



Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

Website: <http://opacnmi.com>

1220 Route 312, Capitol Hill, Saipan, MP 96950

Mailing Address:
P.O. Box 501399
Saipan, MP 96950

E-mail Address:
mail@opacnmi.com
Phone: (670) 322-6481

MEMORANDUM

OPA Ethics Opinion 2025-05

DATE: June 24, 2025

FOR PUBLIC RELEASE PURSUANT TO 1 CMC § 8561(j)

FROM: Ashley Kost, Legal Counsel

Signature:  Date: 6/24/25

REVIEWED BY: Dora I. Deleon Guerrero, Temporary Public Auditor

Signature:  Date: 6/24/2025

Subject: Government Ethics Code Advisory Opinion

The Office of the Public Auditor (“OPA”) received a request for advisory opinions under the CNMI Government Ethics Code regarding two potential conflict of interest scenarios involving a public official. The first scenario involves the public official’s spouse who has a business that provides goods to various retail stores. The retail stores are also vendors who may potentially participate in CNMI government procurement activities. The second scenario involves the public official also being a landlord to a commercial business that also participates in CNMI government procurement activities. The landlord utilizes a third-party property firm to manage the lease agreement and all communications without any direct contact with the public official.

OPA is empowered to offer advisory opinions under 1 CMC § 8561(j) of the CNMI Government Ethics Code Act (“Ethics Code”). This authority is limited to providing interpretations and guidance based on the Ethics Code only. OPA does not have the statutory authority to issue legal opinions regarding other provisions of the CNMI Code or the CNMI Administrative Code. Therefore, any advisory opinion issued by OPA are confined strictly to the interpretation and application of the Ethics Code.

The first scenario described above could present a conflict of interest for the public official if one of the stores that does business with their spouse, also were to bid on government contracts under their control. Section 8532(a) of the Ethics Code states:

[a] public official or public employee shall not use or attempt to use the public position to obtain private financial gain, contract, employment, license, or other personal or private advantage, direct or indirect, for the public official or public employee, for a relative, or for an entity in which the public official or employee has a present or potential economic interest.

Therefore, the public official should recuse themselves' from any decision-making process that involves these companies and delegate the decision-making authority to an alternate, qualified employee to comply with 1 CMC § 8532(a). Furthermore, the designated employee should be mindful in their designated role to ensure they are able to objectively make decisions free from the inherent pressure due to the public official's position.

The second scenario above could also cause a potential conflict of interest for the public official. Although the lease is administered through a third-party property management firm, a conflict of interest may still arise if the tenant participates in procurement processes overseen by the public official. It is important to note that a third-party management firm does not qualify as a blind trust and does not eliminate potential ethical concerns.¹ Even though leasing and management of the commercial property is done by a third-party, the public official benefits from the leasehold income, which would be made more secure with the award of a government contract. Accordingly, the public official should recuse themselves from any procurement activities involving commercial tenants from which they derive rental income. Procurement decisions in such cases should be delegated to another employee to ensure compliance with 1 CMC § 8532(a).

It should be noted that the stated purposes of the Ethics Code include developing public confidence in persons holding public office, enhancing the dignity of public offices, and assuring the community that public officials are free of the influence of undisclosed private or business interests in their official actions. 1 CMC § 8052(a). These policies can be undermined, even in the absence of an actual conflict of interest, whenever there is an appearance of impropriety. These situations should be examined on a case-by-case basis to determine when recusal is in the best interest of the CNMI.

¹ 1 CMC § 8516 discusses the utilization of blind trusts for public officials during their service in public office.