



Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

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August 18, 2020

David Atalig
Secretary of Finance
Department of Finance
P.O. Box 5234 CHRB
Saipan, MP 96950

Dear Secretary Atalig:

Report on the Audit of the CNMI Government Travel Policy

This report presents the Office of the Public Auditor's (OPA) Audit of the CNMI Government Travel Policy. Our objective was to evaluate the travel policies that have been adopted by CNMI government agencies, including autonomous agencies, and to determine if policies are consistent with CNMI travel laws.

Our audit offers a total of three recommendations, two of which are recommended for DOF and one for the Legislature. We recommend that DOF (1) adopt a uniform travel policy by regulation and restrict the purchase of first class, business class, or any other premium class designation as required by the law, and (2) provide training or guidance on per diem calculation. The implementation of these recommendations will address the report findings to comply with the law.

We appreciate the response received from your office and based on our review of the response, OPA considers all recommendations unresolved. The law requires OPA to report semiannually on the audited entity's compliance with OPA's recommendations. OPA will make contact with DOF every June and December until all recommendations are resolved.

As required by law and the auditing standards, all reports issued by OPA are made public and can be found on OPA's website at www.opacnmi.com.

Sincerely,

Michael Pai, CPA
Public Auditor

Enclosures
MP/db/gt/jm

cc: Honorable Ralph DLG. Torres, Governor
Honorable Victor B. Hocog, Senate President
Speaker Blas Jonathan T. Attao, House of Representatives
David Blake, OPA
Geraldine Tenorio, OPA



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August 18, 2020

Honorable Victor B. Hocog
Senate President
21st Commonwealth Legislature
P.O. Box 500129
Saipan, MP 96950

Honorable Blas Jonathan T. Attao
Speaker
House of Representatives
21st Commonwealth Legislature
P.O. Box 500586
Saipan, MP 96950

Dear Honorable Senate President Hocog and Honorable Speaker Attao:

Report on the Audit of the CNMI Government Travel Policy

This report presents the Office of the Public Auditor's (OPA) Audit of the CNMI Government Travel Policy. Our objective was to evaluate the travel policies that have been adopted by CNMI government agencies, including autonomous agencies, and to determine if policies are consistent with CNMI travel laws.

Our audit offers a total of three recommendations, two of which are recommended for DOF and one for the Legislature. We recommend that the Legislature review current travel laws and address any conflicts over official government travel. The implementation of these recommendations will address the report findings to resolve any conflicts in the law.

We appreciate the responses received from your offices and based on our review of the responses, OPA considers the recommendation unresolved. The law requires OPA to report semiannually on the audited entity's compliance with OPA's recommendations. OPA will make contact with the Legislature every June and December until all recommendations are resolved.

As required by law and the auditing standards, all reports issued by OPA are made public and can be found on OPA's website at www.opacnmi.com.

Sincerely,

Michael Pai, CPA
Public Auditor

Enclosures
MP/db/gt/jm

cc: Honorable Ralph DLG. Torres, Governor
David Atalig, Secretary of Finance
David Blake, OPA
Geraldine Tenorio, OPA

Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

Audit of the Commonwealth of the Northern Mariana Islands Government Travel Policy



OPA Report No.
20-06

Table of Contents

Results in Brief	2
Introduction.....	3
Objective	3
Background	3
Findings.....	5
A Uniform Travel Policy Does Not Exist.....	5
Policies on Airfare Restrictions Are Vague or Not Enforced.....	8
Other Matters	9
Conclusion and Recommendations.....	10
Recommendation Summary.....	10
Summary of DOF’s Response	10
Summary of Legislature’s Response	10
Appendix 1. Scope and Methodology.....	12
Appendix 2. Prior Audit Coverage	13
Appendix 3. SOF’s Response	14
Appendix 4. Senate President’s Response	16
Appendix 5. House Speaker’s Response	22
Appendix 6: Status of Recommendation	27

Results in Brief

In December 2005, the Department of Finance (DOF) adopted emergency travel expense regulations (emergency regulations) to aid in the administration and implementation of the duties and responsibilities granted to the Secretary of Finance (SOF) regarding government travel expenses. This emergency regulation was to remain in effect for 120 days from the former Governor's concurrence and has since expired.

In September 2007, the Legislature passed Public Law 15-86 mandating a uniform government travel policy made applicable to all branches, departments, divisions, agencies, and autonomous agencies. The law required the SOF to develop and implement the policy and to set the per diem rates for all government travel and strictly prohibited the purchase of or reimbursement for any travel in first class, business class, or any other premium class designation.

To date, a uniform travel policy by regulation has not been adopted. Currently, travel policies and practices differ throughout the CNMI government, and statutory restrictions on first or business class airfare have been violated. DOF has adopted the use of directives and memoranda issued by previous Governors and government officials from the late 1990s. This set of documents collectively became the Executive Branch's travel policy. In contrast, many autonomous agencies and the Judiciary have adopted some or all of the per diem rates established by federal agencies. Not only are there differences in per diem rates, there are also differences in computing stipend for inflight travel, layovers, ground transportation, incidentals, etc.

Varying per diem rates causes inequity among government travelers, enriching some while penalizing others. It is essential that the CNMI Government adopt a uniform travel regulation that is fair and adequate to cover travel costs incurred on official government business regardless of what entity the government employee works for.

Although the CNMI government lacks a uniform travel policy, OPA notes that DOF has been working on a draft of the travel regulations. OPA commends DOF for its ongoing efforts and looks forward to the adoption of travel regulations.

Introduction

Objective

The objective of the audit was to evaluate the travel policies that have been adopted by CNMI government agencies, including autonomous agencies, and to determine if policies are consistent with CNMI travel laws. Please see *APPENDIX 1* for the scope and methodology of our audit.

Background

On April 22, 1986, Public Law (PL) 5-9 was signed into law codifying 1 CMC §7407 – Restrictions Upon Government Paid Travel Outside of the Commonwealth. At the time of approval, the law only included sections (a) and (b) of the current travel law. These sections required (a) every government travel authorization to contain a statement under penalty of perjury that the travel was for the benefit of the CNMI, and (b) the submission of a detailed trip report along with documented travel expenditures within 15 days of completing travel.

