

Annual Report

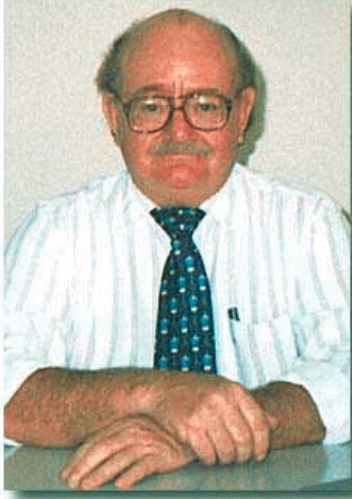
1999

Office of the Public Auditor Commonwealth of the Northern Mariana Islands

Leo L. LaMotte
Public Auditor



Public Auditor's Message_____



Last year, 1999, was a very busy year for our auditors, investigators, ethics unit and our administrative staff. We once again received numerous requests for audits, many of which are still in our backlog. We also received several hundred telephone calls about inappropriate actions by government officials and questionable employee activities. I am sure that some people are wondering why their requests and telephone calls do not receive action right away. Our answer is that usually audits are a long term process even though we ourselves would like to see them completed much quicker. To investigate even one telephone call can take from a week to a year, and sometimes longer. We are continuously busy, yet always trying our best to serve all the auditing and investigative needs of the Commonwealth Government recognizing that we must prioritize our work so that the most significant work is done first.

At the risk of sounding like a broken record, I think it is necessary to comment once again on procurement, which was the subject of our most significant audits and investigations. We are appealing to all government officials and employees to constantly and consistently follow the CNMI procurement laws and regulations. So many government funds are spent on procurement and so much money can be saved by following the regulations that government vigilance must always be maintained for all procurement. In addition, management of projects and construction needs to be closely monitored.

The Interagency Audit Coordinating Advisory Group, which is a committee made up of presiding officers and minority leaders of the House and Senate, the Secretary of Finance, and the Special Assistant for Management and Budget, met for the first time in 1999. The Secretary of Finance was named by the Governor as chairperson of the group. We are grateful to the Governor for initiating this action and even though only limited progress was made in closing our open and resolved recommendations, a good start was made.

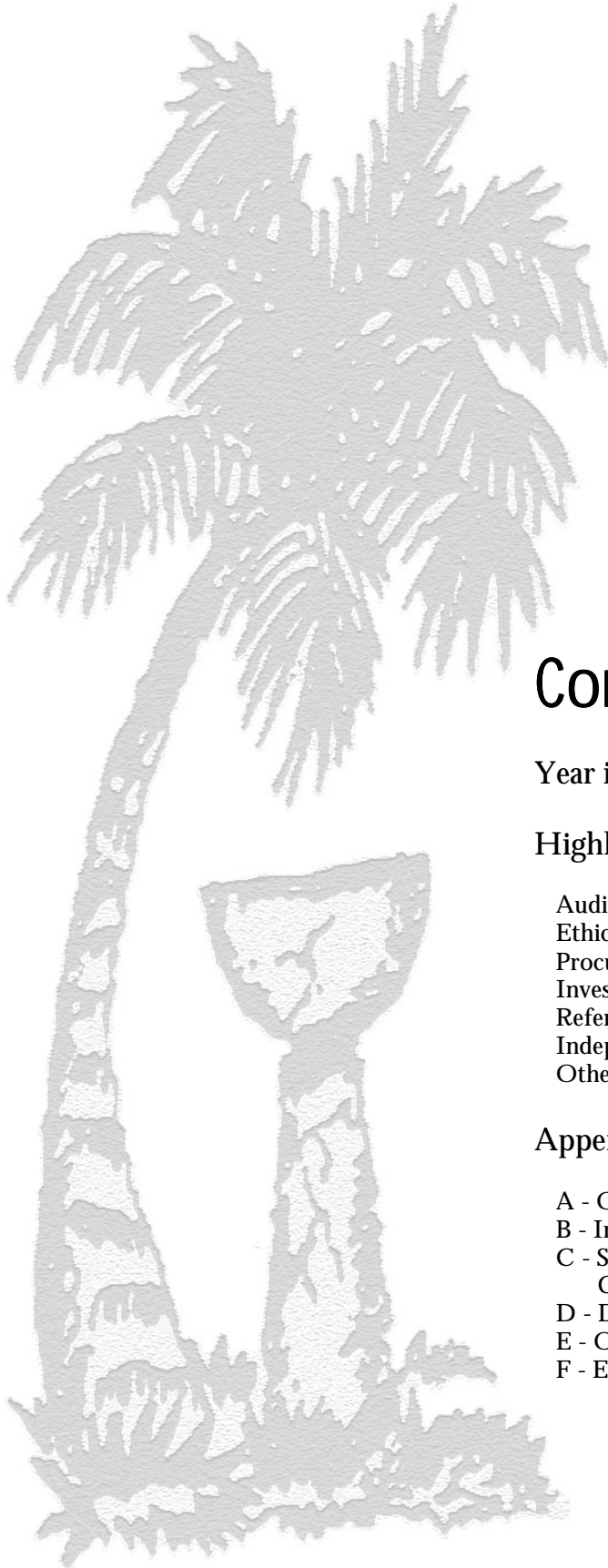
In addition, we always have to rely on the cooperation and assistance of many Commonwealth officials and employees for getting the documents and other information needed for our audits and investigations. Thanks for your help.

Finally, thanks to financial interest statement filers and those attending our ethics presentations for helping us improve our implementation of the Ethics Act. Overall it was a successful year for us and for the Commonwealth.

A handwritten signature in cursive script, reading "Leo LaMotte".

Leo L. LaMotte
Public Auditor

April 2000



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Year in Review

The mission of the Office of the Public Auditor (OPA) is to promote accountability and fiscal integrity to ensure the proper use of public resources. Consistent with its mission, OPA conducted and supervised financial, operational, and performance audits of CNMI Government departments, agencies and programs, as well as investigations on allegations of fraud, waste and abuse, ethics violations, and matters arising from audits which required further investigation. As required by statute and CNMI regulations, OPA implemented the Government Ethics Code Act of 1992 and adjudicated appeals of decisions made in the solicitation and award of contracts.

Audit Activities

In 1999, a total of 14 final reports were released. 13 of the 14 final reports pertain to operations of 11 departments and agencies, while 1 final report pertains to CNMI Government-wide operations. Appendix A lists the final audit reports issued by OPA. Also, 3 draft reports were released for agency comments, while either a draft report was in preparation or field work was ongoing for 57 other audit engagements. Of the 74 total audits, 41 were requests, 20 were self-initiated, 6 were investigations-initiated, and 7 were mandated by law.

OPA supervised and monitored the procurement and conduct of audit services for the single audits and financial and compliance audits of the CNMI Government and other autonomous agencies. In 1999, ten audit reports were issued by independent CPA firms, while field work was ongoing on five audits as of year-end.

Appendix B lists all audit reports issued by independent CPA firms and ongoing audits at year-end.

At the end of 1999, OPA identified outstanding audit recommendations that if implemented could result in the recovery of \$618,821 due to improper payments. This matter has been reported to the Interagency Audit Coordinating Advisory Group in OPA's Report on CNMI Agencies' Implementation of Audit Recommendations as of December 31, 1999.

Ethics Act Implementation

In 1999, OPA's Ethics Unit continued its vigorous implementation of the financial disclosure requirements of the Ethics Act. Due to the extra efforts exerted by the Ethics Unit, CNMI Government officials and employees generally filed in a timely manner. Unlike in 1998 where there were 13 cases referred to the Attorney General or OPA

Prosecutor for action, only 2 cases had to be referred for action in 1999.

