax Credit are available at NMHC's office or by submitting a written request to NMHC at the address shown below.

Northern Marianas Housing Corporation
c/o Executive Director
Middle Road, Garapan
Saipan, MP 96950

Applications for tax credits should be submitted to NMHC by no later than the deadline indicated below. Upon receiving an application for tax credits, NMHC shall review the application to ensure that the application is complete and contains all required information. The executive director shall have the right to defer the consideration of any application if, in his sole discretion, such deferral is deemed in the best interests of meeting housing needs.

Complete applications shall then be evaluated in accordance with the allocation plan to determine the project's rank in relation to other projects in the evaluation. Projects receiving the highest ranking shall then be evaluated to determine the minimum amount of tax credits required to make the project feasible. The amount of tax credits reserved or allocated to a particular project will be limited to the amount NMHC, in its sole discretion, deems necessary to make the project feasible.

III. Selection Criteria Point System

Each application will be evaluated and awarded points in accordance with the following criteria. Unless otherwise indicated, all references to low-income unit(s) or low-income rental unit(s) shall mean low-income housing tax credit unit(s).

	CRITERIA	POINTS
1.	Project will provide low-income units for a longer period than is required under Section 42 of the Internal Revenue Code.	1 - 5 *
2.	Project will provide a greater percentage of low-income units than required under Section 42 of the Internal Revenue Code.	1 - 10 *
3.	Project has the appropriate zoning or the applicant has secured the necessary exemptions/variances to construct the project as proposed.	0 or 7 *
4.	Applicant demonstrates that all low-income units will be made available to people holding valid Section 8 vouchers.	0 or 6*
5.	Project will serve tenant populations of individuals with children and provide 3-bedroom units or larger.	0 or 10*
6.	Project will give preference to special tenant populations.	0 or 3*
7.	Project is participating with a local tax-exempt organization and is sponsored by a qualified non-profit, as defined in Section 42 of the Internal Revenue Code.	0 or 1 *

8.	The ratio of total tax credits requested as a percentage of total project cost.	0 - 5 *
9.	Project will be receiving project-based rental assistance subsidies which would result in eligible tenants paying approximately 30% of their gross monthly income towards rent. Eligible programs shall include, but not be limited to, the Rural Development 515 Loan Program and HUD Section 8 project-based Rental Assistance Program.	0 - 4 *
10.	Local Government Support.	0 - 2 *
11.	Developer will sell the units with a preference towards selling to current residents after 15 years.	0 or 7 *
12.	Project is located in a qualified census tract, the development of which contributes to a concerted community revitalization plan as determined by NMHC.	0 or 2 *
13.	Project location and market demand.	0 - 10 *
14.	Developer experience.	-8 - 10 *
15.	Overall project feasibility.	0 - 10 *

* See pages 4 - 9 for description.

Criteria 1.

If, under the Restrictive Covenant Document, the project is "affordable" for:

15 years or less	1 point
16 years through 20 years	2 points
21 years through 25 years	5 points

Criteria 2.

With respect to the set-aside affordability, if project provides:

20% of the project to households earning less than 50% of AMGI, OR 40% of the project to households earning less than 60% of AMGI	1 Point
40% of the project to households earning 50% or less of AMGI, OR 60% of the project to households earning 60% or less of AMGI	2 Points
60% of the project to households earning 50% or less of AMGI, OR 80% of the project to households earning 60% or less of AMGI	3 Points
100% of the project to households earning 60% or less of AMGI	10 Points

Criteria 3.

The applicant's readiness to proceed with the development of this project with respect to development approvals:

The applicant has obtained all necessary zoning and entitlements for the property, including subdivision approvals and upon receipt of credits, is ready to proceed with the development of the project without any additional development approvals other than customary land disturbance and building permits. 7 Points

Project is not appropriately zoned and/or does not conform to State Land Use regulations or requires 201 G, variances, subdivision approval or any other exemption from any local or state land use restrictions. 0 Points

Criteria 4.

The applicant demonstrates that all low-income units will be available to people holding valid Section 8 vouchers.

If the answer to the question is NO 0 Points

If the answer to the question is YES 6 Points
and the applicant is able to demonstrate that all low-income units will be available to people holding valid Section 8 vouchers.

Criteria 5.

The project will serve tenant populations of individuals with children and will provide three (3) bedroom units or larger for at least 60% of all low-income units in the project.

If the answer to the question is NO 0 Points

If the answer to the question is YES 10 Points

Criteria 6.

Project will commit to serve the following tenant populations:

- 1) Tenant populations with special housing needs. Special needs groups are "persons for whom social problems, age or physical or mental disabilities impair their ability to live independently and for whom such ability can be improved by more suitable housing conditions."

Projects may receive 3 points for this criterion if it commits to the following:

The project will set-aside at least 20% of all units for tenant populations with special housing needs. Persons with special housing needs may include the physically and mentally disabled. To receive consideration for this criterion:

- The project must commit to provide case management or services specific to this population or special facilities to accommodate the physically disabled.
- The Market Study shall specifically address the housing needs for the special needs group. 3 Points

-Or

- 2) Elder or elderly households. Projects may receive a total of 3 points, if all residential units in the project are set-aside for elders or elderly households. 3 Points

Applicants may receive points for electing to serve one of these tenant populations.

Criteria 7.

Project is participating with a local tax-exempt organization and is sponsored by a qualified non-profit, as defined in Section 42 of the Internal Revenue Code.

If the answer to the question is NO 0 points
If the answer to the question in YES 1 Point

Criteria 8.

If total federal tax credit requested (gross) as a percentage of total project cost is:

Greater than 90% of total project cost	0 Points
81 % through 90% of total project cost	1 Point
71 % through 80% of total project cost	2 Points
61 % through 70% of total project cost	3 Points
51 % through 60% of total project cost	4 Points
50% or less of total project cost	5 Point

Criteria 9.

Project will be receiving project-based rental assistance subsidies which would result in eligible tenants paying approximately 30% of their gross monthly income towards rent. Eligible programs shall include, but not be limited to, the Rural Development 515 Loan Program and HUD Section 8 project-based Rental Assistance Program.

If the answer to the question is NO 0 points are awarded

If the answer to the question is YES 1 to 4 points are awarded *

* If the whole project has project based subsidies then 4 points is awarded, if only a portion of a project has project based subsidies, then the scoring will be adjusted based upon the percentage of units subsidized. The percentage is derived as "Number of Subsidized Units / Tax credit and non-tax credit subsidized units," provided they are developed simultaneously.

Criteria 10.

Local government support. The project will receive a below market loan or grant from a State or local governmental agency other than NMHC which, in total amounts to 10% or more of the total development cost.

The project has not applied for a below market loan or grant from a government agency, or if the total amount applied for is less than 10% of total development costs. 0 points

The project has applied for a below market loan or grant from a government agency. Documentation must be provided evidencing that an application for financing has been submitted. 1 point

The project has received a commitment from a government agency. A copy of a commitment letter or contractual agreement must be included in the application. 2 points

Criteria 11.

Developer will commit to offer the units to sale at the end of the fifteen-year compliance period first to existing tenants who can qualify through currently available home ownership programs or other funding sources.

If the answer to the question is NO 0 points

If the answer to the question in YES 7 points

Criteria 12.

Project is located in a Qualified Census Tract. The project will redevelop existing housing, which contributes to a concerted community revitalization plan as determined by NMHC. For example: site is located in an Enterprise Community, Empowerment Zone, or part of a County redevelopment plan.

If the answer to the question is NO 0 Points

If the answer to the question in YES 2 Points

To receive consideration for this criteria, applicant must provide an explanation on how this project is in compliance with such plan and its benefit to the overall community. The applicant must provide a letter of interest or a binding agreement with the government agency administering the community revitalization plan.

Criteria 13.

Project location and market demand.

0 to 10 Points

A comprehensive Market Study of the housing needs of low-income individuals in the area to be served by the project by a disinterested party approved by the NMHC must be completed no later than thirty days after NMHC issues a Tax Credit Reservation. A final Market Study is not required at the time of the initial application. The Market Study must be completed at the Owner's expense. Any application which fails to submit a Market Study or submits a Market Study dated over 6 months from the time of application, shall be returned to the applicant and will not receive further consideration.

Market Study requirements are specified in Appendix I.

The points awarded will be based on NMHC's evaluation of following factors:

- Employment opportunities, schools, medical facilities located in the immediate vicinity of the project site 5 points
- Recreational facilities, shopping facilities, located in the immediate vicinity of the project site; 2 points
- Documented/supported market demand; 2 points
- Proposed rental rates are below market rents for the immediate surrounding area? 2 points
- Housing characteristics (e.g., design, density) appropriate for neighborhood; 2 points
- Neighborhood conducive for senior or family use 2 points

Criteria 14.

Developer experience.

-8 to 10 points

The points awarded will be based on NMHC's evaluation of following factors:

- Development Team has successfully met program objectives on past proposals; 8 points
- Development Team' has failed to meet program objectives on past proposals or any NMHC programs; -8 points
- Development Team has successfully completed similar projects; 2 points

Criteria 15.

Overall Project Feasibility. 0 to 10 points

The points awarded will be based on NMHC's evaluation of the following factors that could impact overall project feasibility:

- Documentation of development costs; 2 points
- Documentation of operating costs 2 points
- Debt Service Coverage Ratio of >1.15x; 2 points
- Operating reserves equal to three months of monthly operating expenses; 2 points
- Financial Commitments in place. 2 points

IV. Rights of NMHC

NMHC reserves the right to disapprove any application or project for any tax credit reservation or allocation, regardless of ranking under the criteria and point system as contained in section III of this allocation plan. The executive director or his designated representative shall have the authority to defer consideration of any application if, in his sole discretion, such deferral is deemed in the best interest of meeting housing needs.

NMHC reserves the right, in its sole discretion, to (i) hold back a portion of the annual state and federal housing credit ceiling for use during later reservation cycles, (ii) carryover a portion of the current year's housing credit ceiling for allocation to a project which has not yet been placed in service, and (iii) under certain conditions, issue a reservation for up to 75% of the next year's housing credit ceiling.

NMHC is required under the I.R.C. of 1986, as amended, to allocate the minimum amount of tax credits required to make a project feasible. The determination of the amount of tax credits to be reserved or allocated to a project shall be made solely at the discretion of NMHC. NMHC may, at the time of issuance of the IRS Form(s) 8609 for the project, decrease the amount of tax credits allocated to a project based on the actual cost and financing of the project.