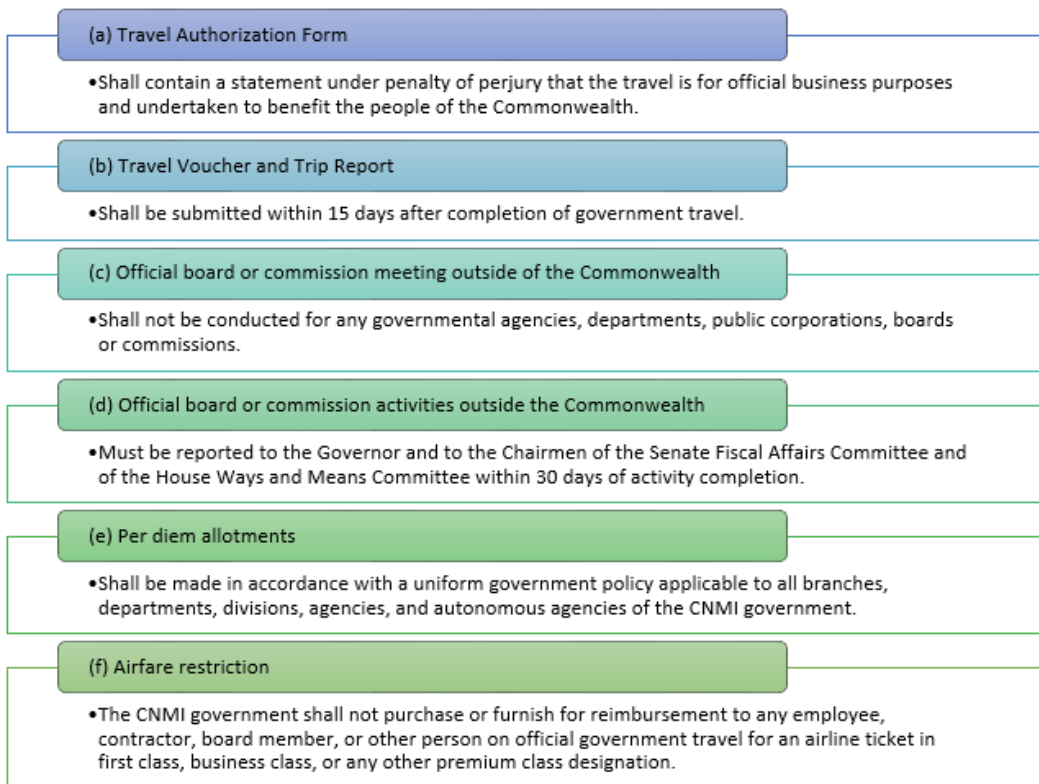
On June 22, 1988, PL 6-5 amended 1 CMC §7407, adding sections (c) and (d), prohibiting the conduct of official board or commission meetings outside of the CNMI. In addition, board or commission activities conducted outside of the CNMI must be reported to the Governor, and the chairmen of the Senate Fiscal Affairs Committee and the House Ways and Means Committee.

On December 2005, emergency travel expense regulations were adopted to aid in the administration and implementation of the duties and responsibilities granted to the Secretary of Finance regarding business travel expenses. Such regulations were to remain in effect for 120 days from the former Governor's concurrence. Since its expiration, the Department of Finance (DOF) has not promulgated travel expense regulations.

On September 26, 2007, PL 15-86 amended 1 CMC §7407, requiring per diem allotments to be made in accordance with a uniform government policy and prohibiting the purchase of first class, business class, or other premium airfare tickets by the CNMI Government. These amendments are now known as sections (e) and (f). To date, no other amendments to 1 CMC §7407 were proposed or adopted. See Figure 1 for a summary of 1 CMC §7407(a) to (f).

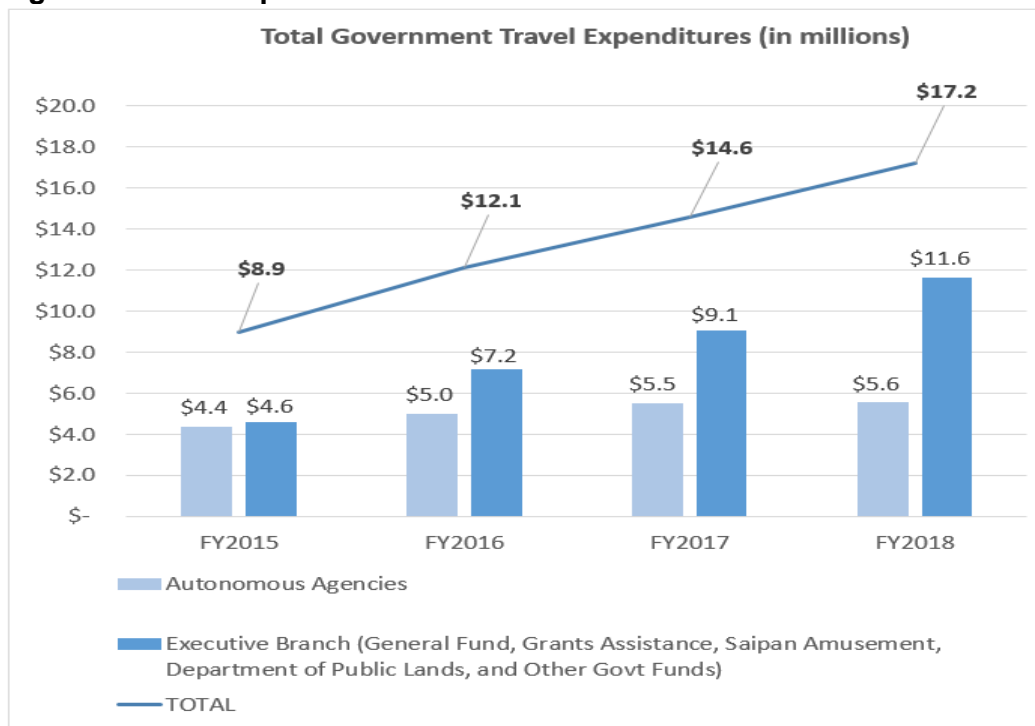
According to the CNMI Report on the Audit of Financial Statements for fiscal years (FY) 2015 and 2018, travel expenditures increased by about 27% for autonomous agencies and about 152% for the CNMI Executive Branch (See Figure 2). In FY 2018, the overall total travel expense for the CNMI reached \$17.2 million, a 93% increase from the overall total in FY 2015.

Figure 1. Summary of the restrictions and requirements for 1 CMC §7407(a) to (f).



SOURCE: 1 CMC § 7407(a) to (f), Retrieved from the Law Revision Commission website as of August 31, 2018

Figure 2. Travel expenditures for FY 15 to 18 for all CNMI Government entities.



