# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
# SAIPAN, TINIAN, ROTA and NORTHERN ISLANDS

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# COMMONWEALTH REGISTER

## VOLUME 43
## NUMBER 05
## MAY 28, 2021

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# COMMONWEALTH REGISTER

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# NORTHERN MARIANAS HOUSING CORPORATION

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**PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS OF The Northern Marianas Housing Corporation**

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED REGULATIONS
Volume 43, Number 02, pp. 045071-045407 of February 28, 2021

**ACTION TO ADOPT PROPOSED REGULATIONS:** The Northern Marianas Housing Corporation (NMHC) HEREBY ADOPTS AS PERMANENT the Proposed Regulations which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC § 9104(a). The NMHC announced that they intended to adopt these regulations as permanent, and now do so. I also certify by signature below that: as published, Adopted Regulations are a true, complete, and correct copy of the referenced Proposed, and they are being adopted with modifications.

**PRIOR PUBLICATION**: The prior publication was as stated above.

**MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY:**

1. The New Construction for Homeownership Opportunity and First-Time Homebuyer Assistance Program Policies and Procedures is being adopted with modifications. Modifications are outlined in Exhibit A attached.
2. The Homeowner Rehabilitation and Reconstruction Program is being adopted with modifications. Modifications are outlined in Exhibit B attached.
3. The Homebuyer Activities Program is being adopted with modifications. Modifications are outlined in Exhibit C attached.
4. The Affordable Rental Housing Development Program is being adopted with modifications. Modifications are outlined in Exhibit D attached.
5. The Infrastructure Program Policies and Procedures is being adopted with modifications. Modifications are outlined in Exhibit F attached.
6. The Tourism Policies and Procedures is being adopted with modifications. Modifications are outlined in Exhibit G attached.

I further request and direct that this Notice be published in the Commonwealth Register.

I further request and direct that this Notice be published in the Commonwealth Register.

**AUTHORITY**: The Northern Marianas Housing Corporation is empowered by the Legislature with the authority to adopt and modify rules and regulations for the administration and enforcement of its housing programs. 2 CMC § 4433(i).

**THE TERMS AND SUBSTANCE**: The Adopted Regulations represent a substantial revision to the housing, infrastructure, and economic development regulations and are in conformity with NMHC's obligation to operate the CDBG-DR program consistent with the CNMI Action Plan and Federal Register, Vol. 85, No. 17 issued January 27, 2020, as amended and effective February 3, 2020.

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

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

**COMMENTS AND AGENCY CONCISE STATEMENT**: Pursuant to the APA, 1 CMC § 9104(a)(2), the agency shall consider all written submissions respecting the Proposed Regulations. No written comments were submitted to NMHC on the Proposed Regulations.

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

The Adopted Regulations were approved by the Northern Marianas Housing Corporation through the approval of the Board of Directors during its meeting on May 24, 2021 and the Board of Directors was authorized to promulgate these regulations on behalf of the Northern Marianas Housing Corporation.

I DECLARE under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on 25th day of May, 2021, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by: _____ 05/25/21

MERCED "MARCIE" M. TOMOKANE
Chairperson
Board of Directors

Date

Filed and
Recorded by: _____ 05.28.2021

ESTHER SN. NESBITT
Commonwealth Registrar

Date

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

Dated this 27 of May, 2021.