NMHC may, at its sole discretion under certain circumstances, conduct a special round after the final scheduled round for a year for projects (i) where the applicant's tax counsel has attested to an itemization of how the ten percent test prescribed by Code Section 42(h)(1)(E) will be met; (ii) which have no deficient application items; and (iii) for which all exhibits have been submitted ("Year-End Round"). Year-End Round projects will receive a Carryover Allocation, not a reservation of LIHTCs, which may contain certain conditions and time periods for satisfying them. The circumstances for conducting a Year-End Round are (1) availability of LIHTCs and (2) potential loss of LIHTCs to the national pool. When a Year-End Round is being conducted, applicants need to satisfy the above requirements in order to receive a Carryover

Allocation; and LIHTCs will be processed on a first-come first-served basis and allocated to the extent available and to the extent applications can be processed.

NMHC in no way represents or warrants to any interested party which may include, but is not limited to, any developer, project owner, investor or lender that the project is, in fact, feasible or viable.

No member, officer, agent or employee shall be personally liable concerning any matters arising out of, or in relation to, the reservation or allocation of the Low-Income Housing Tax Credit.

V. Compliance Monitoring Plan

A. Summary

NMHC shall monitor compliance with all applicable Federal Program requirements for the period a project is committed to providing low-income rental units. NMHC will require that all qualified tenants of a project be certified upon occupancy and be re-certified annually to ensure compliance. Projects shall be required to maintain copies of the income certification for each tenant on forms approved by NMHC. Projects will also be required to maintain records regarding number of rental units (including number of bedrooms and size of square footage of each bedroom); percentage of rental units that are low-income units; rent charged on each rental unit including utility allowances; number of occupants in each low-income unit for those buildings receiving tax credits prior to 1990; documentation regarding vacancies in the building; eligible and qualified basis of the building at the end of the first year of the credit period, and at the end of each year until required set-asides are met; and character and use of the nonresidential portion of the building that is included in the building's eligible basis, all in accordance with the rules published by the Internal Revenue Service. NMHC may perform an audit annually but at a minimum, once every three years, and shall have access to all books and records upon notice to the project owner. Annually, owners of low-income housing tax credit projects will be required to certify to NMHC that for the previous year, the minimum set-aside requirement was met; there was no change in the applicable fraction, or an explanation if there was a change; appropriate income certifications and documentation have been received for each low-income tenant; each low-income unit was rent-restricted in accordance with the Code; all units were for use by the general public and used on a no transient basis (except for transitional housing for the homeless as provided for in the Code); each building was suitable for occupancy, taking into account local health, safety and building codes; there was no change in the eligible basis in the project, or an explanation if there was a change; all tenant facilities included in the eligible basis were provided on a comparable basis without charge; rentals of vacancies were done in accordance with the Code; rentals of units were done in accordance with Code if any tenant's income increased above the limit allowed by Code; and a Restrictive Covenant document was in effect for the project, for those buildings receiving credits after 1989, all in accordance with the rules published by the Internal Revenue Service.

If NMHC becomes aware of non-compliance, the Internal Revenue Service shall be notified in accordance with the rules published by the Internal Revenue Service.

Please consult with your tax attorney and/or LIHTC consultant regarding Internal Revenue Code regulations. Owners are responsible for keeping abreast of current Program requirements.

The guidelines outlined below pertain to projects allocated Federal and State Low Income-Housing Tax Credits in CNMI.

B. Compliance

Owner/Manager Training

Owners, managing agents, and on-site managers should attend or document that they have recently attended training on management and compliance prior to leasing any units, but no later than receipt of IRS Form 8609, which certifies an allocation of tax credits. Training may be required following significant or repeated noncompliance events. At minimum, such training should cover key compliance terms, qualified basis rules, determination of rents, tenant eligibility, file documentation, next available unit procedures and unit vacancy rules, agency reporting requirements, record retention requirements, and site visits.

Set Aside

The project must comply with the low-income set-aside requirements of Section 42 of the Internal Revenue Code (the "Code") as chosen by the owner at the time of receiving the credits. The minimum requirements are either:

1. 20 percent or more of the units are occupied by tenants having a household income of 50 percent or less of the area median gross income (the "20-50 requirement"), or
2. 40 percent or more of the units in the project are occupied by tenants having a household income of 60 percent or less of the area median gross income (the "40-60 requirement").

Tenant income is calculated in a manner consistent with the determination of annual income under Section 8 of the United States Housing Act of 1937, as directed by the Internal Revenue Code. Area median incomes are determined annually by the U.S. Department of Housing & Urban Development (HUD), and are available from NMHC.

Rent

Units in the project must be rent-restricted to either thirty (30) percent of the

median income adjusted for family size for the area in which the project is located or rent restricted to thirty (30) percent of the imputed income limitations based on unit size. This rent restriction must be maintained throughout the Term of the Compliance and Extended-use period. See 'D. Rent Restrictions' in this section for further information.

Term of Compliance

Projects must comply with eligibility requirements for the initial 15-year period (compliance period).

Annual Certification

These and other compliance requirements as listed in Section A. Summary must be certified annually by the owner through the submission of the Annual Report. The Annual Report includes the Owner's Certificate of Continuing Program Compliance and shall be submitted by February 1 of each year throughout the compliance/extended-use period. The Annual Report and the supporting documentation verifying the information on the Annual Report must be kept for a minimum of six (6) years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period, however, must be retained for at least 6 years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building, in accordance with published IRS guidelines.

IRS Form 8609

Owner shall complete Part II of IRS Form 8609 and submit with subsequent Annual Report.

Status Reports

This report is to be submitted annually by owners in such format as required by NMHC or its Authorized Delegate to document and track the continuous compliance of tax credit units. The documents report data that tenants are income eligible at move-in, that occupants of LIHTC units are re-certified at least on an annual basis and that the unit rents are restricted. Documentation will also indicate compliance with the vacant unit rule and 140% rule. The tracking of tax credit units substantiates the maintenance, increase or reduction of each BIN's qualified basis.

C. Qualifying Households

Applicants for low-income units should be advised early in their initial visit to the project that there are maximum income limits, which apply for these units.

Management should explain to the tenants that the anticipated income of all persons expecting to occupy the unit must be verified and included on a Tenant Income Certification (TIC) prior to occupancy, and re-certified on an annual basis. Applicants should be informed of other Internal Revenue Services requirements such as the Student Rule and Recertification's.

Unborn Children

In accordance with the HUD Handbook 4350.3, owner shall include unborn children in determining household size and applicable income limits. If permitted by state laws, owner shall require documentation of pregnancy in such circumstances.

Student Households

In accordance with the Internal Revenue Code, a household comprised entirely of full-time students may not be counted as a qualified household, unless the household meets at least one exception. Refer to the Internal Revenue Code for additional guidelines on the exceptions. Owner shall utilize a lease provision requiring tenants to notify managing agent of any change in student status.

Calculating Anticipated Tenant Income

Owner shall qualify tenants by calculating household income using the gross income the household anticipates it will receive in the 12-month period following the effective date of the income verification or Recertification. Anticipated income should be documented in the tenant file by third party verification whenever possible, or by an acceptable alternate method of verification with documentation as to why third party verification was not available. Owner shall use current circumstances to project income, unless verification forms or other verifiable documentation indicate that an imminent change will occur. Owner shall refer to HUD Handbook 4350.3 for guidance on the proper calculation and verification of income and assets per IRC regulations.

Certification

Upon acceptance of an applicant to the project, a TIC must be completed for the applicant and certified to by the applicant and the owner. The form is a legal document which, when fully executed, qualifies the applicants to live in the set-aside units in the project.

The TIC must be executed along with the lease prior to move-in. No one may live in a unit in the project unless he is certified and under lease.

The original copy of the executed TIC form is to be retained in the applicant's file. The TIC and the supporting documentation verifying the TIC must be kept for a minimum of six (6) years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period,

however, must be retained for at least 6 years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building, in accordance with published IRS guidelines.

Recertification

For projects with less than 100% set-aside:

To ensure each unit is complying with the LIHTC income restrictions, NMHC requires (a) the owner to annually recertify each tenant's income and household composition and (b) each tenant is to report certain changes in income and household composition which occur between regularly scheduled recertifications.

If the income of the tenants in a unit who have been previously verified increases above 140 percent of the applicable income limitation, the unit may continue to be counted as a low-income unit as long as the next available unit of comparable or smaller size is occupied by a qualified low-income tenant, and the rent continues to be restricted for the initial unit.

Each tenant's annual recertification is to be completed within one year of last recertification. The request for recertification shall be made between 60 and 90 days before the effective date, and it must clearly state that the tenant has ten (10) calendar days in which to contact the owner to begin recertification processing. The notice must also state the days and hours available for the interview, the information the tenant should bring to the interview, and how and whom to contact to schedule the interview.

Upon reverification of the tenant's income, the owner shall complete a new TIC, which shall be certified to by the owner or owner's designee.

Past-Due Recertification

A recertification is considered past due if the TIC for the tenant is not certified by tenant and owner within twelve months of the last recertification.

D. Rent Restrictions

For projects receiving Low-Income Housing Tax Credits during the years 1987 to 1989, the tenant's gross rent may not exceed thirty (30) percent of the median income adjusted for family size for the area in which the project is located. The gross rent must include an allowance for utilities.

Projects receiving Low-Income Housing Tax Credits after January 1, 1990 must comply with the following procedures:

Units in the project must be rent-restricted to 30% of the imputed income limitations for each unit, based upon HUD area median incomes and size of units.

Rents are imputed by bedroom size in the following manner: a unit which does not have a separate bedroom - 1 individual; and a unit with 1 or more separate bedrooms - 1.5 individuals per bedroom.

Gross rent does not include any payment for various rental assistance programs and supportive service assistance as outlined in Section 42 of the Code. Gross rent must include any allowance for utilities.

HUD publishes the area median incomes for each state annually. Updated income limits must be implemented pursuant to IRS Revenue Ruling 94-57, "Taxpayers may rely on a list of income limits released by HUD until 45 days after HUD releases a new list of income limits, or until HUD's effective date for the new list, whichever is later." Rents may be increased accordingly as the area median income increases.

If the income of the tenants in a unit who have been previously verified increases above 140 percent of the applicable income limitation, the unit may continue to be counted as a low-income unit as long as the next unit of comparable or smaller size is occupied by a qualified low-income tenant, and the rent continues to be restricted for the initial unit.