OPA continued conducting presentations on the Ethics Act to educate government officials and employees as to its requirements. In addition, the Ethics Unit also developed a presentation that will educate large groups of government procurement officials on provisions of the CNMI's proposed revisions to the Procurement Regulations.

The Ethics Unit also spent considerable time researching ethics issues to improve the Ethics Act. Based on the research work, OPA drafted a revised Ethics Act which was submitted to the Legislature for review and introduction.

Decisions on Procurement Appeals

OPA received three appeals in 1999 which presented procurement issues concerning jurisdiction, arbitrary actions, award of a contract, and evaluation and selection of proposals. Two of the three appeals were denied, while OPA determined that it lacked jurisdiction on the third appeal.

Investigative Activities

OPA investigated cases involving violations of procurement regulations, fraud, misuse of government funds and property, embezzlement, theft, and violations of the Ethics Act.

Also, investigations were carried out by the joint task force established in 1998 between OPA and the Federal Bureau of Investigation to combat public corruption and government program fraud.

Referrals to the AG

In 1999, OPA referred 3 cases to the Attorney General involving violations of federal or Commonwealth criminal law and matters requiring civil action.

During the year, 71 percent of the cases (35 out of 49) referred to the AG in prior years were dropped because the AG does not intend to take action for various reasons.

Other Activities

The Public Auditor submitted written and oral testimonies for legislative hearings involving the Northern Marianas College, Department of Public Safety operations, and the Governor's nominees to key government positions.

OPA participated in a Committee formed to review and propose changes to the CNMI Procurement Regulations.

Towards the end of the year and after researching and evaluating the benefits of a local area network, OPA began the process of networking computers and peripherals. This project is expected to improve efficiency in the use of its computer resources through centralization of data storage, peripheral sharing, and improved data security. This project is also expected to prolong the use of OPA's aging computers.

OPA's web site (<http://opacnmi.com>) continued to provide the public with up-to-date information on OPA reports and procurement decisions issued, government ethics, and other activities.

Personnel

In fiscal year 1999, OPA was authorized 39 full-time equivalent (FTE) employees. The 39 FTEs consisted of 29 auditors, 5 investigators, 2 legal counsels, 2 administrative staff, and the Public Auditor. However, the resignation of five auditors and one investigator during the year reduced OPA's manpower resources to 33 FTEs. See OPA organizational chart in Appendix E.

Total staff time available for the year was 52,574 hours after deduction for holidays and leave. These hours were applied to activities as shown in Figure 1.

Financial Information

Public Law No. 11-41, authorized a budget of \$2,311,300 for the Office of the Public Auditor in fiscal year 1999. However, due to the decline in actual revenues, the Governor called on all government agencies to institute austerity measures. In response to the Gover-

nor's call, OPA trimmed its budget to \$2,195,160.

In 1999, OPA's total expenses were \$2,125,786. Of this amount, \$1,654,675 was for personnel costs, while \$471,111 was for all other costs. Also, at the request of the Department of Finance, OPA transferred \$366,444 from its prior year's surplus to the General Fund to pay for the 30 percent retirement bonus due eligible government employees. □

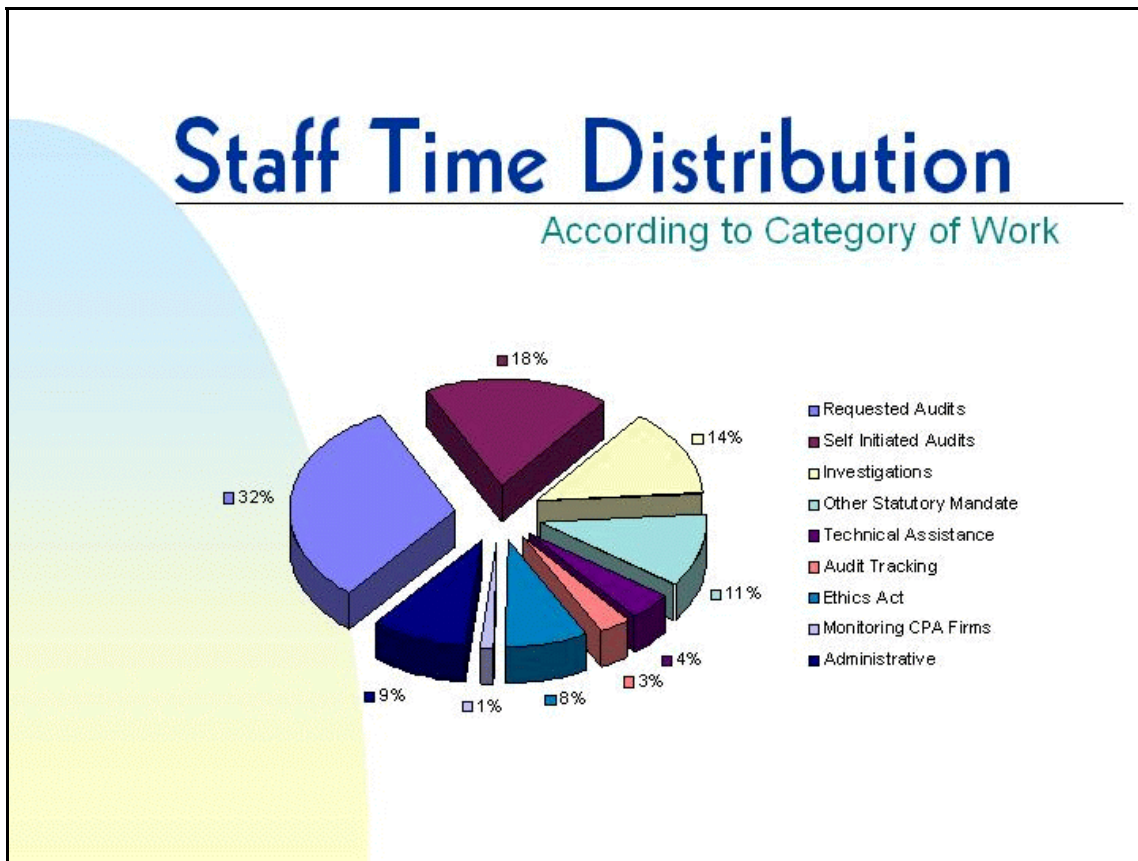


Figure 1

Highlights of Activities

Activities of the Office of the Public Auditor are grouped into categories, namely: (1) audit activities, (2) Government Ethics Act implementation, (3) adjudication of procurement appeals, (4) investigative activities, and (5) other activities. These activities are guided by OPA’s overall objectives of improving the economy, efficiency and effectiveness of government operations and preventing fraud, waste and abuse.

Audit Activities

Procurement and Contract Administration

Professional Services Contract of the CNMI Government’s Executive Branch

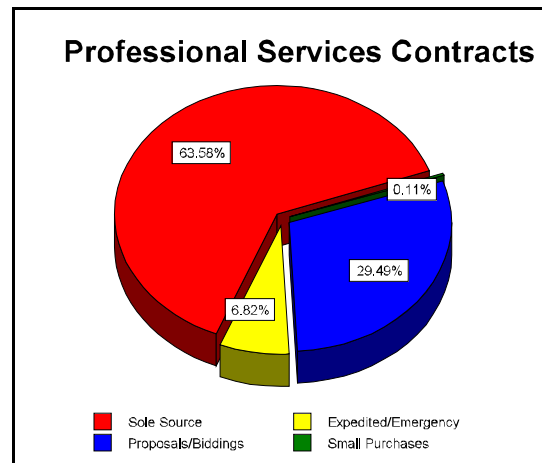
The audit (AR-99-04) showed that Executive Branch agencies procured professional services in violation of the CNMI Procurement Regulations. Specifically, our review showed that:

- Of 48 sole-sourced contracts selected for detailed audit, 46, or more than 95 percent, amounting to \$9.88 million were not sufficiently documented to qualify for sole source procurement. This and the fact that the majority of professional services contracts (about 64 percent) were procured using the sole-source method indicates widespread abuse in the selection of contractors.
- Unlawful payments amounting to more than \$3.39 million were paid to a major contractor who was allowed to continue incurring expenditures although no new

contract had been approved, and to six other contractors who were paid for services incurred either before contract approval or after expiration of their contracts.