SOURCE: CNMI Report on the Audit of Financial Statements in Accordance with the Uniform Guidance – Year Ended September 30, 2015 to 2018 and Expenditure Reports submitted by Autonomous Agencies

Findings

Our audit found that the Department of Finance (DOF) did not develop and implement a uniform travel policy by regulation as required by the law. Travel policies, per diem rates, and calculations vary across all CNMI Government entities, except for agencies that have adopted the same policies and rates established by DOF for the Executive Branch. This causes per diem disparity among government employees traveling on official government business, perhaps enriching some while penalizing others. In addition, we found instances where purchases of first or business class airfare were made contrary to the statute prohibiting government-paid travel outside the Commonwealth. Our audit also found conflicting legislation adopted by the Legislature requiring agencies in one law to follow a uniform travel policy by regulation, and in another, to adopt their own travel policy.

DOF's current travel policies and practices are guided by previous directives and memorandums issued by former Governors and other government officials. The existing per diem rates utilized by DOF was established more than two decades ago and have not been updated to determine if such rates are excessive or sufficient to accommodate current travel costs.

A Uniform Travel Policy Does Not Exist

According to 1 CMC §7407(e), “per diem allotments shall be made in accordance with a *uniform government policy* applicable to all branches, departments, divisions, agencies, and autonomous agencies of the Commonwealth Government. The Secretary of Finance (SOF) shall develop and implement the policy by regulation and shall set the per diem rates for government travel.” [Emphasis added].

OPA requested from all autonomous agencies, DOF, the Legislative and Judicial Branch copies of their current travel policy. Upon reviewing these documents and inquiring about current travel practices, OPA found variances in the travel policies and practices utilized throughout the CNMI Government. Entities have adopted their own travel policies/practices, the federal travel regulations, or a combination of both. The following paragraphs highlight the disparity in travel costs incurred by the CNMI Government because of varying policies and practices.

Per diem allotments cover lodging, meals, and incidentals, of which receipts are neither required nor submitted for reimbursement by CNMI Government entities.

One of the major differences among CNMI Government entities are the rates that are used for the calculation of per diem allotments. These differences are shown in Figures 3 and 4. OPA also noted differences pertaining to allowances for car rental and ground transportation as well as in-air stipend, but did not perform a detailed review for such allowances.

Figure 3. Examples of the varying per diem rates used throughout the CNMI Government for destinations within the CNMI, Guam, and some U.S. states.

	PER DIEM RATES ADOPTED BY AGENCY							
	Saipan	Tinian	Rota	Guam	Hawaii	California	New York	Washington D.C.
CDA	\$175	\$100	\$125	\$175	\$250	\$250	\$250	\$250
CHCC	\$175	\$100	\$125	\$175	\$250	\$250	\$250	\$250
CPA	\$175	\$100	\$125	\$175	\$250	\$250	\$250	\$250
DOF	\$175	\$100	\$125	\$175	\$250	\$250	\$250	\$250
LEG	\$175	\$100	\$125	\$175	\$250	\$250	\$250	\$250
MVA	\$175	\$175	\$175	\$175	\$275	\$275	\$275	\$275
MPLT	\$250	\$175	\$275	\$375	\$450	\$450	\$450	\$450
CUC*	\$274	\$162	\$244	\$255	\$319 - \$466	\$168 - \$410	\$152 - \$374	\$245 - \$332
JUD*	\$240	\$240	\$240	\$250	\$331 - \$381	\$286 - \$301	\$281 - \$301	\$275
NMC*	\$125	\$125	\$125	\$255	\$319 - \$466	\$168 - \$410	\$152 - \$374	\$245 - \$332
NMHC*	\$274	\$162	\$244	\$255	\$319 - \$466	\$168 - \$410	\$152 - \$374	\$245 - \$332
PSS*	\$274	\$162	\$244	\$255	\$319 - \$466	\$168 - \$410	\$152 - \$374	\$245 - \$332

SOURCE: CNMI Government entities' travel policies and per diem rates.

Figure 4. Examples of the varying per diem rates used throughout the CNMI Government for destinations within Japan, FSM, ROP, and RMI.

	PER DIEM RATES ADOPTED BY AGENCY	
	Japan	Federated States of Micronesia, Republic of Palau, Republic of the Marshall Islands
CDA	\$275	\$125
CHCC	\$275	\$150
CPA	\$275	\$125
DOF	\$275	\$125
LEG	\$275	\$125
MVA	\$300	\$150
MPLT	\$450	\$375
CUC*	\$165 - \$519	\$83 - \$304
JUD*	\$301 - \$454	\$240
NMC*	\$165 - \$519	\$83 - \$304
NMHC*	\$165 - \$519	\$83 - \$304
PSS*	\$165 - \$519	\$83 - \$304

SOURCE: CNMI Government entities' travel policies and per diem rates.

*Agencies that have adopted federal per diem rates in part or in whole.

For example, as shown in Figure 5, the per diem rate for Saipan ranges between \$125 to \$274. Figures in red font indicate per diem rates that are more than two times the lowest rates offered throughout the CNMI Government. This creates a situation where one traveler’s total per diem from Agency X may be double the amount of the another traveler’s total per diem from Agency Y. With this much variation, it is more than likely the government is either paying too much per diem or too little.

Figure 5. Range of per diem rates used throughout the CNMI Government for destinations within the CNMI and Guam.

Destination	Lowest	Highest	Gap
Saipan	\$125	\$274	\$149
Rota	\$125	\$275	\$150
Tinian	\$100	\$240	\$140
Guam	\$175	\$375	\$200

SOURCE: CNMI Government entities’ travel policies and per diem rates.

OPA issued a sample itinerary and questionnaire to all CNMI Government entities. Since the Legislative Branch stated in its response that all government travel for their members is processed and authorized by DOF, OPA applied the data received from the DOF Travel Section for the Legislative Branch’s questionnaire. The results of the questionnaire further indicated that there are variances in total per diem as well as car rental or ground transportation allowances due to the different policies adopted. Although the Commonwealth Healthcare Corporation (CHCC), Commonwealth Development Authority (CDA), and Commonwealth Ports Authority (CPA) strive to follow the rates and guidelines established for CNMI Executive Branch employees, we found variances in the total per diem calculated and transportation allowances by DOF and these agencies. See Figure 6 below.

Figure 6. Variances in total per diem calculated and transportation allowance.

	Total Per Diem	Daily transportation allowance (car rental or ground)
CDA	\$2,313.75	\$70.00
CHCC	\$1,825.00	\$15.00
CPA	\$2,216.19	\$45.00
DOF	\$1,838.50	\$70.00
Legislative Branch	\$1,838.50	\$70.00

SOURCE: CNMI Government entities’ sample itinerary and questionnaire responses.