E. Eviction of Tenants

Once an eligible tenant has been certified and admitted to the project, the tenant may not be displaced solely due to an increase in the tenant's household income beyond the restricted limit.

F. Audits

The project may be subject to a management audit by NMHC or its Authorized Delegate annually but, at a minimum, once every three years. Notification of an audit shall be given to the owner at least 30 days prior to such audit. The results of the management audit and the recommendations for corrective action to protect and maintain the project shall be transmitted to the owner within thirty (30) days following the completion of the audit.

The purpose of the audit will be to conduct a physical inspection of the building and/or project, and, for at least 20 percent of the project's low-income units, to inspect the units and review the low-income certifications, documentation supporting the certifications, and rent records for the tenants in those units. The audit may also consist of a review of first year tenant records, a review of the documentation supporting the Annual Report, and any other documentation necessary for NMHC to make a determination as to whether the project is not in compliance with the Code.

When conducting tenant file reviews, NMHC's and its Authorized Delegate's reviews shall include, but not be limited to:

- completed rental application, including certification of assets and disposal of assets, if applicable;
- tenant income certification completed for move-in and current year, including all required signatures and dates;
- income verification(s) completed and documented;
- assets verified in accordance with IRC regulations;
- student eligibility documentation;
- lease and lease addendums completed at move-in;
- utility allowance on file;
- review of first year tenant records which qualified the project initially for tax credits

The owner shall have a period of thirty (30) days in which to respond to the findings of the management audit. NMHC shall review the owner's response to determine the extent to which the issues raised in the management audit letter are addressed. Findings, whether corrected or not, will be reported to the IRS.

See the following Section J for information on notification to the IRS of any non-compliance found in the management audit.

G. Rural Housing Service (RHS) and Tax-exempt Bond Issue Projects

In accordance with the published IRS guidelines on compliance monitoring, an exception may be granted to RHS projects under its section 515 program and buildings or projects of which 50 percent or more of the aggregate basis is financed with the proceeds of tax-exempt bonds.

The IRC regulations allow for exception of a building from the inspection requirement if the building is financed by RHS under the section 515 program, the RHS inspects the building [under 7 CFR part 1930(C)], and the RHS and the allocating agency enter into a memorandum of understanding, or other similar arrangement, under which the RHS agrees to notify the allocating agency of the inspection results. Irrespective of the physical inspection standard selected by the allocating agency, a low-income housing project under section 42 of the Internal Revenue Code must continue to satisfy local health, safety and building codes. A memorandum of understanding has not been executed between NMHC and RHS.

Annual Reports, QBTS, Compliance Monitoring Status Reports and other reports are still required of RHS projects. Although NMHC has allowed the use of the RD 1944-8, the form does not determine eligibility for specific LIHTC requirements. Owners need to determine whether the TIC will be used or a worksheet will be attached to RD 1944-8 to determine eligibility under the IRC. Management audits will still be conducted as indicated herein.

An owner who for some reason is not able to make any of the required certifications stated on the Annual Report or other requirements must inform the Agency immediately of such inability, as well as explain the reason for said inability.

H. Reporting Requirements

- a. The LIHTC Annual Report must be submitted annually by February 1 of each year throughout the compliance/extended-use period.
- b. Part II of the IRS Form 8609 must be completed by the owner and submitted with initial Annual Report.
- c. Qualified Basis Tracking Sheets (QBTS) are submitted at a minimum annually with LIHTC Annual Report until all set-asides are established.
- d. Status Reports are submitted annually by owners with Annual Report to document and track the continuance compliance of tax credit units throughout the compliance/extended-use period.

These forms must be sent in to NMHC or its Authorized Delegate at the address shown in Section II.

The Certification of Eligibility and LIHTC forms listed above are available from NMHC. Additionally, NMHC has data regarding HUD area median incomes, maximum rental rates, income verification information and third party verification forms.

I. Fees

A compliance monitoring fee of up to \$25 per unit for all units within each project shall be charged annually for administrative expenses. This fee shall be submitted with the LIHTC Annual Report for each year of the compliance/extended-use period. NMHC reserves the right to adjust fees due to changing circumstances annually each January 1. It will be the responsibility of NMHC to inform the owner of any changes in the annual compliance fee prior to the submission of fees. The compliance monitoring fee will be effective as of the Placed in Service date for the first building.

J. Non-compliance Penalties

The penalty for non-compliance with these procedures is the potential recapture of the credits awarded and interest on the amount recaptured. The Internal Revenue Service shall determine penalties for non-compliance.

Upon determination by NMHC of non-compliance with the LIHTC Program, the owner shall be notified and given thirty (30) days to correct any discovered violations. In accordance with the Internal Revenue Service's published guidelines on compliance monitoring, NMHC will be required to notify the IRS within forty-five (45) days after the end of the thirty-day correction period, whether or not the non-compliance is corrected. NMHC will be given the opportunity on the IRS form to indicate whether the owner has corrected the non-compliance. NMHC may extend the correction period, up to a total of six (6) months, if it is

determined by NMHC that good cause exists for granting such an extension. In such case, the IRS will not be notified until the end of the extended correction period.

Appendix 1 Market Study

In accordance with Section 42 (m)(iii) of the Internal Revenue Code, NMHC requires a comprehensive Market Study of the housing needs of low-income individuals in the area to be served by the project by a disinterested party approved by NMHC must be submitted as part of this application. The Market Study shall be completed at the Owner's expense. Any application which failing to submit a Market Study or submits a Market Study dated over 6 months from the time of application, shall be returned to the applicant and will not receive further consideration.

The Market Study shall address the following information:

- A statement of the competence of the market analyst.
- A description of the proposed site.
- Demographic analysis of the number of households in the market area which are income eligible and can afford to pay the rent. Estimate of capture rates for the market areas.
- Geographic definition and analysis of the market area.
- Identification of the project including location, unit counts, income levels and target population. Market Study must be consistent with the proposed project.
- Analysis of household sizes and types in the market.
- A description of comparable developments in the market area.
- Analysis of practically available rents, vacancy rates, operating expenses and turnover rates of comparable properties in the market area.
- Analysis of practically available rents, vacancy rates and turnover rates of market rate properties in the market area. Projected operating funds and expenses, when available at the time of the study.
- Expected market absorption of the proposed rental housing, including a description of the effect of the market area.
- Identification and commentary of proposed projects in the market areas.
- Analysis of market demand for tenants with special housing needs when applicable.

Projects that are requesting credits from eligible basis generated from a Community Service Facility as defined in Section 42 (d) (4) (C) (iii) must provide a market study that addresses the following:

- A description of Services provided that improve the quality of life for community residents
- The market area and demand for services provided.
- The applicability of service provided to the community.
- The affordability of the services provided persons of 60% AMGI or less.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Eloy S. Inos
Lt. Governor

DIRECTIVE NO. 271

TO : All Department and Activity Heads

DATE: JUN 30 2010

FROM : Governor

SUBJECT : Adoption of Updated Standard State Mitigation Plan for the
Commonwealth of the Northern Mariana Islands

This Directive formally adopts the updated 2010 Standard State Mitigation Plan (SSMP) for the Commonwealth of the Northern Mariana Islands in compliance with the Disaster Mitigation Act of 2000 (DMA 2000) § 104 (a), 42 U.S.C § 5165, which requires every State and Territory of the United States of America to develop, update and obtain approval of its SSMP by the Federal Emergency Management Agency (FEMA). DMA 2000 requires that the SSMP be updated at least once every three years. Our updated 2010 SSMP fulfills this requirement, built upon our 2007 and 2004 SSMP editions approved by FEMA.

Our SSMP was updated by the Emergency Management Office, the Hazard Mitigation Committees in Saipan, Tinian, and Rota comprised of public and private sector representatives, and its consultant AMC Consulting Company.

The process of updating the SSMP provides an opportunity to reassess, update, and promote hazard mitigation that will reduce risks and vulnerabilities to protect human lives and property against natural and man-made hazards. It requires conducting and updating our hazards analyses, risks and vulnerability assessments, and hazard mitigation goals, objectives, and strategies for the CNMI. It also provides an organized and coordinated consistent set of goals for reducing or minimizing the loss to human life and property, major economic disruption, degradation of ecosystems and critical habitats, and the destruction of cultural and historical resources from natural disasters.

This adoption of the updated 2010 SSMP gives the CNMI effective strategies that will promote hazard mitigation, reduce vulnerabilities, and ensure that the CNMI can respond to many hazards

and threats that affect environmental, cultural, and historical resources. The updated SSMP ensures that the CNMI has the strategic resources to safeguard public health, maintain public safety and mitigate loss or damage to real property and helps preserve each person's constitutional right to a "Clean and Healthful Environment." NMI Const., Art. I, § 9.

By my authority as prescribed under the CNMI Constitution, Article III, Section 10, Governor's Emergency Powers, and Public Laws 1-40 and 1-44, which established the Disaster Control Office (DCO) and the Office of Civil Defense (OCD), and subsequently Executive Order 94-3, Section 216, which combined the DCO and OCD, I formally adopt this updated 2010 CNMI Standard State Mitigation Plan and encourage its timely implementation by all HMC representatives from the public and private sector to reduce the CNMI's vulnerability to all hazards.



BENIGNO R. FITIAL



FEMA

June 24, 2010

Eloy S. Inos
Acting Governor
Commonwealth of the Northern Marianas Islands
Caller Box 10007
Saipan, MP 96950

Reference: Standard State Mitigation Plan

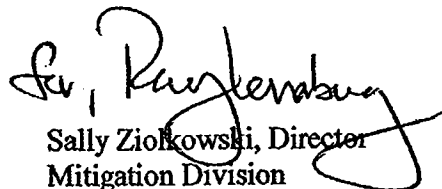
Dear Mr. Inos:

We have completed the courtesy review of the *Standard State Mitigation Plan*, and have determined that this plan is eligible for final approval pending its adoption by the Commonwealth of the Northern Marianas Islands.

Formal adoption documentation must be submitted to the Regional office within one calendar year of the date of this letter, or the entire plan must be updated and resubmitted for review. We will approve the plan upon receipt of the documentation of formal adoption.

If you have any questions regarding the planning or review processes, please contact Juliette Hayes, Community Planner at (510) 627-7211, or by email at juliette.hayes@dhs.gov.