- At least twenty-five “open-ended” contracts which allowed reimbursements and additional charges beyond the contract amount were approved without justifications.

This occurred because high level officials disregarded applicable CNMI regulations and failed to adequately perform their duties and responsibilities.



The audit also showed that Executive Branch agencies made full or substantial payments totaling about \$400,000 to several contractors who failed to perform the scope of work and submit contract deliverables required under professional services contracts. In addition, questionable payments totaling nearly \$1.49 million (e.g., duplicate charges, professional fees in excess of agreed upon rates, no supporting documents) were made because of inadequate review by the Department of Finance.

Lastly, the audit showed that no pre-contract analysis or similar procedures were performed before contract execution, and Contracting Officers of various CNMI agencies approved terms and conditions which substantially favored the contractors and unnecessarily increased the expense of the CNMI government (e.g., granted advance payment, scope of work was not specific, contract deliverables depended on what might be required by the contracting officer), resulting in a lack of assurance that contracts valued at \$7.76 million were necessary and reasonably priced.

TCGCC's Consultancy Service Agreement

The audit (AR-99-03) showed that the Consulting Service Agreement executed between the TCGCC commissioners and Oscar C. Rasa violated CNMI and local budget laws and the TCGCC Procurement Regulations. The CNMI Planning and Budgeting Act and the Tinian Casino Gaming Control Act require that public funds be expended pursuant to currently effective appropriations, while the Procurement Regulations provide that no contract shall be valid unless it complies with those Procurement Regulations. Since TCGCC officials did not have funding authority to execute the Agreement with Mr. Rasa because no appropriation was passed in fiscal year 1997, and since TCGCC officials failed to comply with regulations for the procurement of professional services, the Agreement cannot be considered valid.

Consequently, OPA recommended that the Consulting Service Agreement awarded to Oscar Rasa be declared null and void and all payments made to Mr. Rasa totaling \$739,346 by TCGCC be considered illegal and be recovered.

On November 17, 1997, the Office of the Public Auditor issued a letter to the Chairman of the Senate Committee on Executive Appointments and Governmental Investigations giving an opinion that the Consulting Service Agreement between TCGCC and Oscar Rasa was legally defective.

Under the Consulting Service Agreement, Mr. Rasa's compensation package included the following:

- \$100,000 annual fee (or a total of \$400,000 for four years);
- \$2,400 quarterly housing allowance (or a total of \$38,400 for four years);
- automobile for Consultant's full-time use during both working hours and non-working hours, with the costs of insurance and repairs and maintenance chargeable to TCGCC;
- group health and dental insurance coverage for the Consultant and his dependents;
- reimbursable expenses including official travel (business class accommodations), professional dues and subscriptions, licensing fees, entertainment, promotion, mandatory continuing professional education programs, expenses incident to attendance at required meetings or seminars, communication expenses (telephone, facsimile, modem);
- paid vacation equivalent to four weeks per year, with unused vacation payable in cash upon termination of the Agreement;

- relocation and repatriation expenses from/to Apple Valley, California to/from Tinian for the Consultant and his qualified dependents;
- one business class round-trip airfare between California and Tinian for home leave upon completion of every year of service; and
- payment by TCGCC of Consultant's local, state, and federal taxes.

As of the time of the audit, no accomplishment reports, finished work product, or other convincing evidence that Oscar Rasa had provided valuable services to TCGCC was seen that would justify his \$400,000 professional fee and excessive fringe benefits.

Contract With Former EMO Technician

The audit and investigation (LT-99-07) showed that there was no evidence a former technician of the Emergency Management Office (EMO) conducted private business while on official duty and that his service contract to maintain the government's radio network system after his resignation, was not in violation of CNMI laws. Also, the audit showed that the installed radio network system is vital to the CNMI Government's operation, especially for emergency response units such as EMO, Commonwealth Health Center and Department of Public Safety.

The audit further found that EMO's contracting with the former technician is the most practical alternative at present. The former EMO technician offers the lowest price and is the only licensed technician on island authorized to maintain the System.

Our audit and investigation showed, however, that EMO has not adopted a definite course of action for hiring and training skilled technician(s) for backup, especially in case of communication system breakdowns during times of emergencies. At present, the maintenance

of EMO's Smartnet Communication System depends on the former technician's services.

Follow-up Audit of Tinian Mayor's Contract for the Lease of the KBC Building

A follow-up audit (LT-99-10) to determine the final amount due from the CNMI Government for the lease of the KBC Building by the Tinian Mayor's Office showed that \$5,518 was due as of March 5, 1998. The follow-up audit also showed that the Department of Finance (DOF) made payment in the amount of \$10,000 to James Fleming for periods not covered by the original lease contract.

We recommended that the Secretary of DOF order the processing of a \$5,518 payment in final settlement of its liability for the lease of the KBC Building. Subsequently, we learned that the lessor has agreed to pay the remaining \$10,000 directly to the Commonwealth Development Authority as credit against his mortgage loan.

Personnel Management

Time and Attendance at SMO

An audit (LT-99-02) of the Saipan Mayor's Office (SMO) found that monitoring and supervisory controls for employees in the field are weak, and may lead to low work output and use of government time for personal business. Specifically, the whereabouts of employees on field assignments are not properly monitored because log-in-and-out procedures when leaving the office were not being enforced.

The audit also found that:

- employees who were absent did not properly notify the timekeeper and there was no procedure for recording leave requests.

- SMO failed to detect inaccuracies in time charges recorded in the summary time sheets because of lack of review procedures.
- SMO used its own Personnel Policies that do not comply with the Fair Labor Standards Act and the established CNMI Personnel Policies in granting compensatory time to all SMO employees.
- Compensatory time was not accurately monitored and documented because the compensatory time policies and procedures employed by the SMO are not adequate and need to be improved.

DPH Granting of Salary Increases

The audit (LT-99-06) of the Department of Public Health's (DPH) granting of salary increases to social worker employees under the Division of Mental Health and Social Services showed that three employees were granted salaries in excess of the rates applicable to their qualifications without justification. Specifically, the salaries received by each of the three employees exceeded the rates provided in the regulations by about \$3,600 to \$5,600 annually.

The audit also noted at least three instances when employees were hired or reallocated to a higher class although the minimum work experience required to perform the job was not met.

Salary Increase of Commissioner of Education

An audit (LT-99-03) of the former Commissioner of Education's salary increase showed that using funds from Federal indirect cost reimbursements to pay for the salary increase did not violate any Office of Management and Budget circulars. It also showed that the use of indirect cost funds was consistent with the annual Indirect Cost Negotiation Agreement with the Office of the Inspector General, United States Department of Interior.



Figure 2 - Saipan Mayor's Office

Misuse of Resources

DCCA Office of Aging Resources

The audit and investigation (LT-99-08) showed that the DCCA Office of Aging's former Accountant misused government facilities and a vehicle for her personal gain by improperly using the Office of Aging kitchen facilities and equipment for personal purposes on January 9 and 10, 1998, with the Office Kitchen Supervisor willfully sanctioning the act. The audit also found that the former Accountant directed two other employees who were on duty to use a government vehicle to deliver personal mail on January 7, 1998.

The audit also investigated allegations that the former Accountant diverted food items from the Office stores for personal use and benefit. The former Accountant denied the allegation; however, there were direct and conflicting statements from witnesses that stated such food items were used.