Although required by law, DOF did not adopt and implement a uniform travel policy by regulation. Absent a uniform policy, some entities have adopted travel policies that may not be in full compliance with CNMI travel laws. In addition to potential violation of the law, travel costs will continue to vary across the CNMI Government even for the same travel itinerary due to the

lack of uniformity and the use of outdated per diem rates and policies. Varying per diem rates causes inequity among government travelers. Therefore, it is essential that DOF adopt a uniform travel regulation that is fair and applicable to all government entities.

Per diem rates for lodging, meals, and incidentals adopted by federal agencies vary by city. Unlike local travel policies and practices, federal travel regulations prescribe a maximum amount for lodging but only reimburse for actual lodging expenses provided that hotel receipts are submitted.

Policies on Airfare Restrictions Are Vague or Not Enforced

Pursuant to 1 CMC §7407(f), CNMI law prohibits the purchase of “first class, business class, or any other premium class designation.” In addition, travel agents shall only be paid “at the regular economy fair or its equivalent,” and any government employee will be fined for causing an “airline ticket to be issued in violation of this section.”



Upon reviewing the current travel policies provided by the various government entities, OPA found one policy wherein travel in business class was allowed. In particular, the Marianas Public Land Trust (MPLT) in its Governance document, adopted on July 31, 2019, states that “any travel of over 6 hours from departure to final destination may be permitted in Business Class or the comparable class offered by the carrier.” However, MPLT provided documentation indicating that business class airline tickets were purchased by MPLT before the adoption of the MPLT Governance document.

Despite the law clearly stating that travel in first or business class is prohibited, OPA received evidence indicating that first or business class tickets were purchased over the past four years. These airline restrictions have been in place since the Governor’s Directive no. 197 on February 12, 1998, and was adopted into law, through P.L. 15-86, on September 26, 2007.

OPA notified MPLT and DOF about its noncompliance with the travel law, in particular to 1 CMC §7407(f) on airfare restriction. MPLT, in its response, revised its Governance document on January 22, 2020 to now state that “any travel shall be in a regular economy fare or its equivalent.” OPA commends MPLT for taking immediate action to comply with the law. DOF, in its response, stated that the Travel Section has been notified about the airfare restrictions and that efforts to improve travel regulations is ongoing.

In addition, the review of travel policies provided also indicated that some policies were not clear that first or business class travel is disallowed. For example, one policy stated that travelers shall select the most efficient and economical airfare available. These policies do not specifically

restrict the purchase of first or business class travel and could potentially violate 1 CMC §7407(f).

Absent uniform travel regulations, various CNMI Government entities have adopted travel policies that are not in full compliance with CNMI travel laws. This in turn leads to inconsistencies throughout the entire CNMI Government regarding government travel outside of the CNMI. Given the increase in travel expense and noncompliance with current law, it is essential that a travel regulation be adopted so that uniform travel policies can be implemented across the government to ensure that controls are in place to prevent inequity among government travelers.

OPA recommends:

OPA recommends that DOF:

1. Adopt a uniform travel policy by regulation and restrict the purchase of first class, business class, or any other premium class designation as required by the law; and
2. Provide training or guidance on per diem calculation.

Other Matters

The Legislature passed PL 15-86 in September 2007 requiring the SOF to develop and implement a uniform travel policy by regulation which shall set the per diem rates for government travel applicable to all branches, departments, divisions, agencies, and autonomous agencies.

OPA found that the Legislature enacted PL 20-87 on February 5, 2019, authorizing the Northern Marianas Housing Corporation (NMHC) and the Commonwealth Development Authority (CDA) to establish through regulation, travel policies and procedures consistent with the United States Federal Travel Regulations. This conflicts with the implementation of a uniform travel policy as required by PL 15-86. This varied approach results in different total per diem calculations as well as car rental or ground transportation allowances throughout the CNMI Government.

To minimize confusion and inconsistencies throughout the CNMI Government and avoid legal disputes, it is necessary that the Legislature resolve any conflicts within the law over official government travel.

OPA recommends:

OPA recommends that the Legislature:

1. Review current travel laws and address any conflicts over official government travel.

Conclusion and Recommendations

Although a uniform travel policy has not been implemented, the law clearly states the restrictions and requirements pertaining to official government travel. The purchase of first class, business class, or any other premium class designation is illegal and clearly violates 1 CMC §7407(f). In addition, the lack of a uniformity and the use of outdated per diem rates and policies creates varying travel costs and inequity among government travelers.

The current system makes the CNMI Government vulnerable to waste of government funds. According to the Government Accountability Office (GAO)'s Government Auditing Standards (Yellow Book), "waste is the act of using or expending resources carelessly, extravagantly, or to no purpose. Importantly, waste can include activities that do not include abuse and does not necessarily involve a violation of law. Rather, waste relates primarily to mismanagement, inappropriate actions, and inadequate oversight". According to the Yellow Book, an example of such waste, depending on the facts and circumstances include "making travel choices that are contrary to existing travel policies or are unnecessarily extravagant or expensive."

Given that the CNMI Government is currently facing another economic plight, it is essential that adherence to the travel law be enforced to ensure that fraud, waste, and abuse does not occur. In addition, establishing a uniform travel policy will not only ensure uniformity across the CNMI Government, but will also demonstrate accountability of taxpayer dollars.

Recommendation Summary

We recommend that DOF:

1. Adopt a uniform travel policy by regulation and restrict the purchase of first class, business class, or any other premium class designation as required by the law; and
2. Provide training and guidance on per diem calculation.

We recommend that the Legislature:

1. Review current travel laws and address any conflicts over official government travel.

Summary of DOF's Response

The SOF agreed with OPA's findings and stated that DOF is working diligently to adopt a uniform regulation by October 1, 2020. In addition, DOF has notified the Travel Section employees and Department heads regarding the current restrictions on the purchase of first class travel. The SOF stated that any travel authorizations with premium class travel will be returned immediately.

Summary of Legislature's Response

Responses were also received from the Speaker of the House and the Senate President. In his letter, the Speaker provided a detailed response disputing a conflict in the law regarding NMHC and CDA's authority to establish travel rules and regulations—the main argument being that NMHC is 100% federally-funded, and the current law only refers to airfare

purchased with local funding. With respect to NMHC's parent corporation, CDA was included in the later version of the bill. The Speaker also noted the Office of the Attorney General reviewed the initial bill and determined it was constitutionally and legally sufficient. In addition, the former SOF also submitted comments supporting the passage of the bill to afford NMHC autonomy.