Sincerely,


Sally Ziolkowski, Director
Mitigation Division

cc: Florence Calvo, Emergency Management Office

Filename and Path: S:\Planning DMA 2000\Plan Review\State Plans\2010 State Plans\CNMI/
Aprovable Pending Adoption.doc

CONCURRENCE:




Ray Lenaburg, Risk Analysis Branch Chief

6/24/10
Date



Juliette Hayes, Community Planner

06/24/10
Date

 - 06/24/10



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Eloy S. Inos
Lieutenant Governor

MEMORANDUM

DATE: **AUG 20 2010**
No. **DIRECTIVE 272**

TO: All Department and Activity Heads
FROM: Governor
SUBJ.: Implementation Action to Effect a Reduction-in-Force

On April 1, as required by the *Personnel Service System Rules and Regulations (PSSR&R)*, as codified in §10-20.2-263 of the Administrative Code, I provided the Director of Personnel notice of my intent to implement a Reduction-in-Force (RIF) through a combination of reduction in work hours, furloughs and terminations of employment, as necessary. A review of staffing and operations was initiated to determine the best means of effectively continuing government services within the constraints of diminished revenues. Limited reductions in hours and salaries for excepted service employees and gubernatorial appointees were effected at that time.

The economic situation of the Commonwealth has not improved and I find that it is now necessary to expand the reduction-in-force steps that have been taken so far. To remain within the budget for this upcoming fiscal year the work hours of overtime eligible employees and the salaries of overtime exempt employees, to include gubernatorial appointees, excepted service and civil service employees, must be reduced by 16 hours per two week pay period. Notifications will go out to all affected employees shortly, with a deadline of August 31 for their delivery. The reduction action will take effect 30 days after the letters are received. Additionally, it will be necessary to close certain functions that cannot at this time be considered essential and abolish redundant or non-essential positions.

There are certain essential services that must be maintained and certain critical positions that must be exempted from RIF actions. The Regulations provide for the RIF to be limited to individual competitive areas (Saipan, Tinian and/or Rota), departments and/or activities and competitive levels. The Government will be conducting RIF actions

Caller Box 10007 Saipan, MP 96950 Telephone: (670) 664-2200 /2300 Facsimile: (670) 664-2211/2311

accordingly. The Departments of Public Safety and Corrections, the direct medical care activities within the Department of Public Health, Juvenile Detention and federally funded programs will not be initially affected by the RIF actions. Positions in other departments and activities in all competitive areas will be reviewed for possible RIF actions, unless exempted due to the critical nature of the position or service.

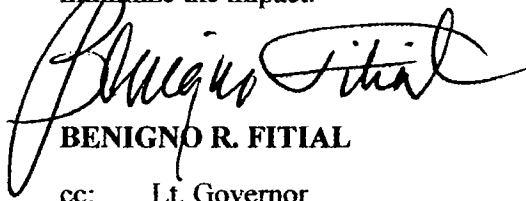
I expect individual appointing authorities to work with the Office of Personnel Management and the Reduction-in-Force Planning/Implementation Committee to smoothly and effectively implement these initial RIF actions. I also ask the Mayors of Tinian, Rota and the Northern Islands to work with the Committee and the Office of Personnel Management to implement parallel work hour and salary reductions in the Tinian, Rota and Northern Islands competitive areas. I also ask public corporations, autonomous agencies/activities and the Judicial and Legislative Branches to effect these actions.

I would like to remind all Department and Activity Heads that in my April 1 letter I directed that all non-vital hiring, all overtime, and all differential and other special payments be stopped. I have been disappointed to see that hiring and salary increases have continued. If my instructions were not clear enough before, **I am again directing that all new hiring will cease immediately and that all pending hires will be cancelled other than in necessary law enforcement positions (limited to Police Officers, Fire Officers, Corrections Officers, Juvenile Correction Officers and assistant attorney generals), positions directly involved in the provision of medical services and budgeted positions in federal programs, and that no locally funded promotional increases will be effected, whether civil service or excepted service.** Other vacancies that might affect government services shall be filled through internal transfers based upon priority of need, to be determined by the Director of Personnel. All signature authorities on the Requests for Personnel Action (RFPAs) are instructed to fully enforce this direction and to not approve actions involving hiring or salary increases, other than as exempted above. The rare, if at all, exception to this direction, will be made only when justified to, and approved by either myself or my designee.

The Office of Personnel Management will contact all Appointing Authorities to arrange for meetings to review all departmental/activity staffing, the required current and possible future RIF actions, and any justifiable exceptions. These meetings should be attended by the Appointing Authority and the Administrative Services Manager or senior Administrative Officer for each department/activity. Please begin reviewing your staff and determine how you can make the RIF work while still providing necessary community services. The Office of Personnel Management will provide you with the format for both civil service and excepted service notices. Letters for the immediate reduction of work hours and salaries for all employees will be prepared by the Special Assistant for Administration for your signature and delivery to the employees affected.

As I have previously stated, and as each of you already know, the RIF will not be easy or pleasant to implement. On-going and straight-forward communication with your employees is extremely important. Make sure that they are aware that you know that this

will be difficult for each of them and that the Government will do everything it can to minimize the impact.



BENIGNO R. FITIAL

cc: Lt. Governor
President of the Senate
Speaker of the House of Representatives
Chief Justice of the Supreme Court
Presiding Judge of the Superior Court
Mayor of Rota
Mayor of Tinian and Aguiguan
Mayor of the Northern Islands
Chairman, Civil Service Commission
Attorney General
Secretary of Finance
Director of Personnel
Special Assistant for Administration
Special Assistant for Management and Budget
All Resident Department Heads, Rota and Tinian
All Public Corporations
All Autonomous Agencies and Activities

MEMORANDUM

TO : All Employees

FROM : Governor

SUBJECT : Directive on Telephone Etiquette

DATE: 15 JAN 1994

We are all public servants and our salaries are paid by the taxpayers. We must extend every courtesy to them when utilizing the telephones or when they call. Below is a list of things we should all bear in mind.

It is extremely important, first of all, to answer all calls promptly and in your most courteous manner. When answering outside calls, you must answer with a friendly greeting and announce the name of your department/office/activity.

Example:

Hafa Adai. Office of the Governor. May I please help you?

If you receive a call which has been transferred to you from another in your department/office/activity, you need not repeat the greeting but simply say "Hello, this is (your name)".

Example:

Hello, this is Juan Sablan. May I help you?

If you must transfer a call, be sure to tell the caller who he is being transferred to.

Example:

One moment, please. I will transfer your call to Mr. Pedro Cruz's office.

You should very tactfully ask for the caller's name when you are going to transfer the call to another. If the caller does not wish to give his name, forward the call to the proper person and inform him that the caller didn't wish to give his name, and then wait for instructions.

Example:

May I tell him who is calling, please?

or

Mr. Cruz is out of the office (or is on another call; or is in a meeting; or is unable to come to the telephone now). Would you like to leave a message or have him return your call?

When placing a call for yourself or another, always announce your name and from which office you are calling. If placing the call for another, make sure your party is ready to take the call.

Example:

Hello, this is Juan Sablan, of the Governor's Office. May I please speak with Mr. Pedro Cruz.

or

Hello, this is Juan Sablan, of the Governor's Office. Is Mr. Pedro Cruz available to speak with the Governor?

RECEIVED

Mr. Cruz, one moment, please, for the Governor.

When placing a call for another, if the person called is not in, politely ask to know when he is expected back. Before hanging up, ask the person on the other end to hold on so that you can check with the person you are placing the call for as to whether or not he wishes to leave a message.

Example:

May I know when you expect Mr. Cruz to be in? Thank you. Will you please hold so I can find out if the Governor would like to leave a message. Thank you.

If you must ask an incoming caller to wait, do so courteously and wait for his response. When you return to the call, thank the caller for waiting. If you feel you would have to ask the caller to wait for a long time, offer to return the call.

Example:

That information is in my files but it will take me a minute to find it. Would you like to wait or may I call you back?

Thank you for waiting.

When calling another office to seek information, be sure to have all the necessary data at your fingertips so that you can fully and completely explain what you need without delay.

Do not interrupt or be impatient. Listen attentively. Do not make the caller repeat because of inattention on your part.

Write down every message. Do not try to rely on memory. Write the name of the caller, his telephone number, his message, the date and time of the call, and your name. If you are confused or unsure of anything in the message, ask to repeat it to the caller. Messages should be delivered to the recipient as soon as possible.

Example:

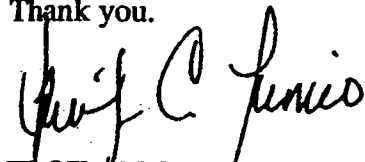
May I please repeat the message to you to make sure I have it correct?

Do not try to talk on the telephone with anything in your mouth (cigarette, pencil, gum, betlenut, etc.). Speak slowly, clearly and in a pleasant tone of voice.

When you have finished talking, say "Goodbye" pleasantly and let the caller hang up first.

Please bear in mind that courtesy is appreciated by all, incoming callers as well as your fellow co-workers. I would appreciate your compliance with this directive.

Thank you.



FROILAN C. TENORIO

7/12/10 10:51:00

DIRECTIVE

DATE: 10 JAN 1994
No. 002

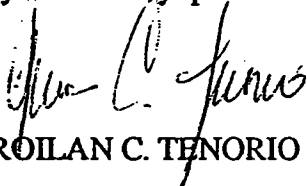
TO : All Department and Activity Heads
FROM : Governor
SUBJ. Customs Inspection of Incoming Containers

I would like Customs to institute a policy of inspecting all incoming freight containers, including those that are being delivered to government agencies, in the same manner.

From now on, government containers should be inspected as thoroughly, and with the same frequency, as all other freight containers.

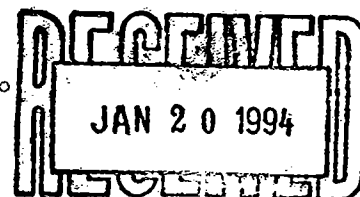
This policy will remain in force until it is amended or retracted by this office.

If you have any questions or comments, please don't hesitate to contact my office.



FROILAN C. TENORIO

CC: Lt. Governor
Acting Director of Finance
Acting Chief of Customs



DIRECTIVE

DATE: 20 JAN 1994
No. 003

TO : All Department and Activity Heads
FROM : Governor
SUBJ. : Administrative Leave Policy

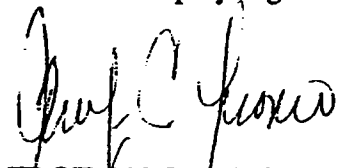
As has been the policy almost since the beginning of the Commonwealth Government, I am delegating the authority to grant or deny Administrative Leave to the department and activity heads.