W. S. Reyes and 50th Golden Jubilee Funds

An audit (AR-99-01) showed that within school years 1994 to 1996, collections for and payments out of the WSR school fund were not fully accounted for. The former principal, who had full control over the WSR school fund, did not maintain sufficient records, did not implement internal controls, and disregarded Board of Education policies. Compu-

tations based on available data showed that about \$17,359 of school funds were either missing, disbursed without supporting documentation, or used for unauthorized or unknown activities. Although \$6,400 of the \$17,359 was repaid, the balance of \$10,959 is still unaccounted for.

The audit also found unsupported 50th Golden Jubilee Fund disbursements amounting to \$3,582. In addition, t-shirts and other 50th Golden Jubilee souvenir items with a net sales value of \$685 were unaccounted for. Further, \$1,163 in sales of t-shirts and other souvenir items sold on account remained uncollected as of audit date, while the committee owed \$6,497 to the suppliers of those items.

Agency Operations

Expenditures and Administrative Procedures of the Washington Representative's Office

Our review of the financial transactions of the Washington Representative's Office (WRO) (AR-99-02) for fiscal years 1995 and 1996 disclosed discrepancies in the totals of some expense accounts reflected in the books of the CNMI Department of Finance (DOF) and those reflected in the books of WRO. These discrepancies were caused by errors and misclassification in the recording of expenditures. The errors and misclassification were not detected and corrected by DOF because DOF did not have procedures to reconcile the amounts recorded in WRO and DOF books.

Our review of selected administrative practices of WRO disclosed a need for WRO to improve or correct its procedures and establish more effective controls over repatriation and expatriation benefits, housing benefits, annual leave benefits, maintenance of necessary personnel records such as descriptions of the qualifications necessary for each employment position, travel advances, procurement, and use of representa-

tional funds. Poor control or erroneous procedures involving these activities could have been avoided or minimized had WRO adhered to the CNMI Personnel Rules and Regulations for Excepted Service Employees, CNMI Travel Regulations, CNMI Procurement Regulations, and other applicable CNMI policies, procedures, and guidelines.

Mandated Audits

CNMI Lottery Operations

OPA issued audit reports (LT-99-04, LT-99-05 and LT-99-09) on government revenues from the CNMI Lottery operations for the first three quarters of fiscal year 1998. These reports were not completed in 1998 because the auditee failed to provide the needed documents in time for us to complete and release our audit reports in 1998.

Other Audits

Agricultural Homestead Grant

The objective of this audit and investigation was to determine whether the grant of the strip of land (Tract Nos. 189 E02 and 189 E03) to an existing homesteader was made in accordance with the Homestead Act and its rules and regulations.

The audit and investigation (LT-99-01) showed that the Division of Public Lands (DPL), through a Homestead Review Committee, reviewed and rendered a decision on an agricultural homestead case which had already been decided and closed seven years earlier by the former Marianas Public Land Corporation (MPLC). In addition, we noted that DPL awarded this homestead lot to an existing homesteader on the basis of "moral" grounds and not on the legal merits of the case.

OPA recommended that the Director of the Division of Public Lands (1) invalidate the grant of 10,716 square meters of agricultural homestead land to the homesteader, (2) order the full restoration of the said public land at the expense of the homesteader, and (3) issue a memorandum emphasizing strict adherence to the Homestead Act and its rules and regulations.

Tracking of Audit Recommendations

OPA implemented an audit recommendation tracking system to ensure that recommendations in audit reports issued by OPA and private CPA firms are implemented rather than being forgotten or ignored.

As of December 31, 1999, OPA has referred 15 recommendations to the Attorney General's Office (AGO) which require legal action to recover monies improperly disbursed. The recommendations identified a total of \$869,641 that could be recovered if AGO will pursue OPA's recommendations.

However, based on an agreement between the AGO and OPA, 7 of the 15 referred recommendations, which involve the recovery of \$250,820, will not be pursued by AGO for various reasons, and accordingly will be dropped from OPA's list of outstanding recommendations. As a result, only \$618,821 may be recovered.

Additionally, other outstanding recommendations address needed improvements in internal controls and operating procedures. These recommendations, if implemented, should result in cost savings for the government through improved efficiency and effectiveness and minimizing opportunities for fraud, waste and abuse.

OPA released a separate report on CNMI agencies' implementation of the audit recommendations.

Ethics Act Implementation

Ethics Unit

In 1996, OPA established the Ethics Unit within the Audit Division. The Unit was tasked with the responsibility of implementing and enforcing the Government Ethics Code Act of 1992. In 1997, procedures for the operation of the Ethics Unit were developed. In addition, a record-keeping and follow-up system was established for receiving and investigating complaints, and for preparing and issuing reports and opinions on ethics matters.

Financial Disclosure Reporting

In 1999, the Ethics Unit continued its vigorous implementation of the financial disclosure requirements of the Ethics Act. As in the previous year, Ethics Unit staff exerted extra effort in ensuring that filing notices were received by "reporting individuals." We also answered queries from filers regarding the disclosure requirement and the statement of financial interest.

In 1999, all "reporting individuals" filed, generally in a timely manner. However, despite repeated reminders, there were 10 late filers who were assessed late filing penalties totaling \$1,070. Of the 10 late filers, 8 paid the late filing penalties while the remaining 2 were referred to the OPA Prosecutor for collection.

In 1999, we resolved the two remaining late filing cases reported in 1998 as unresolved, and the lone 1998 non-filer filed a statement in 1999. The penalties for this late filing are being determined by the OPA Prosecutor.

While the number of individuals required to file increased by 13% from 512 filers in 1998 to 579 filers in 1999, the number of late filers

declined by 41% from 17 in 1998 to 10 in 1999. Late filing penalties also declined by 48% from \$2,060 in 1998 to \$1,070 in 1999 (see Statistics in Table 1).

Financial Disclosure Statistics

	1997	1998	1999
No. of Persons Required to File	421	517	579
Filed on Time	417	493	569
Filed Late	4	17	10
Did Not File	0	1	0
Civil Penalties Assessed	\$180	\$2,060	\$1,070
Cases Referred to AGO or OPA Prosecutor	0	13	2
Resolved	0	10	
Unresolved	0	3	2

Table 1

Public Education Campaign

Ethics

To better educate the public about the CNMI Government Ethics Code Act, OPA had previously developed five pamphlets, which provide information on the following topics:

- Conflict of Interest
- Gifts and Gratuities
- Political Activity
- Complaints on Ethics Violations
- Filing Financial Disclosure Statements

We continued to distribute these pamphlets to new filers and, at the request of the Public School System, to all teachers during presentations conducted.

OPA developed a slide presentation on the Ethics Act enabling its staff to give public officials and employees a complete and thorough overview of the Act. Subsequently, we gave 5 presentations on the Ethics Act attended by employees from 21 government departments and agencies and 2 private

groups. The presentations provide a forum for public officials, employees and the general public to ask questions and obtain clarification on specific cases. Appendix F lists the presentations conducted by the Ethics Unit in 1998.

Procurement

Violation of various provisions of the Procurement Regulations is a consistent theme in OPA audits of CNMI agencies. To help make procurement regulations more relevant to CNMI procurement officials, OPA developed a presentation, using PowerPoint software, that enables the Ethics Unit to educate large groups of government procurement officials about provisions in the CNMI Procurement Regulations. This presentation addresses the following topics:

- Procurement Organization
- Source Selection and Basic Competitive Procurement
- Special Procurement Methods
- Contracting Information
- Protests and Disputes
- Ethics in Public Contracting
- OPA Audit Findings addressing Procurement Issues

During the year we tested this presentation on a group of employees from 25 different agencies. We are currently awaiting the completion of changes being made to the procurement regulations. Once these changes are completed, we will update the presentation and begin conducting the presentation at all CNMI departments and agencies.