In a letter by the Senate President, he was surprised of the different policies and disparate per diem rates used throughout the government, and supports a uniform and reasonable policy for all government employees. In addition, the Senate President agrees that existing conflicts in the law should be resolved, and provided OPA with a draft copy of proposed legislation to amend the existing travel law to include a per diem schedule.

Please see *APPENDIX 3,4 & 5* for DOF's and the Legislature's detailed response.

In reviewing PL 20-87 that was enacted for NMHC and CDA, the Legislature indicated it was necessary that NMHC and CDA be afforded autonomy and should not be "subjected to the rules and regulations of the CNMI Government." If this is the intent of the Legislature for all autonomous agencies, and perhaps other branches of government, then the Legislature should revisit 1 CMC §7407 (e) to ensure that laws are consistent and clear to avoid confusion.

OPA appreciates the Senate President's draft bill and encourages further review of the proposed per diem rates to ensure reasonableness. OPA hopes its report prompts discussion among government leaders to enact a travel policy that is equitable for all government travelers. It is important to note that although both NMHC and CDA were afforded autonomy, only NMHC has adopted travel policies and procedures consistent with the United States Federal Travel Regulations. At the time of the audit, CDA was still in the process of drafting its policies in compliance with PL 20-87. Like NMHC, many autonomous agencies are already using federal per diem rates, however, one aspect to keep in mind is that federal travel regulations require submission of lodging receipts to ensure that lodging expenses fall within permitted amounts and that any remaining funds be returned to the government.

Appendix 1. Scope and Methodology

The scope of the audit was focused on current travel policies, procedures, and per diem rates utilized throughout the CNMI Government, inclusive of autonomous agencies. OPA did not test travel performed by individual government employees. To achieve our objective, we performed the following:

OPA performed the following procedures to answer the audit objective:

- Gained an understanding of CNMI travel laws.
- Obtained pertinent travel documents from CNMI government agencies.
- Reviewed and analyzed documents received from CNMI government agencies and compared them with the requirements set by law.
- Interviewed DOF staff regarding the travel process.
- Summarized audit results.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix 2. Prior Audit Coverage

OPA has not conducted an audit specifically on the CNMI Government's travel policies but has conducted travel related audits for certain autonomous agencies and their respective travel policies.

	Report Date & No.	Agency	Audit Title
1.	3/23/2011 AR-11-01	Commonwealth Ports Authority	Audit of Travel Practices at Commonwealth Ports Authority October 1, 2004 to March 31, 2008
2.	9/11/2002 AR-02-02	Tinian Casino Gaming Control Commission	Audit of Travel Transactions Fiscal Years 1996 - 2001
3.	11/23/2001 LT-01-07	Commonwealth Utilities Corporation	Audit of CUC-Paid Travel by CUC Board of Directors, Key Management and Other CNMI Government Officials from October 1999 through March 2001
4.	8/8/2001 LT-01-04	Northern Mariana Islands Retirement Fund	Audit of Travel Outside the CNMI from October 1996 Through March 2000
5.	3/10/1997 AR-97-03	CNMI Public School System	Audit of Travel of 21 Former Recreational Therapist/Adaptive Physical Education Specialist

Appendix 3. SOF's Response



Office of the Secretary
Department of Finance

P.O. Box 5234 CHRB, Saipan MP 96950

TEL: (670) 664-1100 FAX: (670) 664-1115



July 06, 2020

SFL 2020-408

Michael Pai, CPA
Public Auditor
Office of the Public Auditor
1236 Yap Drive, Capitol Hill
Saipan, MP 96950



RE: Audit Report on the CNMI Government's Travel Policy

Dear Mr. Pai:

The Department of Finance has received a draft report of the Audit on the CNMI Government's Travel Policy. Below is the response to the findings:

Finding:	A uniform travel policy does not exist.
Contact Person:	David Dlg. Atalig, Secretary of Finance
Corrective Action:	<p>DOF agrees with this finding.</p> <p>A steering committee to develop uniform travel regulations convened in the 4th quarter of calendar year 2017. This committee was comprised of members from executive branch agencies, the Governor's Offices, and key staff from the Department of Finance. In January 2018, the committee drafted regulations that had undergone review from the Attorney General. Due to technological obstacles, DOF was unable to formally promulgate these regulations at that time. Moreover, based on recommendations from the Public Auditor, additional changes were incorporated to the proposed regulations in order to comply with existing laws and statutes. It is the intent of these regulations to reduce the variances in per diem rates and provide fair and equitable treatment to all government employees across each agency.</p> <p>The regulations are currently under final review at the DOF and will be forwarded to the Attorney General's office for final review and promulgation in the coming days. Notification of the proposed regulations will be issued to the public prior to promulgation, as is statutorily required, and we hope that this will allow for initial consultation with the various departments and agencies on how to properly implement these policies at their respective offices.</p> <p>We anticipate these policies to be effective no later than October 1, 2020, or the start of Fiscal Year 2021.</p>

SFL 2020-408

RE: Audit Report on the CNMI Government's Travel Policy

Page | 1



**Office of the Secretary
Department of Finance**



P.O. Box 5234 CHR, Saipan MP 96950

TEL: (670) 664-1100 FAX: (670) 664-1115

Estimated Completion Time:	September 30, 2020
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Finding:	Policies on airfare restriction are vague or not enforced.
Contact Person:	David Dlg. Atalig, Secretary of Finance
Corrective Action:	DOF agrees with this finding. Until such time the uniform travel policies and regulations are promulgated, the DOF, Travel Section staff and key management of the departments have been notified that all travel authorizations with premium class (non-economy) travel will be returned immediately to the requesting agency along with a copy of 4 CMC §7407.
Estimated Completion Time:	September 30, 2020

Finding:	Other Matters
Contact Person:	David Dlg. Atalig, Secretary of Finance
Corrective Action:	DOF agrees with this finding. With the adoption of a uniform policy in the near future, it is imperative that the DOF work closely with the Legislature to minimize confusion and inconsistency amongst the various laws and regulations pertaining to the official government travel.
Estimated Completion Time:	September 30, 2020

As previously stated, the department of Finance is making efforts to improve travel regulations and effectively manage cost-effective regulations while still providing the support and flexibility for agencies to efficiently carry-out government services.

Please contact me or Ryan Camacho by calling 670-664-1100 if you have any questions or concerns.