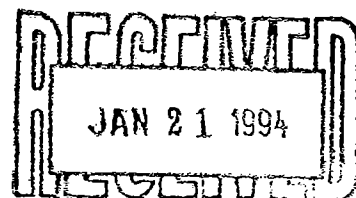
Attendance at board and commission meetings by employees who are members is critical and, therefore, department and activity heads are asked to give favorable consideration to granting requests for Administrative Leave to attend such meetings.

I would encourage favorable consideration of any request for Administrative Leave for real family emergencies.

Extremely careful review should be given to all requests which give as justification a civic or social need for the employee's services.

Requests should be in writing and the approval/disapproval should also be in writing, with a copy to the appropriate timekeeper. All requests/approvals/disapprovals should contain the employee's name, beginning and ending dates and times involved, and adequate justification. In granting Administrative Leave, department and activity heads should consult with the employee's immediate supervisor before making a final decision. Any decision should be based on the adequacy of the justification, the convenience of the office in releasing the employee, and the past performance and attendance of the employee. Department and activity heads are cautioned to use this discretion wisely and judiciously. Inequities in granting Administrative Leave can be cause for employee grievances and low moral.


FROILAN C. TENORIO

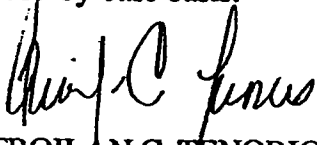


DIRECTIVE

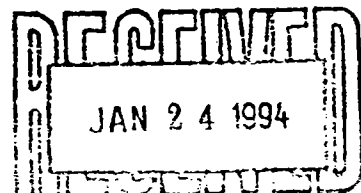
DATE: 23 JAN 1994
No. 004

TO : All Department and Activity Heads
FROM : Governor
SUBJ. : Hiring Freeze

Effective immediately, and until further notice, there will be no hiring of personnel except on a case-by-case basis.



FROILAN C. TENORIO
Governor



DIRECTIVE

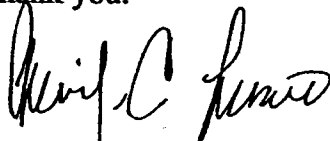
DATE: 23 JAN 1994
No. 005

TO : All Department and Activity Heads
FROM : Governor
SUBJ. : Official Correspondence

In our effort to improve communication and to coordinate and streamline legislative, administrative, and other federal assistance, it is imperative that, effective immediately, all correspondence to members of the United States Congress, heads of federal agencies, United States Governors, heads of military commands, foreign government officials, consular and embassy officers, heads of states of independent nations, government entities in Micronesia, in addition to all official correspondence to the Resident Representative's office originating from your respective offices, must be sent over the signature of the Governor or Lt. Governor. All correspondence must be finalized by your respective offices for review by the Governor's Office. When changes are required, you are expected to re-type the final copy with a copy for yourself and re-submit it to the Governor's Office for signature.

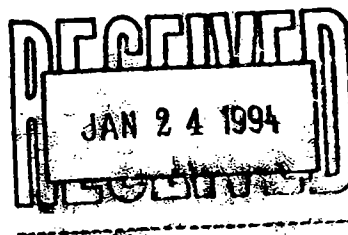
Compliance with this directive will help your office to secure timely replies and actions. While there may be exceptions to this directive, you are expected to let us know before making your own determination to correspond directly.

Thank you.



FROILAN C. TENORIO

cc: Lt. Governor



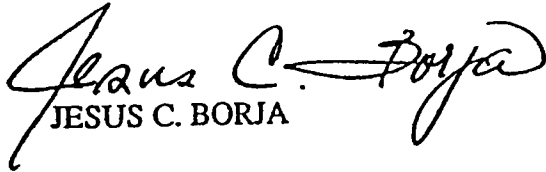
DIRECTIVE

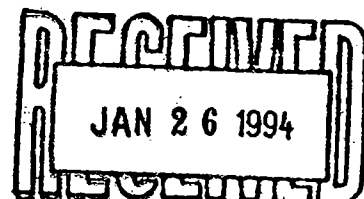
DATE: 25 JAN 1993
No. 006

TO : All Department and Activity Heads
FROM : Acting Governor
SUBJ. : Computation Required on Travel Vouchers

Effective immediately, all Travel Vouchers must have all computations inserted by the Department of Finance before being submitted for my signature or that of the Governor.

Thank you.


JESUS C. BORJA



DIRECTIVE

DATE: 27 JAN 1993
No. 007

TO: : All Department and Activity Heads
FROM : Acting Governor
SUBJ : Use of Government Vehicles

All employees making use of Government vehicles are reminded of the provisions of 1 CMC §7406. This statute provides that:

- 1) Government vehicles (excepting vehicles used by department heads and elected officials) shall not be used outside of normal working hours unless the driver has written permission from the person with expenditure authority over his Department.
- 2) Only government employees can operate government vehicles. Family members are not permitted to operate government vehicles.
- 3) All government vehicles (except unmarked police cars and cars used by elected officials) must be visibly marked as such on both front doors.
- 4) No government vehicle may have tinted windows.

In addition to the provisions of the statute, I am enacting the following policies by means of this Directive.

First, all executive branch vehicles shall be parked at the place of work after hours unless the Department head specifically authorizes otherwise, in writing.

Second, no executive branch vehicles may ever be used for personal errands, whether during working hours or otherwise.

Third, I have received reports of persons removing the markings from government cars and driving them as unmarked vehicles. Please be advised that this is cause for suspension or dismissal.

Fourth, The Bureau of Motor Vehicles is hereby instructed to issue only government license plates to government cars. A government license plate is one that clearly says "Government" or "Gov't" and that can easily be distinguished from an ordinary license plate. All government cars should have government plates within 60 days of this Directive.

Fifth and finally, we all know that there are government vehicles being used in violation of the law. I am giving a short "grace period" for violators to come into compliance, and then I am instructing DPS to begin enforcement.

Beginning Monday, February 7, 1994, DPS is hereby authorized to stop and check

1. any government vehicle sighted after normal working hours, to check for written authorization pursuant to the law;
2. any government vehicle not clearly marked as such;
3. any government vehicle with tinted windows; and,

DPS shall report any vehicle violating these provisions directly to the Governor and Lieutenant Governor.

I thank you for your cooperation in this matter.


JESUS C. BORJA

DIRECTIVE

DATE: 27 JAN 1993
No. 008

TO: : All Department and Activity Heads
FROM : Acting Governor
SUBJ : Designated Parking, Administration Building

Effective immediately, the only designated parking slots at the Administration Building on Capitol Hill will be for disabled persons, as set forth by Commonwealth Statute.

Thank you.


JESUS C. BORJA

DIRECTIVE

DATE: 27 JAN 1993
No. 009

TO: : All Department and Activity Heads
FROM : Acting Governor
SUBJ : Treatment of Civil Service Employees

I am informed that some acting Department heads have been transferring or re-assigning Civil Service employees in violation of the Civil Service Regulations. I have also been told that some acting Department heads are harassing, or allowing the harassment of, certain Civil Service and exempted service employees.

Please be advised that all Civil Service employees are under the protection of the Civil Service laws and regulations. Civil Service employees cannot be transferred, re-assigned, promoted, demoted, or given a change in pay unless the employer first follows the steps set forth in the Civil Service regulations.

As we all know, there were some controversial reclassifications to Civil Service in the last months of the previous administration. This is no justification for taking actions outside the Civil Service regulations. The administration has not responded to these reclassifications yet, but we plan to do so. In any event, this does not give any justification for violating the rules of the Civil Service.

All Civil Service employees are to be accorded the full protection of the Civil Service laws and regulations, and all employees, whether Civil Service or excepted, are to be treated in a fair and courteous manner. There will be no harassment or special treatment of any employees, no matter what their background or political affiliations.

You are all aware of our administration's commitment to clean and honest government. Even employees who have violated our laws must be dealt with according to law, not by harassment, intimidation, or unauthorized re-assignments or demotions. Failure by a Department head or Division Chief to follow these guidelines will be cause for severe disciplinary action.

Thank you for your cooperation in this matter.


JESUS C. BORJA

B
DIRECTIVE

DATE: 01 February 1994
No. 010

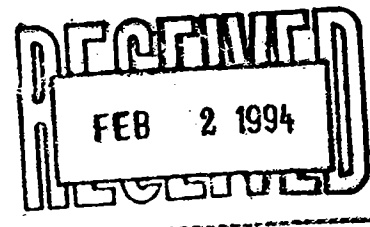
TO: : All Department and Activity Heads
FROM : Acting Governor
SUBJ : Sexual Harrassment

I was recently informed of an incident involving sexual harassment in one of our government offices. Since the person being harassed was courageous enough to come forward and report it, the harasser has been disciplined. I am concerned, though, that such incidents may be going unreported by employees who are afraid of reprisal.

Government employees who have suffered sexual harassment, or who know of someone who has suffered sexual harassment, should go directly to their Department head. If for some reason they do not want to do that, they can now come directly to the Governor's office with their report or complaint. We will act promptly to investigate and to discipline sexual harassers.

All employees should be aware that sexual harassment violates commonwealth and federal law and is cause for serious disciplinary action, including dismissal. Such behavior will not be tolerated under this administration.

Jesus C. Borja
JESUS C. BORJA



D I R E C T I V E

DATE: 03 FEB 1994
NO: 011

TO : All Department and Activity Heads
FROM : Acting Governor
SUBJECT : Use of Government Lease Vehicles

All departments and agencies who are currently and or planning to lease vehicles for official government use are reminded that, in addition to the provisions of 1 CMC Section § 7406, and the Directive date January 27, 1994, No. 007, the following directive shall apply:

- 1) A government license plate shall be installed for the duration of the lease agreement for any Government Lease Vehicles, for which a term of the lease is for quarterly, bi-annually, annually or longer.
- 2) Only government employees may operate government leased vehicles.
- 3) No government leased vehicles may have tinted windows.
- 4) Leased vehicles should be marked and numbered on both front doors in the same manner as other government vehicles.

In addition, the following policies which apply to government owned vehicles shall apply to government leased vehicles and are being repeated as follows:

First, all Executive Branch leased vehicles shall be parked at the place of work after working hours unless the Department or Activity Heads specifically authorize otherwise, in writing.

Second, no Executive Branch leased vehicles may ever be used for personal errands, whether during working hours or otherwise.