Complaints and Investigations

In 1998, OPA received 6 formal complaints of ethics violations. Reports were issued on 5 of these cases and the remaining case is still being processed. The 4 cases from 1997 and 2 from 1998 are still outstanding.

Improvement of Ethics Act

During the previous years, considerable time was spent researching ethics issues to improve the Ethics Act. Based on the research work, OPA drafted a revised Ethics Act which was provided to the Legislature in 1999.

Proposed changes were made to reinforce and clarify the Act, to address concerns raised by the Executive Branch and other elected officials, and generally to make the Act consistent with language used in other jurisdictions. Major changes included the addition of sections addressing nepotism, responsibilities of the Attorney General, and solicitation and use of property by government officials and employees who are members of non-profit organizations. Also, revisions were made in sanctions and penalties for violating the Ethics Act.

Inquiries and Opinions

During the year, OPA continued to receive numerous inquiries (10 to 12 per week) about ethics matters. These inquiries generally did not require investigation and responses were made either orally or in writing. In addition, OPA issued one formal opinion at the request of two members of the Senate.

Donations and Gifts

This is the second year in which we advised agencies and departments to report gifts previously received. As a result, in 1999, agencies and departments reported cash and non-cash donations and gifts amounting to \$619,107.92 (See Statistics in Table 2).

Also, when we learned through the media of donations and gifts to government employees/officials on behalf of the government, we promptly advised them of the requirement to report such donations and gifts both to OPA and the Secretary of Finance.

Donations Reported in 1999

Agency	Cash	Non-cash	Total
NMC	\$13,150	\$180	\$13,330
PSS	54,580	9,955	64,535
DCCA	7,407	2,740	10,147
DPS	-	8,682	8,682
DLNR	310,000	84,000	394,000
CHC	500	127,615	128,115
CUC	-	299	299
Total	\$385,637	\$233,471	\$619,108

Table 2

Procurement Appeals

OPA received three appeals in 1999 which presented procurement issues concerning jurisdiction, arbitrary actions, award of a contract, and evaluation and selection of proposals. Two of the three appeals were denied because of the following reasons:

- No violation of applicable provisions of the CNMI Procurement Regulations (CNMI-PR) was found, or
- There was no factual basis to sustain the allegations raised in the appeal.

In one of the appeals received in 1999, OPA ruled that it lacked jurisdiction over the appeal because the procurement was not covered by the CNMI-PR.

Appendix D lists decisions issued in 1999 on appeals of bid protests.

Investigative Activities

The Investigation Division was established to provide OPA with the capability to conduct investigations into allegations of fraud, waste, abuse or irregularities in the programs and operations of the CNMI Government.

During the year, the Investigation Division investigated cases involving violations of procurement regulations, fraud, misuse of government funds, misuse of government property, misuse of government vehicles, embezzlement, theft, and violations of the Ethics Act. These investigations led to criminal charges being filed in both local and Federal courts.

The Investigation Division also provided assistance to other law enforcement agencies including the Federal Bureau of Investigation.

In 1998, OPA entered into an agreement with the Federal Bureau of Investigation to form a joint task force. Investigations by this task force resulted in several convictions for bribery in Federal court.

OPA HOTLINE

Saipan - (670) 235-3937
 Tinian - (670) 433-3937
 Rota - (670) 532-0298

The Investigation Division managed OPA's Hotline. During the year, several hundred reports of fraud, waste and abuse in the CNMI Government were received from the Hotline.

Referrals to the Attorney General

The law requires the Public Auditor to refer matters to the Attorney General whenever the Public Auditor has reasonable grounds to believe there have been violations of either federal or Commonwealth criminal laws. Also, the law states that if the Public Auditor believes that civil recovery proceedings are appropriate, the Public Auditor shall refer the matter to the Attorney General. The Public Auditor may file civil actions with the approval of the Attorney General.

In 1999, OPA referred 3 cases to the Attorney General's Office. In addition, there were 49 cases from prior year referrals - 12 from 1995, 11 from 1996, 10 from 1997, and 16 from 1998. Of the 49 cases, 2 were closed during the year, while 35 will be dropped from the list of outstanding referrals because the Attorney General's Office does not intend to take action.

Appendix C shows the status of referrals as of December 31, 1999.

Independent CPA Firm Audits

Independent Certified Public Accounting (CPA) firms conducted financial and compliance audits of the CNMI Government and its agencies. The purposes of the audits were:

- Single audits in accordance with the U.S. Office of Management and Budget (OMB) Circular A-128 (Audits of State and Local Governments) or OMB Circular A-133 (Audits of Institutions of Higher Education and Other Non-Profit Organizations),
- Financial statement audits,

- Study and evaluation of internal accounting controls, and
- Financial and compliance audit of a Federal grant program.

OPA supervised and monitored the procurement and conduct of audit services for the single audits and financial and compliance audits of the following agencies:

- CNMI Government
- Commonwealth Development Authority
- Commonwealth Ports Authority
- Commonwealth Utilities Corporation
- Marianas Public Land Trust
- Marianas Visitors Authority
- Northern Marianas College
- Northern Mariana Islands Retirement Fund
- NMI Health & Life Insurance Trust Fund
- Public School System
- Workmen's Compensation Commission

In 1999, eleven audit reports were issued by the CPA firms, while field work was ongoing on five audits as of year end. Appendix B provides a complete listing of independent CPA firm audits.

Other Activities

Legislative Hearings

During the year, the Public Auditor testified at several legislative hearings. The Public Auditor attended and submitted written testimony for the following hearings:

- House Committee on Health Education and Welfare hearing on issues concerning the administration of the Northern Marianas College, Testimony No. M-99-01.

- House Committee on Judiciary and Governmental Operations hearing concerning the Department of Public Safety, Testimony No. M-99-02.
- House Committee on Ways and Means hearings concerning the Fiscal Year 2000 budget request of various CNMI Government agencies.

Also, the Public Auditor attended confirmation hearings for several nominee's to key government positions.

CNMI Procurement Regulations

The CNMI's Financial Management Improvement Plan (FMIP) required the CNMI Government to update its procurement regulations. The plan included a review of the procurement regulations being developed by OPA and adapting them to the CNMI's requirements.

In 1999, OPA submitted its proposed revisions to the regulations to the Secretary of Finance and the FMIP members for comments and adoption.

A Committee which included OPA representatives was formed to review and propose changes to the existing regulations. However, no progress was made because some of the members were not able to attend the meetings. The Committee was dissolved early in 2000 and a new one was formed in its place.

OPA Local Area Network

In September 1999, OPA researched and evaluated the benefits of setting up a local area network (LAN) due to problems encountered with its computer resources as a result of obsolescence and the limited number available for staff use.

The research and evaluation determined that a LAN will improve efficiency and effective-

ness in the use of OPA's computer resources. Specifically, the following benefits were identified:

- Central storage for data files - Administration of data will be minimized because there will be only one place to store data.
- Sharing of peripherals - Printers, scanners, modems, CDROM, and disk drives can be shared easily among the computers in the network.
- Security - One of the spin-off benefits of networking is the ability to store critical data on a central server, and use the security features of the networking software to lock down that server and the data on its drives from unauthorized access.
- Centralized Chores - Some chores crucial to office operations can be centralized. Backup, for example, is simpler because it is done on the server by using just one backup device.

In December 1999, setup of the LAN began. About one-third of OPA's computers were connected to the LAN at the end of the year.

Internet Web Site

OPA's web site continued to provide the public with access to audit and letter reports released, decisions on procurement appeals, Government Ethics Act requirements, job vacancies, fraud, waste and abuse hotline information, and useful links on the Internet.

The web site also provided e-mail notification of new OPA reports or decisions released to site visitors who signed up to OPA's mailing list.

In addition, concerned citizens have utilized the web site's hotline report form to report fraud, waste and abuse in the government.

