

# Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

## SUMMARY ON THE STATUS OF AUDIT RECOMMENDATIONS Report on CNMI Agencies' Implementation of Audit Recommendations As of June 30, 2007

(Details of this summary are included in the full report in the enclosed CD. A copy of the full report is also available at the Office of the Public Auditor, or through OPA's website)

OPA tracked a total of 60 audit recommendations during the first six months of 2007. Of the 60 audit recommendations, 1 was closed and 59 remained either open or resolved. Of the 59 open or resolved recommendations, 50 were considered delinquent.

The following table presents a comparative schedule of the status of OPA's audit recommendations for calendar years 2005, 2006 and for the first six months of 2007.

Status of Audit Recommendations	2005	2006	up to 6/30/07
Total Recommendations Tracked for the Year	84	79	60
Less: Closed Recommendations	(5)	(19)	(1)
Outstanding Recommendations, End of Year (Open or Resolved)	79	60	59
Number of Delinquent Recommendations	46	47	50

### Closed Recommendation

OPA closed only 1 of the 60 audit recommendations it tracked during the first six months of 2007. The Department of Commerce implemented OPA's recommendation to address the security of CNMI government deposits by requiring all banks and financial institutions holding CNMI government and autonomous deposits to furnish the Office of Director of Banking with evidence and a certification that such deposits are being properly secured with bank assets.

### Delinquent Recommendations

Delinquent recommendations slightly increased by 3 (7%) from 47 in 2006 to 50 for the first six months of 2007.

Year	2005	2006	up to 6/30/07
1995	4	6	6
1996	1	2	2
1997	3	5	5
1998	1	2	2
1999	3	3	3
2000	7	6	7
2001	3	3	3
2002	2	2	4
2003	8	3	6
2005	14	15	12
Total	46	47	50

**Table 1 - Delinquent Recommendations**

Below is an aging of the 50 delinquent recommendations issued in calendar years 1995 through 2005:

Agency to Act	1995	1996	1997	1998	1999	2000	2001	2002	2003	2005	Total
1. Attorney General's Office	4	1	3	1	3	3	1	2	2	2	22
2. Department of Finance	1	1	2	1						5	10
3. Commonwealth Utilities Corporation								2	2	1	5
4. Northern Mariana Islands Retirement Fund						2	2			1	5
5. Department of Public Lands	1					2				1	4
6. Northern Marianas College									2	1	3
7. Department of Labor										1	1
Number of Delinquent Recommendations	6	2	5	2	3	7	3	4	6	12	50

## Independent Auditor's Report

OPA also includes in the Audit Recommendation Tracking Report a total of 117 recommendations from 10 recent audit reports issued by private CPA firms under contract with OPA.

## AGO Action Needed for Recovery of Approximately \$2,735,557

As of June 30, 2007, recommendations in 13 audit reports were referred to the Attorney General's Office (AGO) for legal action to recover monies improperly expended. On September 4, 2007, OPA requested for a meeting between the AGO and OPA to discuss these referrals. The AGO did not respond to this request or provide OPA an update on these referrals, and as such, the status of these referrals remain unchanged from the previous report as of December 31, 2006.

The following table presents a listing of AGO referral recommendations involving recovery of funds in which approximately \$2,735,557 is potentially recoverable.

	Report No. (Issue Date)	Particulars	Amount Recoverable	Status per AGO
1	AR-99-03 (4-7-99)	TCGCC - Legal action to recover overpayment of \$543,375 from the consultant on grounds of unjust enrichment, conversion, fraud and breach of fiduciary duty and recovery of \$195,971 from three other individuals for breach of fiduciary trust for total amount recoverable of \$739,346.	\$739,346	AGO is researching legal issues that have arisen in the pending suit and will follow-up on this matter with TCGCC's legal counsel.  In January 2005, AGO requested information from DOF regarding payments made to the Gaming Commission and other entities.
2	AR-02-02 (9/11/02)	TCGCC - Audit of Travel Transactions for fiscal years 1996 - 2001. The potential recovery amount for outstanding advances of \$406,925 was reduced by \$14,747 leaving a balance of \$392,178 still to be recovered	392,178	AGO is currently researching standing issues related to the collection of the debt.
3	AR-99-04 (10-28-99)	CNMI - Overpayments of professional services contracts. Balance of overpayments totaling \$1,315,102 re-directed to AGO of which \$8,302 is immediately recoverable and \$1,306,800 is recoverable unless adequately supported.	1,315,102	AGO requested to pursue collection of overpayments on 6/2/05.
4	AR-00-01 (4-13-00)	DPW - Recovery of \$164,534 in improper payments made to a surveying contractor and adverse action against contractor for misrepresentation relating to the Tinian road resurfacing project in 1997. Pursuant to a decision issued by the United States District Court, amount recoverable from the contractor is reduced to \$100,000 in restitution.	100,000	AGO stated that enforcement of the federal court order of restitution should be the responsibility of the U.S. Attorney's Office. Accordingly, the AGO plans to request enforcement by that office.
5	AR-98-06 (12-14-98)	DOF - Funds misused by the former Secretary of Finance during fiscal years 1995 to 1997.	75,000	A civil case against the defendant is still pending for the recovery of funds.
6	AR-97-06 (4-23-97)	DPH - Improper payments made by former RHC Director for repairs and non-existent lease extensions possibly paid out of the Rota imprest fund account.	9,000	AGO requested to review case and inform OPA whether or not it plans to pursue this case.
7	AR-97-06 (4-23-97)	DPH - Rota Health Center (RHC) - Recovery from the former RHC Director of amount taken from RHC funds and reimbursement for cost of a washing machine for the period	4,982	AGO informed OPA that although this referral case was previously closed on 9/5/02, the AGO plans to contact OPA for verification of records.