DIRECTIVE

DATE: 03 February 1994
No. 012

TO: : All Department and Activity Heads
FROM : Acting Governor
SUBJ : Computation required on Travel Documents

Effective immediately, all Travel Authorizations, and Travel Vouchers must have all computations inserted by the Department of Finance and must contain the Chief of Finance and Accounting's signature, attesting that funds have been certified, before being submitted for my signature or that of the Governor.

This Executive Directive shall correct and supersede that of Executive Directive No. 06.


JESUS C. BORJA

DIRECTIVE

DATE: 10 FEB 1994
No. 013

TO : All Department and Activity Heads

FROM : Governor

SUBJECT: Public Law 8-41, *The Open Government Act of 1992*

The enactment of Public Law 8-41, *The Open Government Act of 1992*, requires "... with certain exceptions, that all government meetings shall be open to the public; and to require that all public records be open to inspection; and for other purposes."

I have been a strong supporter of open government, and I believe *The Open Government Act of 1992* goes a long way in finally making our government accountable to the people of this Commonwealth.

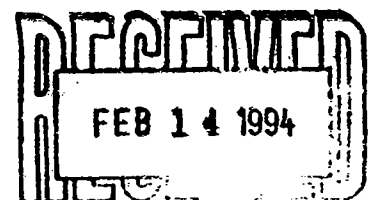
I expect every employee of the CNMI government to be aware at all times that members of the public have a right to know the business of their government. This requires that every citizen have access to the documents, records and meetings needed for this purpose.

Because there will be questions on the many requirements of this new law, a brief summary of these requirements is being provided to all agencies and departments. Please know your legal responsibilities under Public Law 8-41. If necessary, the Public Information and Protocol Office and the Attorney General's Office will provide more detailed guidance to you.

I expect you to follow the spirit and letter of this new law.

Thank you.


FROILAN C. TENORIO



DIRECTIVE

DATE: 23 FEB 1994
No. 014

TO : All Department and Activity Heads

FROM : Governor

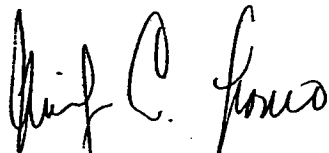
SUBJECT: Compliance with The Open Government Act

Effective immediately, the Public Information and Protocol Office will be notified immediately of all requests received for documents and other information under the Open Government Act of 1992 (P.L. 8-41).

This is particularly important, since the law sets a ten-day limit for providing requested documents.

It is my general view that your common sense should be sufficient to handle routine requests under this new law. However, I feel that compliance with its provisions is too important to be left to chance.

Openness in government is and will continue to be the spirit of this administration and strict compliance with this law is expected by all government personnel.



FROILAN C. TENORIO

DIRECTIVEDATE: 5 MAR 1994
No.: 015 *my*

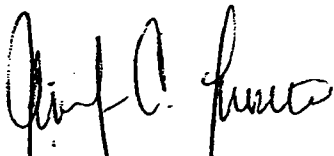
TO : All Department and Activity Heads
FROM : Governor
SUBJ. : Legislative Budget Hearings

Last week the Governor's Fiscal Year 1994 Budget was submitted to the Legislature for review and approval. Very soon the Legislature will be scheduling budget hearings, the purpose of which is to receive testimony from and to ask questions of the Executive Branch on budgetary matters. Such testimony and responses to questions can be very sensitive. If diligence is not exercised, conflicts in these responses can be extremely awkward.

This Directive is to notify all Department and Activity Heads of this Government, as well as any government employee attending these budget hearings, that a single representative of the Governor's Office will provide testimony to and answer the questions of Legislative Members during these hearings. I am designating that single representative to be Mr. Gregorio C. Sablan, the Special Assistant for Planning and Budgeting.

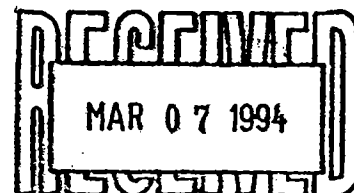
Mr. Sablan is to be the single spokesman for the Governor's Office in providing responses to the Legislature. To avoid any confusion in our position on budget matters, it should be absolutely clear that no executive branch employee is to offer information to, or to respond to questions from the Legislature without first coordinating with Mr. Sablan and then only when a clear, unambiguous understanding is reached.

A violation of this rule will do harm to our presentation of a unified budgetary program for our government and will be considered a serious breach of responsibility.



FROILAN C. TENORIO

cc: Lt. Governor



DIRECTIVE

DATE: ~~APR~~ 5 APR 1994
No. 016

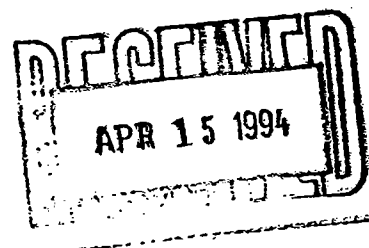
TO : All Department and Activity Heads

FROM : Governor

SUBJECT: Lowering of American Flags to Half-Mast

Because of the accidental downing of two American helicopters in Iraq, killing twenty six persons, President Clinton has ordered all American flags to be flown at half-mast through sunset on Monday, April 18, 1994. In observation of this tragic event, effective immediately, all American flags throughout the Commonwealth of the Northern Mariana Islands will be lowered to half-mast.

FOILAN C. TENORIO



DIRECTIVE

b1

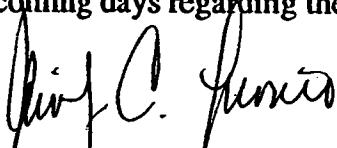
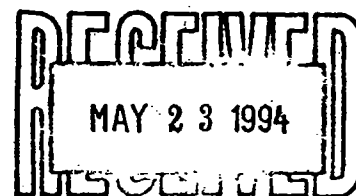
DATE: 20 MAY 1994
No. 016

TO : All Department and Activity Heads
FROM : Governor
SUBJ. : Executive Order 94-2 - Re-organization

Executive Order 94-2 is now in effect. Not too long ago, it appeared almost certain that it would take more effort and more time to properly re-organize the government. The recent chain of events returned us to the schedule originally planned, but without sufficient time for us to prepare an orderly transition.

It is clear to me, in view of the above circumstances, that the interests of economy and management require that all transfers, consolidations, and abolishments be delayed beyond the date that this Executive Order became effective.

I hereby employ the discretion vested in me by Section 511 of Executive Order 94-2, and fix the date of June 21, 1994 as the date upon which all transfers, consolidations, and abolishments, not previously activated, will become effective. Certain sections of Executive Order 94-2 will be activated by directives prior to June 21, 1994. My office will be consulting with you in the coming days regarding the transition.


FROILAN C. TENORIO

DIRECTIVE

DATE: 23 MAY 1994
NO. 17

TO : CIVIL SERVICE COMMISSION

FROM : GOVERNOR

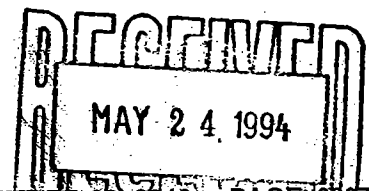
SUBJECT: EXECUTIVE ORDER 94-2, SECTION 214(c)

Effective immediately, Section 214(c) of Executive Order 94-2 provides for Boards and commissions, including the Civil Service Commission, to the extent of budgetary resources, gives you the authority to retain or establish personnel management functions within their organizations, or, by agreement may arrange with the Office of Personnel Management (Office of the Governor) to perform such functions on their behalf.



FROILAN C. TENORIO

cc: Chairman, Civil Service Commission
Members, Civil Service Commission



DIRECTIVE

DATE: 23 MAY 1994
NO. 018

TO : PERSONNEL OFFICER
OFFICE OF PERSONNEL

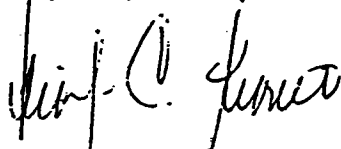
FROM : GOVERNOR

SUBJECT: EXECUTIVE ORDER 94-2, SECTION 214

This is to inform you that in accordance with Executive Order 94-2, Reorganization Plan No. 1, effective immediately, the Personnel Office is abolished and its functions transferred to the Office of Personnel Management.

Furthermore, the functions of the Personnel Office relating to training programs for government employees are transferred to the Northern Marianas College.

The procedure for transferring authority, funds, records, property and personnel, should this be required, are set forth in Part V of the Executive Order, Sections 503, 504, and 505.



FROILAN C. TENORIO

cc: Chairman, Civil Service Commission
Members, Civil Service Commission
Chairman, NMC Board of Regents
Members, NMC Board of Regents
President, Northern Marianas College

DIRECTIVE

DATE: 23 MAY 1994
760 019

TO : Chief, Division of Environmental Quality
Director of Public Health and Environmental Services
Director of Public Works

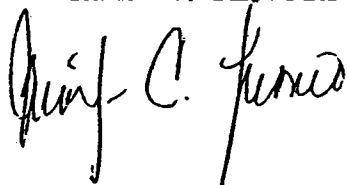
FROM : Governor

SUBJ. : Executive Order 94-2; Division of Environmental Quality

This is to inform you that in accordance with Executive Order No. 94-2, Reorganization Plan No. 1 of 1994, Section 304(d), effective immediately, the Division of Environmental Quality is transferred from the Department of Public Health to the Department of Public Works.

The procedures for transferring authority, funds, records, property, and personnel, should this be required, are set forth in Part V of the Executive Order, Sections 503, 504, and 505.

FROILAN C. TENORIO



DIRECTIVE

DATE: 23 MAY 1994

No. 020

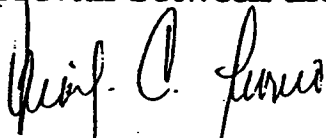
TO : Commonwealth Council for Arts and Culture
Director, Department of Community and Cultural Affairs

FROM : Governor

SUBJ. : Executive Order 94-2

This is to inform you that in accordance with Executive Order No. 94-2, Reorganization Plan No. 1 of 1994, Section 308(c), effective immediately, the Commonwealth Council for Arts and Culture is hereby allocated to the Department of Community and Cultural Affairs for purposes of administration and coordination.

Section 507 of the Executive Order defines the relationship that will prevail between the Council and the Department.



FROILAN C. TENORIO

Council and the JTPA office are allocated to the Department of Labor and Immigration for purposes of administration and coordination.