Sincerely,

David Dlg. Atalig
Secretary of Finance

SFL 2020-408

RE: Audit Report on the CNMI Government's Travel Policy

Page | 2

Appendix 4. Senate President's Response

SENATOR VICTOR B. HOCOG
Senate President



Office of the Senate President
Twenty-First Northern Marianas Commonwealth Legislature

July 23, 2020



HAND DELIVERY

Mr. Michael Pai, CPA
Public Auditor
Office of the Public Auditor
P.O. Box 501399
Saipan, MP 96950

Subject: Draft Report on the Audit of the CNMI Government's Travel Policy

Dear Public Auditor:

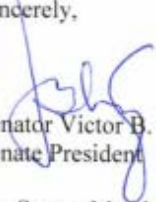
In your letter dated June 23, 2020 you requested my response to the OPA's recommendation "to review the current travel laws and address any conflicts over official government travel."

After reviewing the draft report, I am quite surprised of the different policies throughout the government and, most especially, differences in the per diem rates. I agree that the travel policy should be uniform, reasonable, and that the existing statutes that are conflicting must be resolved.

The most efficient way to provide for a uniform and reasonable travel policy is to do it by legislation. The attached proposed bill draft is such legislation, which proposes to provide one policy that covers all three branches, autonomous agencies, NMHC and CDA, etc. In addition, the proposed bill seeks to repeal 2 CMC § 4433(u) that provides legislative authority to NMHC and CDA "To establish through regulation reasonably necessary travel policies and procedures for NMHC and CDA consistent with the United States Federal Travel Regulations (41 C.F.R. Subtitle F)."

Please let me know if you have any questions and I look forward to the Final Draft of your report.

Sincerely,


Senator Victor B. Hocog
Senate President

cc: Senate Members

Honorable Jesus P. Magfias Memorial Building, Capitol Hill
P.O. Box 500129 • Saipan, MP 96950
Tel: (670) 664-8807/9 • Fax: (670) 664-8810 • Email: sen.hocog@cnmileg.gov.mp

DRAFT OF PROPOSED LEGISLATION

TWENTY-FIRST NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SESSION, 2020

S. B. No. 21-

A BILL FOR AN ACT

To repeal and reenact 1 CMC § 7407 to provide for a reasonable and fair travel policy within and outside the Commonwealth; repeal 2 CMC § 4433(u); and for other purposes.

**BE IT ENACTED BY THE TWENTY-FIRST NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

Section 1. Findings and Purpose.

1 The Legislature finds that the Commonwealth government travel and per diem
2 policy needs an overhaul so that it commensurate with current travel costs. The travel
3 policy imposes a burden on the traveler because the current highest per diem amount is
4 only enough to cover the lodging expense in places like California, Washington D.C.,
5 Japan, and Honolulu, to name a few. In addition, only 80 percent of the total per diem for
6 the scheduled travel duration is advanced and the 20 percent is paid after the travel has
7 been completed and the travel voucher and required documents are submitted. This is
8 unfair to the traveler because the funds are needed during the travel and not after.

9 The Legislature also finds that the Commonwealth Utilities Corporation, the
10 Judicial Branch, Northern Marianas College, Northern Marianas Housing Corporation,
11 Commonwealth Development Authority, and the Public School System, have adopted the
12 federal per diem rates in part or in whole. Although the Marianas Public Land Trust does
13 not follow the federal per diem rate, it has a per diem rate of \$450 per day for
14 Washington, D.C. while the federal rate is a maximum of \$332.

15 The Legislature further finds that the variances in the per diem rates is unfair in
16 that some rates are insufficient to cover high costs of certain destinations and some
17 agencies provide unreasonably high per diem rates.

18 The purpose of this Act is to set reasonable policies and per diem rates for travel
19

1 outside the Commonwealth for all agencies in the Commonwealth whether the agency is
2 locally or federally funded. In addition, 2 CMC § 4433(u) is repealed because NMHC
3 and CDA are covered in the reenactment of 1 CMC § 7407.

4 **Section 2. Repeal and Reenact.** 1 CMC § 7407 is repealed and reenacted to
5 read:

6 *7407. Restrictions on Agencies and Government Official Travel Within and
7 Outside of the Commonwealth.

8 (a) Every agency-related official travel or government travel authorization,
9 including but not limited to, all three branches of government, Marianas Public Land
10 Trust, Commonwealth Utilities Corporation, Northern Marianas College, Northern
11 Marianas Housing Corporation, Commonwealth Development Authority, Public School
12 System, Marianas Visitors Bureau, Commonwealth Ports Authority, Northern Marianas
13 Technical Institute, shall contain a statement under penalty of perjury that the travel is for
14 official business purposes and undertaken to benefit the people of the Commonwealth.

15 (b) Within 15 days after completion of government travel, the traveler shall
16 submit a trip report and a copy of the Travel Authorization attached to the Travel
17 Voucher to the approving authority. The submissions shall be a public record.

18 (c) Governmental agencies, departments, public corporations, boards or
19 commissions, shall not conduct any official board or commission meeting outside of the
20 Commonwealth.

21 (d) Per diem allotments. Per diem allotments shall be made in accordance to the
22 rates provided under subsection (h) of this section.

23 (e) Airfare restriction. The Commonwealth Government or any agency in the
24 Commonwealth shall not purchase or furnish for or reimburse to any employee, traveler,
25 contractor, board member, or other person required to travel on behalf of the
26 Government, its departments, divisions, agencies, and autonomous agencies, an airline
27 ticket for travel in first class, business class, or any other premium class designation.
28 Travel agents issuing tickets for government travel shall only be paid at the regular
29 economy fare or its equivalent. Any government or agency employee who causes an

1 airline ticket to be issued in violation of this section shall pay a civil fine of one-thousand
 2 dollars.

3 (f) No travel shall be authorized without an approved travel authorization for
 4 within and outside of the CNMI. There shall be a memo by the appropriate approving
 5 authority, or authorized designee, indicating the purpose of the travel, time frame,
 6 destination and car rental cost or ground transportation, if any to be incurred. It shall be
 7 addressed to the Secretary of Finance, Comptroller, or the appropriate approving
 8 authority.

9 (g) The travel voucher form shall be used to liquidate travel advance on the
 10 books. In accordance subsection (b) of this section, the traveler shall within 15 days
 11 after completion of the travel, submit a completed travel voucher and attach a trip report,
 12 airline ticket, applicable fees receipt, boarding pass, car rental and fuel receipts, ground
 13 transportation receipts, to the appropriate accounting authority. The submissions shall be
 14 a public record. A traveler who fails to submit the required travel voucher in accordance
 15 with this subsection shall not receive travel advances until the non-submission is
 16 resolved.