_____

EDWARD MANIBUSAN
Attorney General

**NEW CONSTRUCTION FOR HOMEOWNERSHIP OPPORTUNITY AND FIRST-TIME HOMEBUYER ASSISTANCE PROGRAM POLICIES AND PROCEDURES**

**TRACKED POLICY AND PROCEDURAL CHANGES**

| NEW | PAGE NO. AND AMENDED SECTION/SUBSECTION | RATIONALE/REASON(S) FOR CHANGES |
|---|---|---|
| **Amended** Cover Page to update version number:<br><br>From Version 1.0 to Version 1.1. Add version number under Table of Contents | Cover Page, Page 044748 | The policy published on the Commonwealth Register was revised with the below changes. |
| **Replaced** "Eligible first-time homebuyer" with "CNMI/Northern Marianas Housing Corporation" | 1.0 Policies, Section 1.3 Definitions, "Grantee", Page 044752 | HUD/ICF comments and recommendations |
| **Amended** Section 2.1 to update allocation amount:<br><br>$44,407,033 and/or as detailed in the CDBG-DR Action Plan and Amendments from $41,120,667 | 2.0 Program Overview, Section 2.1 Total Allocation, Page 044755 | HUD supplemental funding for CDBG-DR Housing programs |
| **Added** additional ineligible activity:<br>Is located in a floodplain. | 2.0 Program Overview, Section 2.5 Ineligible Activities, Page 044756 | HUD/ICF comments |
| **Replaced** "at the time of the event" with "at the time of application or have been a resident of the CNMI at the time of the qualifying event" | 2.0 Program Overview, Section 2.13 Program Solutions, Paragraph 5, Page 044759 | HUD/FHEO COMMENTS |
| **Added** CDBG-DR before home | 2.0 Program Overview, Section 2.13 Program Solutions, 2.13.2 Option 2 Have a Lot, Build a Home (New construction on homebuyer's land): Prioritization Criteria, page 044760 | HUD/ICF comments |
| **Deleted** "(per project site). Two project sites are proposed." under Option 1: Turnkey Solution $20,000,000. | 2.0 Program Overview, Section 2.14 Level and Terms of Assistance, Page 044760 | To have flexibility in number of project sites. |
| **Amended** Subsection 2.14 to update allocation amount:<br><br>Option 2: Have a Lot, Build a Home Solution $24,407,033 from $21,120,667. | 2.0 Program Overview, Section 2.14 Level and Terms of Assistance, Page 044760 | HUD supplemental funding for CDBG-DR Housing Programs |
| **Amended** | 2.0 Program Overview, Section 2.16 First-Time Homebuyer Applicant Eligibility Criteria and Prioritization, Page 044761 | HUD/FHEO COMMENTS |

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|---|---|---|
| Must be a resident of the CNMI at the time of application or have been a resident of the CNMI at the time of the qualifying event. Priority given to those who have been displaced by the typhoon. | | |
| **Removed** the words "Monitoring and" on the second paragraph of this section to reflect just "the Compliance division." | Appendix A.1: Crosscutting Requirements, Section 1.5 Limited English Proficiency, Paragraph 2, Page 044765 | HUD/ICF comments |
| **Replaced** the word "CNMI" with "territory" | Appendix A.1: Crosscutting Requirements, Section 1.7 Section 3 Economic Opportunities, Paragraph 6, Page 044767 | HUD/ICF comments |
| **Replaced** the word "CNMI" with "territory" | Appendix A.1: Crosscutting Requirements, Section 1.7 Section 3 Economic Opportunities, Paragraph 2, Page 044767 | HUD/ICF comments |
| **Added** new section: "Demonstrable Hardship" | Appendix A.1: Crosscutting Requirements, Demonstrable Hardship, Page 044768 | HUD/ICF comments |
| **Added** new section: "Not Suitable for Rehabilitation" | Appendix A.1: Crosscutting Requirements, Not Suitable for Rehabilitation, Page 044768 | |

**HOMEOWNER REHABILITATION AND RECONSTRUCTION POLICIES AND PROCEDURES**
**TRACKED POLICY AND PROCEDURAL CHANGES**

| | | |
|---|---|---|
| **Amended** to update allocation amount:<br><br>**$39,407,033** and/or as detailed in the CDBG-DR Action Plan and Amendments | Part 001- General Provisions, § 100-100.4-001 Introduction, Paragraph 1, Page 044810 | HUD supplemental funding for CDBG-DR Housing Programs |
| **Replaced** "Office of Housing" to "Housing Division" | Part 001- General Provisions, § 100-100.4-001 Introduction, Paragraph 4, Page 044810 | To properly identify the division |
| **Replaced** "Office of Housing staff, contractors, and homeowners" to "Housing Division staff and contractors" | Part 100- Purpose and Requirements, § 100-100.4-101 Purpose of the Program, Paragraph 2, Page 044812 | To properly identify the division |
| **Added** "Eligible households over 80% AMI will meet the national objective of urgent need;" | Part 100- Purpose and Requirements, § 100-100.4-103 General Requirements, item (a), Page 044813 | HUD/ICF comments |
| **Added** "In compliance with the Stafford Act, NMHC must determine that any assistance deemed to be duplicative must be deducted from the calculation of the applicant's total need prior to awarding the funds." | Part 200- Loan Specifications, § 100-100.4-201 Loan Amount, item (a), Page 044814 | HUD/ICF comments |
| **Split** section into two separate sections: 30.01% to 50% and 80.01% to 120%. | Part 200- Loan Specifications, § 100-100.4-205 Target Group, item (b) and item (d), Page 044816 | To properly display the separate income limits |
| **Added** new section: "(c) 50.01% to 80%: Very low- to low-income families with limited financial resources; a 50% non-interest bearing loan and 50% forgivable loan shall apply throughout the term of the loan with an affordability period of 20 years on a 30-year term. If there are no missed payments during the affordability period, any remaining principal balance may be forgiven." | Part 200- Loan Specifications, § 100-100.4-205 Target Group, item (c), Page 044816 | This income limit section was not mentioned in the prior version. |
| **Amended** 120% of Median Income Limits. | Part 200- Loan Specifications, § 100-100.4-220 Interest Rate and Type of Assistance, Table 3, Page 044819 | To reflect most updated 120% of Median Income Limits |