(5) Pursuant to paragraph (2) of 3 CMC §4424(a), the Secretary of Labor and Immigration shall by regulation increase to not less than \$200 the annual fee for the processing of the initial application and for each annual renewal of a non-resident worker certificate, provided that the additional funds collected as a result of such increase shall be covered into the General Fund. On October 1, 1994, any funds remaining in the Commonwealth Non-resident Worker Fee Fund or in any account established pursuant to paragraph (1) of such subsection, shall be covered into the General Fund, may be reprogrammed by the Governor, and shall remain available for obligation until expended. The Governor may transmit to the Legislature revised budget estimates for Fiscal Year 1995 as necessary to conform to the provisions of this paragraph.

(c) Immigration.

(1) The Office of Immigration and Naturalization is re-designated the Immigration Service and is transferred to the Department of Labor and Immigration as a division of that department. The Immigration Service shall have at its head a Director of Immigration, who shall have all the powers assigned by law to the Immigration and Naturalization Officer, except any power transferred pursuant to Section 201 of this plan. The position of Immigration and Naturalization Officer is abolished.

(2) All functions of the Attorney General relating to immigration and naturalization, are transferred to the Secretary of Labor and Immigration except:

(A) any function transferred pursuant to Section 201 of this plan.

(B) the hearing of immigration appeals as provided in 3 CMC §4336(d), and

(C) the constitutional function of legal representation.

Section 302. Department of Commerce.

(a) **Taxicab Bureau.** The Taxicab Bureau is abolished and its functions transferred from the Department of Finance to the Department of Commerce.

(b) **Marianas Visitors Bureau.**

(1) The Marianas Visitors Bureau is allocated to the Department of Commerce for purposes of administration and coordination.

(2) The Board of Directors is increased from 9 members to 14 members.

(3) (i) Nine of the members of the Board shall be appointed by the Governor with the advice and consent of the Senate and shall serve a term of four years. At least two of the members appointed by the Governor shall be from Rota and at least two shall be from Tinian.

(ii) The present members of the Board shall serve out their terms, the Governor appointing replacements as their terms expire.

(4) One representative apiece from each of the following groups shall serve as a member of the Board.

- A) All the hotels serving the Commonwealth
- B) All the airlines serving the Commonwealth
- C) The major retailers of the Commonwealth
- D) The small businesses of the Commonwealth that are members of the Marianas Visitors Bureau; and,

E) The travel agencies of the Commonwealth.

The Secretary of Commerce may provide definitions of "major retailer", "small business", and "travel agency" by regulation. Each group may select its representative by consensus. If a consensus is not reached within a group, the Secretary of Commerce shall conduct an election with each member of the group having one vote

The five members selected pursuant to this subsection shall each serve a term of

one year. Neither such member may serve two successive terms, nor may an airline, a travel agency, or a major retailer be represented twice in succession.

The five members selected pursuant to this subsection shall take office as soon as a consensus may be reached, or an election held, after the effective date of this Order.

(c) **Alcoholic Beverage Control.** The Commonwealth Alcoholic Beverage Control Board is abolished and its functions transferred to the Secretary of Commerce.

(d) **Statistical Advisory Council.** The Statistical Advisory Council is abolished and its records, property, facilities, equipment, and supplies transferred to the Department of Commerce. The Secretary of Commerce shall solicit from all activities of the Commonwealth Government, including those of the Legislative and Judicial Branches, and from the private sector as appropriate, their needs for government statistics and shall consider such needs when determining what statistics to collect, compile, and report.

Section 303. Department of Public Safety.

(a) **Criminal Justice System.** The Criminal Justice Planning Agency, CIPA Youth Advisory Council, and the Council for the Improvement of the Criminal Justice System are allocated to the Department of Public Safety for purposes of coordination and administration.

(b) **Alternative Programs.**

(1) The Secretary of Public Safety shall investigate and, if appropriate, establish military-style programs of rigorous discipline and training for youth and adults as an alternative or supplement to traditional secure care and correctional facilities. If such a program is established for youth, the Secretary of Public Safety shall coordinate such program with the Secretary of Community and Cultural Affairs. Youth shall be strictly separated from adults in such programs, except that the programs for youth may include young adults under an age to be determined by the Secretary of Public Safety after consultation with the Secretary of Community and

Cultural Affairs.

(2) The Secretary of Public Safety, in coordination with the Special Assistant for Youth, may conduct voluntary programs for youth and young adults similar to, but separate from, the alternative programs described in paragraph (1) of this subsection.

Section 304. Department of Public Works.

(a) **Commonwealth Ports Authority.** The Commonwealth Ports Authority is allocated to the Department of Public Works for purposes of administration and coordination.

(b) **Commonwealth Utilities Corporation.** The Commonwealth Utilities Corporation is allocated to the Department of Public Works for purposes of administration and coordination.

(c) **Board of Professional Licensing.** The Board of Professional Licensing is abolished and its functions transferred to a Division of Professional Licensing in the Department of Public Works, which shall have at its head a Director of Professional Licensing.

(d) **Environmental Quality.** The Division of Environmental Quality is transferred from the Department of Public Health to the Department of Public Works. To the maximum extent practicable, the Secretary of Public Works shall integrate land-based earth moving permits into the building permit process.

Section 305. Department of Public Health.

(a) **Board of Public Health and Environmental Quality.** The Board of Public Health and Environmental Quality is abolished and its functions transferred to the Secretary of Public Health.

(b) **Federally-Mandated Councils.** The State Planning Council on Developmental Disabilities and the State Rehabilitation Advisory Council are allocated to the Department of Public Health for the purposes of administration and

coordination.

Section 306. Department of Lands and Natural Resources.

(a) **Marianas Public Land Corporation.** Pursuant to Section 4(f) of Article XI of the Constitution, the Marianas Public Land Corporation is dissolved and its functions transferred to a Division of Public Lands in the Department of Lands and Natural Resources, which shall have at its head a Director of Public Lands.

(b) **Land Commission.** The Land Commission is abolished and its functions transferred to a Division of Land Registration in the Department of Lands and Natural Resources, which shall have at its head the Senior Land Commissioner who is re-designated as the Director of Land Registration and who shall report to and serve under the direction of the Secretary of Lands and Natural Resources. The Deputy Land Commissioners are re-designated as Deputy Directors of Land Registration.

(c) **Zoning Board.** The Zoning Board is abolished and, except as provided in Section 401(c) of this plan, its functions transferred to a Division of Zoning in the Department of Lands and Natural Resources, which shall have at its head a Director of Zoning. The Zoning Board of Rota, established by Rota Local Law No. 8-2, is not affected by this subsection.

(d) **Permit Simplification and Coordination.** The Secretary of Lands and Natural Resources shall simplify, coordinate, and, to the extent practicable, integrate the development permitting process and public land leasing process within the Department of Lands and Natural Resources. The Secretary of Lands and Natural Resources, the Secretary of Public Works, and the head of any other agency regulating development shall coordinate and may, by agreement, integrate the permitting and regulatory processes of their agencies in order to expedite government decisions incident to private sector development. If two or more agencies disagree regarding such coordination or integration, the head of any such agency may refer the matter to the Special Assistant for Management and Budget and the Special Assistant for Administration for resolution.

Section 307. Department of Finance.

(a) **Lottery Commission.** The Commonwealth Lottery Commission is abolished and its functions transferred to the Department of Finance. The Secretary of Finance shall consult with the Secretary of Commerce and the Attorney General as necessary for the effective administration of such functions.

(b) **Procurement.**

1) To the extent that any provision of law may be interpreted to authorize the Civil Service Commission or the Personnel Officer to exercise any function relating to the procurement of services from outside contractors, that function is transferred to the Secretary of Finance. The function of deciding whether it is in the public interest for the government to obtain professional services by employing more people to work for the government (either in the classified Civil Service or the Excepted Service as determined by the Personnel Officer) or by procuring such services from the private sector is allocated to the Office of the Governor, the Marianas Public Land Trust, and the various boards and commissions.

(2) In order to implement any transfer or allocation made by paragraph (1) of this subsection, existing law is affected, for clarification purposes only, to interpret 1 CMC §8131(a)(2) henceforth to apply only to government employees and not to outside contractors.

(3) In order to further implement any transfer or allocation made by paragraph (1) of this subsection, existing law is affected by changing the definition of "employee" in 1 CMC §8243 to exclude, rather than include, independent service contractors, consultants, and professional services contractors.

(c) **Government Health and Life Insurance.** Any function of the Personnel Office relating to administration of group health or life insurance programs for government officials or employees is transferred to the Department of Finance. The Public Auditor shall conduct an audit of such programs in connection with such transfer and shall report the results of such audit to the Governor, the

DIRECTIVE

DATE: 23 MAY 1994

No. 021

TO : Senior Land Commissioner
Director, Department of Natural Resources

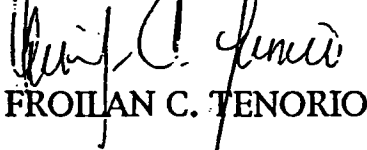
FROM : Governor

SUBJ. : Executive Order 94-2; Land Commission

This is to inform you that in accordance with Executive Order No. 94-2, Reorganization Plan No. 1 of 1994, Section 306(b), effective immediately, the Land Commission is abolished and its functions are transferred to a Division of Land Registration, which is hereby created within the Department of Lands and Natural Resources.

All employees of the Land Commission shall continue in their present positions. The Senior Land Commissioner is hereby re-designated as the Director of Land Registration, and the Deputy Land Commissioners are hereby re-designated as Deputy Directors of Land Registration.

The procedures for transferring authority, funds, records, property, and personnel, should this be required, are set forth in Part V of the Executive Order, Sections 503, 504, and 505.



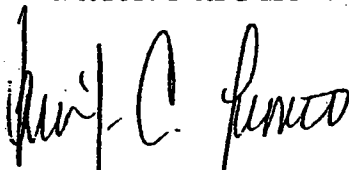
FROILAN C. TENORIO

DIRECTIVE

DATE: 23 MAY 1994
No 022

TO : Director, Department of Finance
FROM : Governor
SUBJ. : Executive Order 94-2; Outside Contractors

This is to inform you that in accordance with Executive Order No. 94-2, Reorganization Plan No. 1 of 1994, Section 307(b), effective immediately, all functions that the Civil Service Commission or the Personnel Office may have exercised relating to the procurement of services from outside contractors are hereby transferred to the Secretary of Finance.