The web site was also used by government officials in downloading forms to file financial disclosure statements required by the Ethics Act.

In 1999, the web site received over 10,500 "unique" visits as compared to 9,300 in 1998. OPA's web site can be accessed at <http://opacnmi.com>.

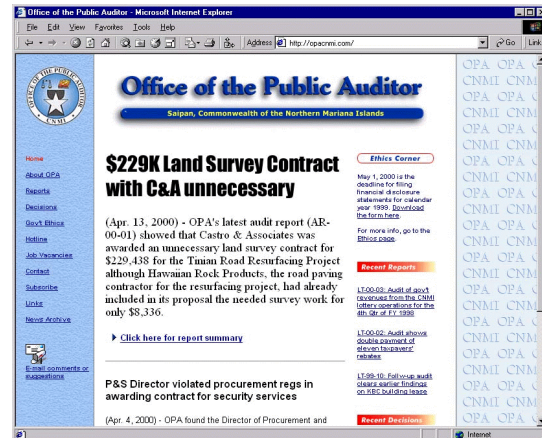


Figure 5 - OPA Web Site

Technical Assistance

At the request of other government branches, departments, and agencies, OPA provided technical assistance on the preparation of the CNMI Budget and in researching information pertaining to proposed legislation.

APIPA

As an active member, OPA participated in the annual conference of the Association of Pacific Island Public Auditors (APIPA) held on July 26-30, 1999 in Koror, Republic of Palau. The one-week conference provided a forum for sharing experiences and solutions to audit issues common to the Pacific Islands.

The conference also provided OPA staff with training on audit management and supervision. In addition, OPA participants earned 40 continuing professional education hours need-

ed to meet the requirement of the Government Auditing Standards issued by the United

States General Accounting Office. □



Figure 6- Participants to the conference of the Association of the Pacific Islands Public Auditors held in Palau pose for a group picture.

Appendix A - OPA Reports/Testimonies Issued

Report No.	Issue Date	Dept/Agency	Report Title	Audit Period
AR-99-01	01/05/99	PSS	Audit of the William S. Reyes School and 50 th Golden Jubilee Funds	October 1994 to October 1996
LT-99-01	01/16/99	DLNR	Audit and Investigation of an Agricultural Homestead Grant Tract Nos. E02 & E03	
LT-99-02	01/27/99	SMO	Audit of Time and Attendance at the SMO's Administrative Division and Mechanic Shop	May 22 & 29, 1998
M-99-01	01/28/99	NMC	Testimony to the House Committee on Health, Education & Welfare on Issues Concerning NMC's Administration	
LT-99-03	03/25/99	PSS	Audit of the Former Commissioner of Education's Salary Increase	FY 1993 to FY 1994
AR-99-02	03/29/99	WRO	Verification of Expenses and Review of Selected Administrative Practices of the WRO	FY 1995 and FY 1996
LT-99-04	03/31/99	DOF	Audit of Government Revenues from the CNMI Lottery Operations	First Quarter of FY1998 Ending 12/31/97
AR-99-03	04/07/99	TCGCC	Audit of TCGCC Consultant's Contract	Fiscal Year 1997
M-99-02	05/20/99	DPS	Testimony to the House Committee on Judiciary and Governmental Operations Concerning the Department of Public Safety	
LT-99-05	05/11/99	DOF	Audit of Government Revenues from the CNMI Lottery Operations	Second Quarter of FY1998 Ending 03/31/98
LT-99-06	08/18/99	DPH	Audit of DPH's Granting of Unequal Salaries to Social Worker Employees	
LT-99-07	09/21/99	EMO	Audit and Investigation of Whether an EMO Office Technician Conducted Private Business While on Official Duty	
LT-99-08	10/26/99	DCCA-Aging	Audit and Investigation - Misuse of Resources	January 1998
AR-99-04	10/28/99	Executive Branch	Audit of Professional Services Contracts	October 1, 1995 to May 4, 1998
LT-99-09	11/02/99	DOF	Audit of Government Revenues from the CNMI Lottery Operations	Third Quarter of Fiscal Year 1998 Ending 06/30/98

Report No.	Issue Date	Dept/Agency	Report Title	Audit Period
LT-99-10	11/16/99	TMO	Follow-up Audit of the TMO's Contract for the Lease of the KBC Building	March 1998
M-99-03	12/13/99	PSS	Disclosure Report on the Rota Sinapalo Elementary School Project	

Appendix B - Independent CPA Firm Audits

A. Audit Reports Issued

	Auditee	Auditor	Type of Audit	Report Date
1.	CNMI Government	Deloitte and Touche	Financial and compliance audit in accordance with OMB Circular A-133 (single audit requirements of states and local governments) for FY 1998.	June 28, 1999 (except for note 18 as to which the date is October 19, 1999)
2.	Commonwealth Ports Authority	Deloitte and Touche	Financial and compliance audit in accordance with OMB Circular A-133 for FY 1998.	March 18, 1999
3.	Commonwealth Ports Authority	Deloitte and Touche	Financial and compliance audit in accordance with OMB Circular A-133 for FY 1999.	December 3, 1999
D.	Commonwealth Utilities Corporation	Deloitte and Touche	Financial and compliance audit in accordance with OMB Circular A-133 for FY 1998.	April 27, 1999
5.	Marianas Public Land Trust	Deloitte and Touche	Financial Statements and Independent Auditor's Report for FY 1999.	November 24, 1999
6.	Marianas Visitors Authority	Burger & Comer, P.C.	Audit of financial statements for FY 1998.	January 15, 1999
7.	Marianas Visitors Authority	Burger & Comer, P.C.	Audit of financial statements for FY 1999.	December 23, 1999
8.	NMI Health & Life Insurance Trust Fund	Burger & Comer, P.C.	Audit of financial statements for FY 1998.	August 15, 1999
9.	Northern Mariana Islands Retirement Fund	Burger & Comer, P.C.	Audit of financial statements for FY 1998.	August 15, 1999
10.	Public School System	Deloitte & Touche	Financial and compliance audit in accordance with OMB Circular A-133 for FY 1996.	March 5, 1999
11.	Worker's Compensation Commission	Burger & Comer, P.C.	Audit of financial statements for FY 1998.	August 15, 1999

B. Audits in Progress

	Auditee	Auditor	Type of Audit	Status
1.	CNMI Government	Deloitte and Touche	Financial and compliance audit in accordance with OMB Circular A-133 for FY 1999.	Audit is ongoing.
2.	Commonwealth Development Authority	Deloitte and Touche	Financial and compliance audit in accordance with OMB Circular A-133 for FY 1999.	Draft Audit Report was issued.
3.	Commonwealth Utilities Corporation	Deloitte and Touche	Financial and compliance audit in accordance with OMB Circular A-133 for FY 1999.	Audit is ongoing.
4.	Northern Marianas College	Burger & Comer, P.C.	Financial and compliance audit in accordance with OMB Circular A-133 (single audit requirements for institutions of higher education and other non-profit organizations) for FY 1997.	Audit is ongoing.
5.	Public School System	Deloitte and Touche	Financial and compliance audit in accordance with OMB Circular A-133 for FY 1997.	Audit is ongoing