| NORTHERN MARIANA ISLANDS HOME INCOME LIMITS 2020 | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Person Household | 1 Person | 2 Person | 3 Person | 4 Person | 5 Person | 6 Person | 7 Person | 8 Person |
| 120% of Median Income | $40,400 | $46,200 | $51,950 | $57,700 | $62,350 | $66,950 | $71,550 | $76,200 |

PREVIOUS:

| NORTHERN MARIANA ISLANDS HOME INCOME LIMITS 2020 | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Person Household | 1 Person | 2 Person | 3 Person | 4 Person | 5 Person | 6 Person | 7 Person | 8 Person |
| 120% of Median Income | $40,440 | $46,200 | $51,960 | $57,720 | $62,400 | $66,960 | $71,640 | $76,200 |

| | | |
|---|---|---|
| **Added** "or https://www.hudexchange.info/incomecalculator/" | Part 200- Loan Specifications, § 100-100.4-220 Interest Rate and Type of Assistance, Table 3, Page 044819 | For anyone looking to find the income limits |
| **Replaced** "The applicant and the inspection personnel (A&E firm), as well as the responsible loan specialist, shall work cooperatively to develop the scope of work for the project." with "The inspection personnel (A&E firm) as well as the responsible project division staff, shall work cooperatively to develop the scope of work for the project." | Part 300- Loan Application Process, § 100-100.4-325 Initial Inspection of Residence, Paragraph 1, Page 044825 | To properly identify roles and responsibilities |
| **Replaced** "CNMI" with "NMHC" | Part 300- Loan Application Process, § 100-100.4-335 Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58), item (a), Page 044827 | HUD/ICF comments |
| **Removed** "and (4) The footprint of the building will not increase in a floodplain or in a wetland." | Part 300- Loan Application Process, § 100-100.4-335 Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58), item (b), Page 044827 | HUD/ICF comments |
| **Added** "and there are no more than 4 dwelling units on any one site." | Part 300- Loan Application Process, § 100-100.4-335 Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 C.F.R Part 58), item (c), Page 044827 | HUD/ICF comments |
| **Replaced** "Rehab Environmental Review (RER)" with "Broad-Level CEST Review" | Part 300- Loan Application Process, § 100-100.4-335 Environmental Review Procedures for Entities Assuming HUD Environmental | HUD/ICF comments |

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|---|---|---|
| | Responsibilities (24 C.F.R. Part 58), item (d) # (1), Page 044827 | |
| **Added** "Site-Specific Review" | Part 300- Loan Application Process, § 100-100.4-335 Environmental Review Procedures for Entitles Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58), item (d) # (2), Page 044827 | HUD/ICF comments |
| **Added** "if applicable." | Part 300- Loan Application Process, § 100-100.4-340 Rehabilitation or Reconstruction Loan Application, item (b), Page 044828 | HUD/ICF comments |
| **Replaced** "Office of Housing" to "Housing Division" | Part 300- Loan Application Process, § 100-100.4-355 Administration, Approval, Appeals Process, item (a) # (1), Page 044829 | HUD/ICF comments |
| **Added** "or loan specialists" and "(first batch of applications)" | Part 300- Loan Application Process, § 100-100.4-355 Administration, Approval, Appeals Process, item (a) # (2), Page 044829 | To place a limit on the number of reviews by the MCD Manager |
| **Replaced** "Office of Housing" to "Housing Division" | Part 300- Loan Application Process, § 100-100.4-355 Administration, Approval, Appeals Process, item (a) # (2), Page 044829 | Proper identification |
| **Added** "and eventual transition to the Housing Administrator" | Part 300- Loan Application Process, § 100-100.4-355 Administration, Approval, Appeals Process, item (b), Page 044830 | To explain that the MCD Manager will not review loans for the entire program period |
| **Added** "/Housing Administrator" | Part 300- Loan Application Process, § 100-100.4-355 Administration, Approval, Appeals Process, item (b), Page 044830 | Proper title |
| **Added** "The other agency's environmental review must cover all project activities funded by the HUD recipient for each project." | Appendix A.1: Crosscutting Requirements, 1.3 Environmental Review, Paragraph 3, Page 044855 | HUD/ICF comments |
| **Replaced** "Further information concerning the environmental review process is set forth in the Environmental Policies and Procedures." with "Further information concerning the specific HUD requirements for the adoption of other Federal agency environmental reviews can be found in the HUD Memorandum dated March 4, 2013, Adoption of FEMA and Other Federal Environmental Reviews Processing for | Appendix A.1: Crosscutting Requirements, 1.3 Environmental Review, Paragraph 3, Page 044855 | HUD/ICF comments |