17 (h) The per diem scale below shall be followed:

<u>Destination</u>	<u>Daily Per Diem Rate</u>
18 1. Within the CNMI	
19 A. Saipan	\$175.00
20 B. Rota	\$175.00
21 C. Tinian	\$175.00
22 2. Guam	\$200.00
23 3. U.S. Mainland	\$300.00
24 4. Far East and Southeast Asia	\$250.00
25 5. Japan and Korea	\$275.00
26 6. FSM, Palau and Marshall	\$200.00
27 7. Car Rental and fuel for Any Destination	\$90.00
28 8. Taxi, Uber, or similar mode within 20 mile	

1 radius of traveler's hotel \$30.00

2 (i) One hundred percent (100%) of the per diem rate shall be paid to the traveler.

3 (j) If a traveler returns earlier than his itinerary, as shown on the request for
4 travel authorization, unearned per diem shall be returned to the account of the authorized
5 expenditure authority. Payroll deduction will follow when the traveler liquidates his
6 travel advance and cannot pay the unearned portion of travel advance payments.

7 (k) Any unused amount provided for car rental and fuel or ground transportation
8 allowed under subsection (h)(7) and (8); respectively, shall be paid back by the traveler
9 or the amount owed shall be paid by payroll deduction."

10 **Section 3. Repealer.** 2 CMC § 4433(u) is repealed in its entirety

11 ~~"(u) To establish through regulation reasonably necessary travel policies and~~
12 ~~procedures for NMHC and CDA consistent with the United States Federal Travel~~
13 ~~Regulations (41 C.F.R. Sbuttle F)."~~

14 **Section 4. Severability.** If any provision of this Act or the application of any
15 such provision to any person or circumstance should be held invalid by a court of
16 competent jurisdiction, the remainder of this Act or the application of its provisions to
17 persons or circumstances other than those to which it is held invalid shall not be affected
18 thereby.

19 **Section 5. Savings Clause.** This Act and any repealer contained herein shall not
20 be construed as affecting any existing right acquired under contract or acquired under
21 statutes repealed or under any rule, regulation, or order adopted under the statutes.
22 Repealers contained in this Act shall not affect any proceeding instituted under or
23 pursuant to prior law. The enactment of the Act shall not have the effect of terminating,
24 or in any way modifying, any liability, civil or criminal, which shall already be in
25 existence on the date this Act becomes effective.

26 **Section 6. Effective Date.** This Act shall take effect upon its approval by the
27 Governor or becoming law without such approval.

SENATE BILL NO. 21-

Date: _____

Introduced By: _____
Senator Victor B. Hocog

Reviewed for Legal Sufficiency by:

Senate Legal Counsel

Appendix 5. House Speaker's Response



HOUSE OF REPRESENTATIVES
TWENTY-FIRST NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
Honorable Jesus P. Mafnas Memorial Building
P. O. BOX 500586
Saipan, MP 96950

BLAS JONATHAN "BJ" T. ATTAO
SPEAKER



July 9, 2020

Mr. Michael Pai
CNMI Public Auditor
Office of the Public Auditor
P. O. Box 501399
Saipan, MP 96950

Dear Mr. Pai:

Per your request dated, June 23, 2020, "Re: Draft Report on the Audit of the CNMI Government's Travel Policy" the CNMI House of Representatives hereby responds as follows:

"As noted in the "Audit of the Commonwealth of the Northern Mariana Islands' Government Travel Policy" (hereinafter "OPA Report") current laws regarding CNMI Government travel are codified at Title 1 section 7407 which was originally enacted in 1986 and amended by PL 6-5 and PL 15-86. In addition to these laws, the OPA Report also mentions emergency travel regulations were adopted relative to travel expenses. Together these laws and regulations combine to form the relevant body of CNMI travel provisions. With respect to this body of laws, rules and regulations, the OPA Report notes that the Department of Finance (DOF) did not comply with the mandate to establish a "uniform policy by regulation". As a result, "travel policies, per diem rates, and calculations vary across all CNMI Government entities..." In light of these undisputed facts, the OPA Report asserts that it is "essential that DOF adopt a uniform regulation that is fair and applicable to all government agencies." As to this point, the CNMI House of Representatives concurs with the OPA Report with respect to the lack of uniform policies and procedures. After the Legislature enacted Title 1 section 7407, it appears that regulations were not established. Alternatively, regulations were adopted but they are not being enforced. Therefore, the House of Representatives agrees with the OPA Report finding that government travel is not being uniformly regulated.

However, with respect to this lack of uniform regulation and enforcement, the CNMI House of Representatives respectfully asserts, that the Legislature, does not enforce CNMI law or policy. Enforcement of applicable laws and policies is a task that falls squarely on the executive branch, the Office of the Attorney General and to some extent the Office of the Public Auditor. The Legislature can only request that the DOF comply with the laws and establish the uniform regulations and policies. Constitutionally, we cannot enforce our own laws.

TELEPHONE NO.: 670 664.8971/72

FACSIMILE NO.: 670.664.8900

EMAIL: rep.attaob@cnmileg.gov.mp

Furthermore, in the "Other Matters" section of the OPA Report that states, "[t]o minimize confusion and inconsistencies throughout the CNMI Government and avoid legal disputes, it is necessary that the Legislature resolve any conflicts within the law over official government travel." As an example of an apparent conflict, the OPA Report cites PL 20-87, which permits CDA and NMHC to establish through regulation, travel policies and procedures, consistent with the United States Federal Travel Regulations." For several reasons, we dispute the existence of a conflict within the law based on the authority of NMHC and CDA to establish travel rules and regulations that are consistent with federal provisions.

First, in enacting PL 20-87, the Legislature expressly found that with respect to NMHC and its parent corporation CDA, it was "necessary to promulgate travel policies aligned with the Federal Government's travel policies and procedures." Secondly, as the OPA Report notes so well, there is no local uniform body of law for the federal rules regulations to contravene. Furthermore, a close examination of the provisions that establish Title 1 section 7407 reveals that the original public laws that established said provision were annual appropriations acts, that, arguably, expired at the end of the fiscal years ending in 1986 and 1988, respectively.

Third, PL 15-86 applies to airfares purchased by the Commonwealth Government. Factually, the funds used by NMHC are not sourced locally. Thus, travel funded by the federal government falls outside the scope and applicability of Title 1 section 7407 because, absent a local funding source such as CNMI General Revenue, Special Revenue, or Extraordinary Revenue, it is not "Government" Paid Travel. Thus, the technical existence of a conflict in current CNMI laws caused by the enactment of PL 20-87 is questionable at best.