Appendix C - Status of Referrals to Attorney General's Office_____

Reference	Status of Referral
1. OPA referral letter dated 3/23/95 (AR-95-09)	AGO does not intend to take any action. OPA note: To be dropped from the list.
2. OPA referral letter dated 6/23/95 (AR-95-19)	AGO does not intend to take any action. OPA note: To be dropped from the list.
3. OPA referral letter dated 7/5/95 (LT-96-04, OPA Case #95-0003))	AGO does not intend to take any action. OPA note: To be dropped from the list.
4. OPA referral letter dated 8/14/95 (AR-95-17)	AGO does not intend to take any action. OPA note: To be dropped from the list.
5. OPA referral letter dated 9/27/95 (AR-95-21)	AGO does not intend to take any action. OPA note: To be dropped from the list.
6. OPA referral letter dated 10/3/95 (AR-95-22)	AGO does not intend to take any action. OPA note: To be dropped from the list.
7. OPA referral letter dated 10/10/95 (AR-96-05)	An informal investigation was conducted. Litigation will be filed.
8. OPA referral letter dated 05/19/97 (LT-97-05)	AGO does not intend to take any action. OPA note: To be dropped from the list.
9. OPA referral letter dated 06/02/97 (AR-97-07)	AGO does not intend to take any action. OPA note: To be dropped from the list.
10. OPA referral letter dated 06/17/97 (AR-97-09)	AGO does not intend to take any action. OPA note: To be dropped from the list.
11. OPA referral letter dated 10/01/97 (AR-97-04)	AGO does not intend to take any action. OPA note: To be dropped from the list.
12. OPA referral letter dated 10/21/97	AGO does not intend to take any action. OPA note: To be dropped from the list.
13. OPA referral letter dated 12/10/97 (AR-97-12)	AGO does not intend to take any action. OPA note: To be dropped from the list.
14. Report #AR-95-07	AGO does not intend to take any action. OPA note: To be dropped from the list.
15. Report #AR-95-11	AGO sent out demand letters and considers this matter closed.
16. Report #AR-95-12	AGO does not intend to take any action. OPA note: To be dropped from the list.
17. Report #AR-95-18	The case against the former Tinian Gaming Commission Board member was settled for a total of \$11,657. The case against the former Executive Director and former Comptroller is still on-going.

Reference	Status of Referral
18. Report #LT-96-06, OPA Case#96-0002	AGO does not intend to take any action. OPA note: To be dropped from the list.
19. Report #LT-96-07, OPA Case#96-0024	AGO does not intend to take any action. OPA note: To be dropped from the list.
20. Report #LT-96-08, OPA Case#96-0003	AGO does not intend to take any action. OPA note: To be dropped from the list.
21. OPA Case#96-0001	AGO does not intend to take any action. OPA note: To be dropped from the list.
22. OPA Case#96-0004 (LT-97-01)	Closed.
23. OPA Case#96-0005	AGO does not intend to take any action. OPA note: To be dropped from the list.
24. OPA Case#96-0009	AGO does not intend to take any action. OPA note: To be dropped from the list.
25. OPA Case#96-0036 (AR-97-06)	AGO does not intend to take any action. OPA note: To be dropped from the list.
26. OPA Case#96-0038	AGO does not intend to take any action. OPA note: To be dropped from the list.
27. OPA Case#96-0044	AGO does not intend to take any action. OPA note: To be dropped from the list.
28. OPA Case#97-0012	AGO does not intend to take any action. OPA note: To be dropped from the list.
29. OPA Case#97-0020	AGO does not intend to take any action. OPA note: To be dropped from the list.
30. DOF legal counsel referral letter to AG dated 11/13/95 (AR-96-06)	AGO does not intend to take any action. OPA note: To be dropped from the list.
31. Memo to Secretary of Finance from Director of Personnel dated March 13, 1997	AGO does not intend to take any action. OPA note: To be dropped from the list.
32. Case# 96-0041	AGO does not intend to take any action. OPA note: To be dropped from the list.
33. Report# AR-97-01	AGO does not intend to take any action. OPA note: To be dropped from the list.
34. OPA referral letter dated February 11, 1998 (Case# 97-051)	AGO's Civil Division will make final civil filing decision.
35. OPA referral letter dated February 17, 1998 (LT-98-03)	The current status was not provided by AGO pending determination of actual name of Defendant so that civil filing decision can be made.

Reference	Status of Referral
36. OPA referral letter dated April 28, 1998 (AR-97-05)	This audit pertains to seven contracts which require termination and recovery actions. Two of the seven contracts were already terminated (Contract nos. C50322 and C50297). AGO will pursue recovery actions on two contracts (Contract nos. C40113 and C50108). No action will be taken on the remaining three contracts (Contract nos. C40222, C40122, C50098).
37. OPA referral letter dated May 8, 1998 (Case# 98-020)	AGO does not intend to take any action. OPA note: To be dropped from the list.
38. OPA referral letter dated May 21, 1998 (Case# 98-008)	The current status was not provided by AGO.
39. OPA referral letter dated June 19, 1998 (Case# 98-036)	AGO does not intend to take any action. OPA note: To be dropped from the list.
40. OPA referral letter dated July 13, 1998 (AR-98-04)	AGO does not intend to take any action. OPA note: To be dropped from the list.
41. OPA referral letter dated July 24, 1998 (Case# 97-052)	AGO's Civil Division will make final civil filing decision.
42. OPA referral letter dated July 24, 1998 (Case No. 98-037)	The current status was not provided by AGO pending determination of actual name of Defendant to facilitate criminal investigation.
43. OPA referral letter dated August 12, 1998 (Case# 98-007)	The current status was not provided by AGO pending determination of actual name of Defendant to facilitate criminal investigation.
44. OPA referral letter dated August 18, 1998 (AR-98-05)	AGO does not intend to take any action. OPA note: To be dropped from the list.
45. OPA referral letter dated September 16, 1998 (LT-98-11)	AGO does not intend to take any action. OPA note: To be dropped from the list.
46. OPA referral letter dated October 1, 1998 (Case# 97-053 & 98-039)	AGO does not intend to take any action. OPA note: To be dropped from the list.
47. OPA referral letter dated November 17, 1998 (Case# 98-042)	The current status was not provided by AGO pending determination of actual name of Defendant to facilitate criminal investigation.
48. OPA referral letter dated November 18, 1998 (Case# 90-CR1)	The current status was not provided by AGO pending determination of actual name of Defendant to facilitate criminal investigation.
49. OPA referral letter dated December 14, 1998 (AR-98-06)	On January 20, 2000 the AGO filed a lawsuit against the former DOF Secretary primarily for misuse and misappropriation of public funds for private purposes.
50. OPA referral letter dated August 4, 1999 (Case# 99-0013)	The current status was not provided by AGO pending determination of actual name of Defendant to facilitate criminal investigation.
51. Report #AR-99-03	AGO will file a complaint against the consultant and the commission members who authorized the contract.

Reference	Status of Referral
52. Report #AR-99-04	<p data-bbox="787 241 1339 367">This audit pertains to five contracts which require recovery actions. Legal action may be taken on four contracts (Contract Nos. C70220, C70180, C70301, and C70149).</p> <p data-bbox="787 388 1339 451">AGO does not intend to take any action on Contract No. 305559.</p> <p data-bbox="787 451 1339 510">OPA note: To be dropped from the list of contracts for follow-up with AGO.</p>

Appendix D - Decisions on Procurement Appeals_____

Decision No. BP-A017

Appellant: SSFM (Saipan) Engineers, Inc. (SSFM)
Subject of Appeal: A&E Design of a Solid Waste Sanitary Landfill in Marpi
Date Issued: 5/17/99

Description:

The appeal resulted from the denial by the Director of Procurement and Supply of the appellant's protest on the Department of Public Works (DPW) Request for Proposal (RFP) No. DPW98-RFP-020. The RFP was a solicitation of proposals from Architect-Engineering firms for the design of a solid waste sanitary landfill in Marpi. We denied the appeal concluding that the purpose of the amendment to the RFP was reasonable and there were no violations in the CNMI Procurement Regulations (CNMI-PR) that would entitle SSFM to remedies set forth in the CNMI-PR.