	Report No. (Issue Date)	Particulars	Amount Recoverable	Status per AGO
		December 1993 to March 1996.		
8	AR-96-05 (3-21-96)	MPLA - Recovery of rentals due from a restaurant and recovery from a lessor of all payments collected from a sublessee for the subleasing of the Saipan Fishing Center building as of October 31, 1995.	Unknown.	According to AGO, OPA agreed to do follow-up investigation as agreed in a meeting between AGO and OPA on 10/19/99. Upon further review, it was determined that additional investigative work by OPA will not result in any changes to the findings and conclusions stated in the report. On 8/16/04, OPA forwarded to the AGO a copy of the audit report for AGO's review and action.
9	AR-95-18 (10-10-95)	MPLA - Double payment of travel expenses and overpaid per diem allowances to the former Executive Director for the period September 1992 to September 1994.	Unknown.	AGO should provide documents on conveyance of property for debt settlement of former Executive Director.
10	AR-95-17 (10/2/95)	CPA - Legal action to recover the remaining balance of \$40,131 for improper reimbursement from the board members.	40,131	AGO has adopted a policy to pursue all collection cases involving money owed to the government "in the public interest" until the CNMI Supreme Court rules to the contrary.
11	LT-01-07 (11/23/01)	CUC - Recover travel overpayments and questionable payment from current and former Board Members.	2,973	This case has been assigned to an Assistant Attorney General for evaluation and collection if appropriate.
12	AR-99-02 (3/29/99)	WRO - Recovery of the balance of a loan receivable made to a CNMI constituent by the former Washington Representative.	2,200	AGO to inform OPA on the results of its review.
13	AR-05-03 (8/12/05)	MHLO - Determine appropriate legal action to be taken to recover improper payments of housing allowances.	54,645	AGO to inform OPA on the results of its review and determination.
Total Amount Recoverable			\$2,735,557	

## **OPA Referrals to AGO for Legal Determinations**

OPA also referred to the AGO recommendations in 3 audit reports requesting for legal determinations as follows:

- *Audit of the Compensatory Time Claimed and Retirement Benefits Paid to Two Former Officials of the Commonwealth Ports Authority* [Report No. AR-00-03 issued on July 20, 2000] - On December 24, 2002, OPA referred recommendation 1 of this audit report to the AGO requesting for a determination on the propriety of the Commonwealth Ports Authority's practice of making advance payments of unused annual leave and salary, instead of complying with the provision in the employment contracts that payments will be made upon contract expiration. In addition, AGO was requested to review OPA's opinion regarding granting six designated officials 14 annual leave hours per pay period.
- *Audit of the Marianas Hawaii Liaison Office* [Report No. AR-05-03 issued on August 12, 2005] - The AGO was requested to issue a determination on whether recovery of funds for double benefits paid to a former Liaison Officer is appropriate and should be pursued.
- *Audit of the Monthly Subsistence Allowance Provided to Members of the Senate* [Report No. AR-03-05 issued on August 6, 2003] - AGO was requested to review and determine whether legislation should be introduced to grant the Senate authority for the subsistence allowance, to set the amount of the allowance, and to certify the allowance as a public purpose. OPA referred its concerns regarding the allowance to the AGO as OPA and the Senate are unable to reach an agreement to address the recommendation.