FROILAN C. TENORIO

cc: Personnel Officer

DIRECTIVE

DATE: 23 MAY 1994

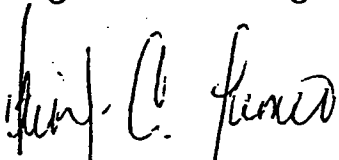
No 023

TO : Attorney General

FROM : Governor

SUBJ. : Executive Order 94-2; Division of Intergovernmental Relations

This is to inform you that in accordance with Executive Order No. 94-2, Reorganization Plan No. 1 of 1994, Section 309, effective immediately, the Division of Intergovernmental Relations is abolished. Its functions may be assigned and delegated by the Attorney General.



FROILAN C. TENORIO

DIRECTIVE

DATE: 23 MAY 1994

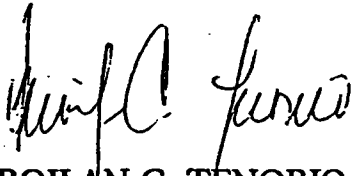
No. 024

TO : Attorney General

FROM : Governor

SUBJ. : Executive Order 94-2; Corporate Charters

This is to inform you that in accordance with Executive Order No. 94-2, Reorganization Plan No. 1 of 1994, Section 207, effective immediately, all functions of the Governor relating to corporate charters pursuant to Chapter 1 of 4 CMC Division 4 are hereby delegated to the Attorney General.



FROILAN C. TENORIO

cc: Registrar of Corporations

DIRECTIVEDATE: 23 MAY 1994
No 025

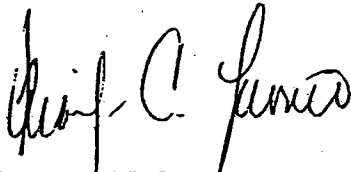
TO : All member, Termination and Trusteeship Task Force
Task Force on Privatization of Government Services

FROM : Governor

SUBJ. : Executive Order 94-2; Division of Intergovernmental
Relations

This is to inform you that in accordance with Executive Order No. 94-2, Reorganization Plan No. 1 of 1994, Section 406, effective immediately, the Termination and Trusteeship Task Force and the Task Force on Privatization of Government Services are abolished. Their records, property, facilities, equipment and supplies are to be transferred to the Office of the Governor.

Please contact my office if you have any records or property belonging to one of these task forces.



FROILAN C. TENORIO

DIRECTIVE

DATE:

23 MAY 1994

76 026

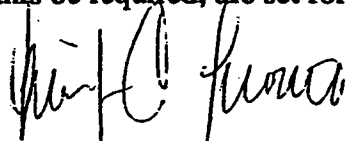
TO : Chairman, Wage and Salary Review Board

FROM : Governor

SUBJECT: Executive Order No. 94-2

This is to inform you that in accordance with Executive Order No. 94-2, Reorganization Plan No. 1 of 1994, Section 301(3)(b), effective immediately, the Wage and Salary Review Board is abolished and its records, property, facilities, equipment, and supplies transferred to the Department of Labor, Immigration, and Customs.

The procedure for transferring authority, funds, records, property and personnel, should this be required, are set forth in Part V of the Executive Order, Section 503, 504 and 505.



FROILAN C. TENORIO

cc: Department of Labor, Immigration, and Customs
Department of Commerce

DIRECTIVE

DATE:

23 MAY 1994

No. 027

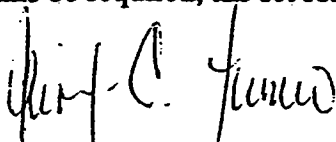
TO : Chairman, State Planning Council on Developmental Disabilities

FROM : Governor

SUBJECT: Executive Order No. 94-2

This is to inform you that in accordance with Executive Order No. 94-2, Reorganization Plan No. 1 of 1994, Section 305(b), effective immediately, the State Planning Council on Developmental Disabilities is allocated to the Department of Public Health for purposes of administration and coordination.

The procedure for transferring authority, funds, records, property and personnel, should this be required, are set forth in Part V of the Executive Order, Section 503, 504 and 505.



FROILAN C. TENORIO

cc: Department of Public Health

DIRECTIVE

DATE:
23 MAY 1994
No. 028

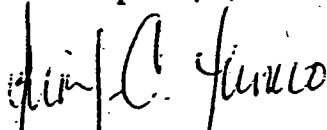
TO : Chairman, State Rehabilitation Advisory Council

FROM : Governor

SUBJECT: Executive Order No. 94-2

This is to inform you that in accordance with Executive Order No. 94-2, Reorganization Plan No. 1 of 1994, Section 305(b), effective immediately, the State Rehabilitation Advisory Council is allocated to the Department of Public Health for purposes of administration and coordination.

The procedure for transferring authority, funds, records, property and personnel, should this be required, are set forth in Part V of the Executive Order, Section 503, 504 and 505.


FROILAN C. TENORIO

cc: Department of Public Health

DIRECTIVE

DATE:

23 MAY 1994

No. 029

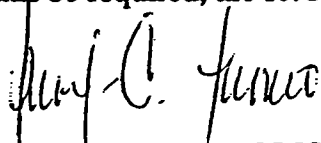
TO : Chairman, Saipan Street Directory Commission

FROM : Governor

SUBJECT: Executive Order No. 94-2

This is to inform you that in accordance with Executive Order No. 94-2, Reorganization Plan No. 1 of 1994, Section 404, effective immediately, the Saipan Street Directory Commission is abolished and its records, property, facilities, equipment, and supplies transferred to the Office of the Mayor of Saipan.

The procedure for transferring authority, funds, records, property and personnel, should this be required, are set forth in Part V of the Executive Order, Section 503, 504 and 505.



FROILAN C. TENORIO

cc: Office of the Mayor of Saipan

DIRECTIVE

DATE:
23 MAY 1994
716. 030

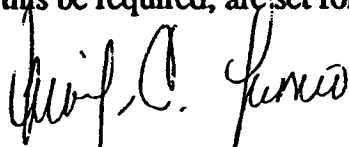
TO : Chairman, Coastal Resources Appeals Board

FROM : Governor

SUBJECT: Executive Order No. 94-2

This is to inform you that in accordance with Executive Order No. 94-2, Reorganization Plan No. 1 of 1994, Section 401(e) effective immediately, the Coastal Resources Appeals Board is abolished. Its functions are transferred to the Development Appeals Board.

The procedure for transferring authority, funds, records, property and personnel, should this be required, are set forth in Part V of the Executive Order, Section 503, 504 and 505.



FROILAN C. TENORIO

cc: Coastal Resources Management Office
Development Appeals Board

DIRECTIVE

DATE:
23 MAY 1994
712. 031

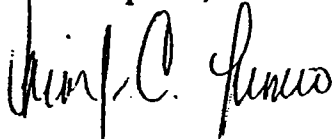
TO : Chairman, Building Safety Code Review Board

FROM : Governor

SUBJECT: Executive Order No. 94-2

This is to inform you that in accordance with Executive Order No. 94-2, Reorganization Plan No. 1 of 1994, Section 401(e) effective immediately, the Building Safety Code Review Board is abolished. Its functions are transferred to the Development Appeals Board.

The procedure for transferring authority, funds, records, property and personnel, should this be required, are set forth in Part V of the Executive Order, Section 503, 504 and 505.



FROILAN C. TENORIO

cc: Department of Public Works
Development Appeals Board

DIRECTIVE

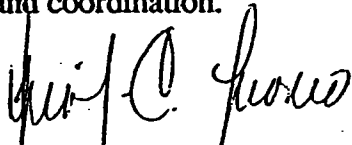
DATE:
23 MAY 1994
No. 032

TO : Director, Department of Public Works

FROM : Governor

SUBJECT: Executive Order No. 94-2

This is to inform you that in accordance with Executive Order No. 94-2, Reorganization Plan No. 1 of 1994, Section 304(b), effective immediately, the Commonwealth Utilities Corporation is allocated to the Department of Public Works for purposes of administration and coordination.



FROILAN C. TENORIO

DIRECTIVE

DATE: 23 MAY 1994
NO. 033

TO : ADMINISTRATOR
COASTAL RESOURCES MANAGEMENT OFFICE

FROM : GOVERNOR

SUBJECT: EXECUTIVE ORDER 94-2, SECTION 206

This is to inform you that in accordance with Executive Order 94-2, Reorganization Plan No.1, effective immediately, the Coastal Resources Management Office is transferred to the Department of Lands and Natural Resources.

The procedure for transferring authority, funds, records, property and personnel, should this be required, are set forth in Part V of the Executive Order, Sections 503, 504, and 505.



FROILAN C. TENORIO

cc: Secretary, Lands and Natural Resources
Directors, Coastal Resources Management Office

DIRECTIVE

DATE: 3 MAY 1994
NO. 034

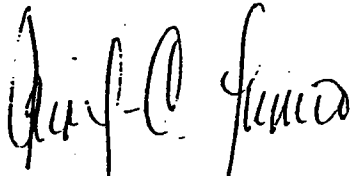
TO : EXECUTIVE SECRETARY
COMMONWEALTH LOTTERY COMMISSION

FROM : GOVERNOR

SUBJECT: EXECUTIVE ORDER 94-2, SECTION 307(a)

This is to inform you that in accordance with Executive Order 94-2, Reorganization Plan No. 1, effective immediately, the Commonwealth Lottery Commission is abolished and its functions transferred to the Department of Finance. The Secretary of Finance shall consult with the Secretary of Commerce and the Attorney General as necessary for the effective administration of such functions.

The procedure for transferring authority, funds, records, property and personnel, should this be required, are set forth in Part V of the Executive Order, Sections 503, 504, and 505.



FROILAN C. TENORIO

cc: Secretary, Department of Finance
Secretary, Department of Commerce
Attorney General

DIRECTIVE

DATE: 23 MAY 1994
No. 035

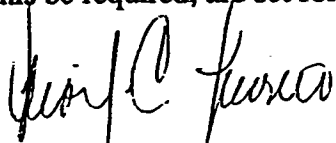
TO : Special Assistant for Political Affairs

FROM : Governor

SUBJECT: Executive Order No. 94-2

This is to inform you that in accordance with Executive Order No. 94-2, Reorganization Plan No. 1 of 1994, Section 102, effective immediately, the Special Assistant for Political Affairs is redesignated as the Special Assistant to the Governor for Public Liaison and shall head the Office of Public Liaison.

The procedure for transferring authority, funds, records, property and personnel, should this be required, are set forth in Part V of the Executive Order, Section 503, 504 and 505.



FROILAN C. TENORIO