Lastly, technical issues aside, even assuming arguendo that there is a conflict in laws, the Legislature finds the federal rules and regulations governing CDA and NMHC actually provide the very consistency and enforceability that the OPA Report appears to encourage and promote at the local level. Thus, for federally funded travel, we find that mandating federally funded agencies to comply with applicable federal rules for travel such as in the case of PL 20-87 should be the exception that becomes the rule.

Based on the foregoing, the House of Representatives concurs in part with the OPA Report to the extent that the Department of Finance should complete the task of establishing a uniform policy for "Government Paid Travel" or locally funded official travel." However, the House of Representatives does not concur with the OPA Report's recommendation relative to the CNMI Legislature's need to resolve conflicts as the perceived conflict caused by PL 20-87 does not exist."

In addition to the substantive comment above, we respectfully call to the attention of the Office of Public Auditor that during the legislative drafting process, comments were solicited and considered. Notably, both the CNMI Office of the Attorney General as well as the CNMI

Letter to OPA
July 09, 2020
3

Department of Finance submitted letters that stated their positions relative to the legislation (See attached letters dated March 3, 2019 from the Office of the Attorney General and dated March 19, 2018 from the Secretary of Finance). The Attorney General did not raise any issues regarding conflicting laws or policies and stated the bill was "constitutionally and legally sufficient." The Secretary of the Department of Finance expressly supported the intent of the bill because it "allows for the autonomy that was intended when NMHC was first established... and would support its passage."

Thank you for providing the House of Representatives with an opportunity to comment on the Draft Report. If you have any questions or concerns, please feel free to contact me.

Sincerely,



BLAS JONATHAN "BJ" T. ATTAO

Attachments

cc: House Members



Commonwealth of the Northern Mariana Islands
Office of the Attorney General

2nd Floor Hon. Juan A. Sablan Memorial Bldg.
Carter Box 10007, Capitol Hill
Saipan, MP 96950

Office of Rep. Blanco
RECEIVED
DATE: *3/16/2018*

EDWARD MANIBUSAN
Attorney General

LILLIAN A. TENORIO
Deputy Attorney General

March 2, 2018

OAGHB: 2018-14

Rep. Ivan Blanco
Chairperson
Committee on Judicial & Governmental Operations
House of Representatives
20th Northern Marianas Commonwealth Legislature
Saipan, MP 96950

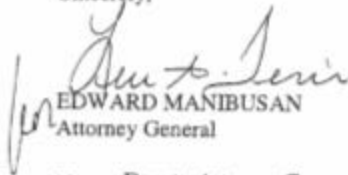
Re: HB 20-153: "To amend 2 CMC § 4433 to authorize the Northern Marianas Housing Corporation to promulgate regulations on procurement, travel, and personnel matters; and for other purposes."

Dear Chairman Blanco:

Thank you for requesting the comments of the Office of the Attorney General on House Bill 20-153: "To amend 2 CMC § 4433 to authorize the Northern Marianas Housing Corporation to promulgate regulations on procurement, travel, and personnel matters; and for other purposes" (the "Bill"). I have reviewed the Bill, and have determined that the Bill is constitutionally and legally sufficient.

Thank you for soliciting comments on the Bill.

Sincerely,


EDWARD MANIBUSAN
Attorney General

cc: Deputy Attorney General
All Members, House of Representatives

Civil Division
Telephone: (670) 237-7500
Facsimile: (670) 664-2349

Criminal Division
Telephone: (670) 237-7600
Facsimile: (670) 234-7016

Attorney General's Investigation Division
Telephone: (670) 237-7627
Facsimile: (670) 234-7016

Victim Witness Advocacy Unit
Telephone: (670) 237-7602
Facsimile: (670) 664-2349



Office of the Secretary
Department of Finance

P.O. Box 5234 CHRBS SAIPAN, MP 96950

TEL (670) 664-1100 FAX: (670) 664-1115



March 19, 2018

SFL 2018-039

Honorable Ivan Blanco
Congressman
20th Commonwealth Legislature
House of Representatives
Saipan, MP 96950

Office of Rep. B. B. B.
RECEIVED
DATE: 3/19/2018

Subject: Comments on HB 20-153 "to amend 2 CMC §4433 to authorize the NMHC to promulgate regulations on procurement, travel, and personnel matters; and for other purposes."

Dear Congressman Blanco:

Thank you for the opportunity to comment on HB 20-153 "to amend 2 CMC §4433 to authorize the Northern Marianas Housing Corporation (NMHC) to promulgate regulations on procurement, travel, and personnel matters; and for other purposes." The Department of Finance (DOF) supports the intent of this bill, as it corrects an issue that was overlooked and allows for the autonomy that was intended when NMHC was first established.

Under the current interpretation of the law, DOF has had to delegate authorities to NMHC to allow them to operate in an autonomous form. H.B. 20-153 addresses that concern by allowing for NMHC to determine and promulgate its own regulations for personnel, procurement and travel as should be the case in an autonomous agency. H.B. 20-153 also sets the guidelines for NMHC allowing the agency to set regulations that are similar to the Department of Finance for procurement and travel and the Civil Service Commission for personnel.

For these reasons, DOF supports the intent of this bill and would support its passage. If you have any questions or require additional information regarding these comments, please contact me by telephone at 664-1100 or by email at larrisa@dofofm.gov.

Sincerely,

Larrisa Larson
Secretary

cc: SAPLR

Appendix 6: Status of Recommendation

No.	Recommendation	Status
OPA recommends that DOF:		
1	Adopt a uniform travel policy by regulation and restrict the purchase of first class, business class, or any other premium class designation as required by the law.	Unresolved
2	Provide training or guidance on per diem calculation.	Unresolved
OPA recommends that the Legislature:		
3	Review current travel laws and address any conflicts over official government travel.	Unresolved



**Department of Finance
CNMI Government Travel Policy
Report No. 20-06, August 2020**

CONSTITUTIONAL MANDATE

Article III, Section 12 of the CNMI Constitution and the Commonwealth Auditing Act (1 CMC, 2301, 7812 et. seq. of the Commonwealth Code) established the Office of the Public Auditor as an independent agency of the Commonwealth Government to audit the receipt, possession, and disbursement of public funds and to perform such other duties as required by law.

REPORTING FRAUD, WASTE, AND ABUSE

- Call the OPA HOTLINE at (670) 235-3937
- Visit our website and fill out our online form at www.opacnmi.com
- Contact the OPA Investigators at 322-3937/8/9
- OR visit our office on 1236 Yap Drive, Capitol Hill