## **Potential Recovery of \$3.7 Million Hinges on Agencies' Actions**

Recommendations in 8 audit reports identified potential recoveries due to unpaid rentals of land leases, uncollected labor processing fees, overpayments in professional services contracts and retirement benefits, and improper expenditures of public funds.

During its semi-annual follow-up process for the period covering January 1, 2007 through June 30, 2007, OPA has not received an update on the status of recovery of funds by agencies included in the table below. As such, the status of these referrals remain unchanged from the previous report as of December 31, 2006.

Of the \$4,662,816 identified as potentially recoverable, \$950,289 has been partially recovered leaving a balance of \$3,712,527 still recoverable as of June 30, 2007 as shown in the following table.

Report No. (Issue Date)	Particulars	Amount Recoverable	Status per Agency
1 AR-00-04 (11-22-00)	Board of Marianas Public Lands Authority - Collection of rentals from 8 quarry operators for six lease years from 1990 to 1995 totaling \$4,690,708, less \$946,968 write-off for one bankrupt quarry operator resulting in an amount recoverable of \$3,743,740.	\$3,743,740	\$896,747 was recovered from seven quarry operators.  Due to incomplete ledgers provided to OPA on 4/11/06, OPA was unable to ascertain total amount collected from Quarry Operator F as of April 2006.
2 AR-05-02 (6-6-05)	DOL - Audit of Controls Over the Nonresident Worker Application Process. Amount recoverable consists of uncollected fees of \$330,835 from Company A and \$181,575 from Company B.	512,410	The on-going investigation is nearly complete. The Secretary of Labor will keep OPA apprised of any new developments.
3 AR-00-03 (7-20-00)	CPA - NMIRF to recover improper payments to two former CPA officials for retirement benefits and compensatory time claimed.	126,730	Recoupment from the former CPA officials benefits will commence if and when re-employed by the government. For the other former CPA official, pursuant to a stipulation, the case will be returned to the administrative hearing process and a new Notice of Administrative Hearing will be issued.
4 AR-95-18 (10-10-95)	MPLA - Double payment of travel expenses and overpaid per diem allowances to the former Board Chairman, Tinian board member and Rota board member for the period September 1992 to September 1994.  Amount recoverable from the former Rota Board member as of 3/26/04 is \$71,289.14 (principal plus interest); amount recoverable from the former Board Chairman as of 3/26/04 is \$27,743.74 (principal plus interest); and amount recoverable from the former Tinian Board member as of 6/7/04 is \$16,829.45 (principal only). Amount recoverable for the former Tinian Board Member was reduced to \$11,657 pursuant to a court order.  Total amount recoverable from the three former board members is \$115,862.33.	110,690	\$20,400 partially recovered from the former Rota Board member and \$5,825 partially recovered from the former Board Chairman. On 9/29/06, OPA was provided a copy of the former Tinian Board member's account ledger showing that the Court Order in the amount of \$11,657 was fully paid as of 10/28/04.  Due to discrepancies noted in the subsidiary ledgers provided to OPA on 4/11/06, OPA was unable to ascertain the total amount recovered from the two board members.
5 AR-97-05 (3-20-97)	CNMI - Promissory note for \$96,100 on overpayment of two professional services contracts (Contract nos. C40113 and C50108) covering the period October 1, 1991 to July 20, 1995.	96,100	Partial recovery of \$14,000 leaving a balance of \$81,900 still to be recovered.
6 AR-98-06 (12-14-98)	DOF - Funds misused by the former Secretary of Finance from fiscal years 1995	56,462	\$1,125 partially recovered from the former Secretary of Finance.

Report No. (Issue Date)	Particulars	Amount Recoverable	Status per Agency
	to 1997.		
	On 2/22/01, the Federal Court ordered the Secretary of Finance to pay \$56,462 in restitution.		
7 AR-97-05 (3-20-97)	CNMI - Overpayment to contractors of four professional services contracts (Contract nos. C40276, C50083, C50132 & C50208) audited covering the period October 1, 1991 to July 20, 1995.	15,079	DOF is consulting with AGO as to the appropriate course of action(s) that can be taken considering lack of supporting documents and the statute of limitations on these claims.
	Overpayments for C40276 totaling \$10,000 was fully recovered by OMB. Therefore, recovery of \$25,079 is reduced to \$15,079.		
8 AR-03-04 (3-10-03)	AGIU - Recovery of overpayments of per diem from three travelers involved.	1,605	Partial recovery of \$535.
Total Amount Recoverable		\$4,662,816	
Less: Partial Recoveries		(\$950,289)	
Balance of Amount Recoverable as of 6/30/07		\$3,712,527	