Decision No. BP-A018

Appellant: Marianas Marine Management, Inc.
Subject of Appeal: Solicitation for the Grant of a Concession to Operate on Managaha Island
Date Issued: 7/13/99

Description:

The appeal resulted from the denial by the Director of Procurement and Supply (P&S) of the appellant's protest on the Board of Public Lands' (BPL) solicitation of proposals for the grant of a concession to operate on Managaha Island. The protest was denied by the P&S Director for lack of jurisdiction. We agreed with the P&S Director's decision, concluding that the Request for Proposal (RFP) was not an official RFP and therefore was not covered by the CNMI Procurement Regulations.

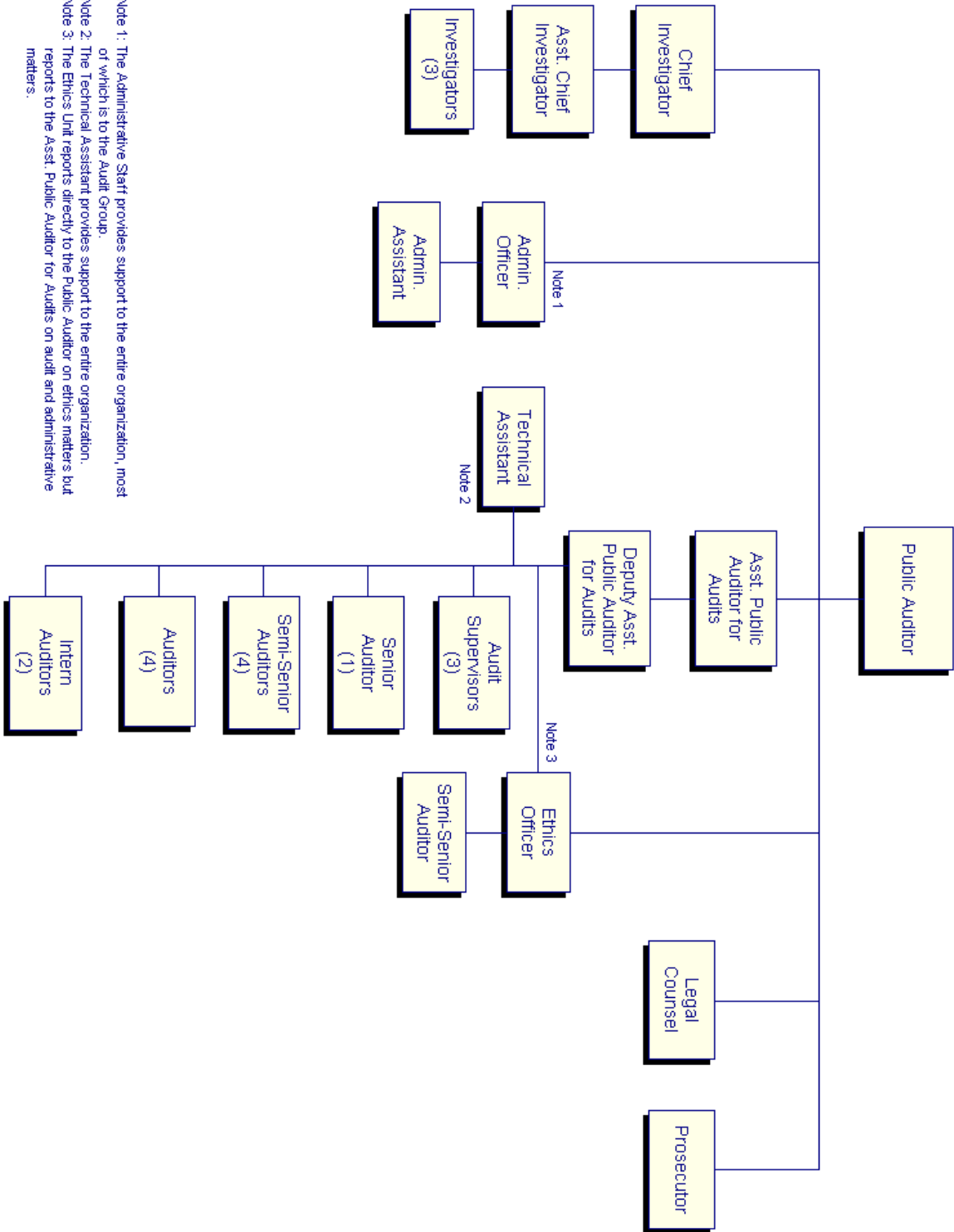
Decision No. BP-A019

Appellant: Sablan Construction Company, Ltd. (SCCL)
Subject of Appeal: Construction of 2 Pre-engineered Buildings for Northern Marianas College - Tinian
Date Issued: 9/10/99

Description:

The appeal resulted from the denial by the Director of Procurement and Supply of the appellant's protest on the Department of Public Works (DPW) Invitation to Bid (ITB) No. DPW99-IFB-005. The ITB pertained to the construction of two pre-engineered buildings for the Northern Marianas College (NMC) at Tinian campus. We denied the appeal after determining that the failure of the selected bidder to timely submit required documents was not the selected bidder's fault but resulted from an error by DPW in the distribution of the bid package.

Appendix E - OPA Organizational Chart



Appendix F - Ethics Unit Presentations Conducted_____

	Date Given	Name of Organization
Ethics Presentation		
1	3/4/99	Rota Mayor's Office
2	3/4/99	Commonwealth Utilities Corporation
3	3/4/99	Department of Public Safety
4	3/4/99	Office of Personnel Management
5	3/4/99	Department of Lands and Natural Resources
6	3/4/99	Rota Municipal Council
7	3/4/99	Northern Marianas College
8	3/4/99	Public School System
10	9/15/99	Commonwealth Utilities Corporation
11	9/22/99	Commonwealth Utilities Corporation
12	10/13/99	CNMI Food and Nutrition Council
13	10/13/99	House of Representatives
14	10/13/99	Lt. Governor's Office
15	10/13/99	Department of Lands and Natural Resources - Division of Agriculture
16	10/13/99	Department of Lands and Natural Resources - Division of Fish and Wild Life
17	10/13/99	Department of Public Health
18	10/13/99	Women's Affairs Office
19	10/13/99	Department of Community and Cultural Affairs - Nutrition Assistance Program
20	10/13/99	Public School System
21	10/13/99	Governor's Developmental Disabilities Council
22	10/13/99	Saipan Chamber of Commerce
23	10/13/99	Private Businesses and Citizens

	Date Given	Name of Organization
Procurement Regulations Presentation		
1	4/16/99	Office of the Governor
2	4/16/99	Attorney General's Office
3	4/16/99	Legislative Bureau
4	4/16/99	Department of Finance - Finance and Accounting
5	4/16/99	Department of Finance - Customs Service
6	4/16/99	Department of Commerce
7	4/16/99	Department of Community and Cultural Affairs - Office of Aging
8	4/16/99	Department of Lands and Natural Resources - Division of Agriculture
9	4/16/99	Department of Lands and Natural Resources - Coastal Resources Management
10	4/16/99	Department of Lands and Natural Resources - Division of Public Lands
11	4/16/99	Department of Labor and Immigration - Admin. Services
12	4/16/99	Department of Public Safety
13	4/16/99	Department of Public Works - Technical Services Division
14	4/16/99	Board of Elections
15	4/16/99	CNMI Museum
16	4/16/99	Criminal Justice Planning Agency (CJPA)
17	4/16/99	Commonwealth Development Authority
18	4/16/99	Governor's Developmental Disabilities Council
19	4/16/99	Indigenous Affairs Office
20	4/16/00	Joeten-Kiyu Public Library
21	4/16/99	Northern Islands Mayor's Office
22	4/16/99	Northern Mariana Islands Retirement Fund
23	4/16/99	Public Defender's Office
24	4/16/99	Public School System/Procurement and Supply
25	4/16/99	Rota Procurement and Supply