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|---|---|---|
| Hurricane Sandy Supplemental Appropriation (H.R. 152) Activities. Additional information on the environmental review process in general is set forth in Section § 100-100.4-335, Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58)." | | |
| **Added** new section: "Appendix A.3: Environmental Review"<br>Policy and Procedures<br>• Tier I Review: Target Ares Assessment<br>• Tier II: Site Specific Project Review<br>Environmental Procedures<br>• Step 1: Environmental Review Determination<br>o 1. Exempt – Subject to Related Laws at 24 CFR 58.34<br>o 2. Categorically Excluded, not Subject to 58.5. (24 CFR 58.35)<br>o 3. Categorically Excluded Subject to 58.5<br>o 4. Subject to an Environmental Assessment (24 CFR 58.36)<br>o 5. Subject to an environmental impact statement (24 CFR 58.37)<br>• Step 2: Preparation of Environmental Review<br>o Tiered Environmental Review<br>o 8-Step Decision Making Process for Projects in the Floodplain<br>• Step 3: Publication of Notice of Intent (NOI) Request for Release of Funds (RROF) and Finding of No Significant Impact (FONSI)<br>o Categorical Exclusions<br>o Environmental Assessments (EA) | Appendix A.3: Environmental Review, Page 044885 | HUD/ICF comments |

CDBG-DR TRACKED CHANGES (PROGRAM POLICIES AND PROCEDURES)

| CDBG-DR PROGRAM | AMENDMENTS | PAGE NO. and AMENDED SECTION and SUBSECTION | RATIONALE/REASON(S) FOR CHANGES |
|---|---|---|---|
| HOMEBUYER | **Added** a new section **§ 100-100.3-610 Homebuyer/New Construction Counseling Session** | Page 044770; PART 600 LOAN PROCESSING | HUD recommended to include in the policy |
| HOMEBUYER | **Amended** subsection 100-100.3-001 (a) to update amount: **$44,407,033** | Page 044772; § 100-100.3-001 (a) | HUD supplemental funding for CDBG-DR Housing Programs |
| HOMEBUYER | **Amended** § 100-100.3-001 to add the following new subsections:<br>**(b) At the time of Typhoon Mangkhut and Super Typhoon Yutu, the CNMI was still and most recently recovering from Typhoon Soudelor that hit the islands in 2015. The Soudelor event received only FEMA assistance and did not receive HUD CDBG-DR funds so recovery efforts have been slow and on-going.**<br>**(c) A shortage of available homes for sale or vacant house lots was in existence prior to the typhoons mentioned above. Overall damage to the housing stock compounded the shortage of affordable housing stock. Further, in July of 2017, there were still 2,614 homestead applicants on the waiting list per the Department of Public Lands.**<br>**(d) The CDBG-DR Homebuyer Program provides an opportunity for first-time homebuyers to build resilient homes in lower risk areas and to add to the housing stock of typhoon-proof homes.** | Page 044772; § 100-100.3-001 | HUD comments/recommendations |

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| HOMEBUYER | **Amended** § 100-100.3-001 to move down and renumber subsection 100-100.3.-001 (b) to subsection 100-100.3.-001 (e):<br><br>**(e) Funds will be made available for eligible projects and to eligible beneficiaries through the following forms of financial assistance or subsidy:**<br><br>**(1) Interest bearing loans (not applicable at this time);**<br>**(2) Non-interest-bearing loans;**<br>**(3) No-interest subsidies**<br>**(4) Forgivable Deferred loans** | Page 044772; § 100-100.3-001 | Renumbered |
| HOMEBUYER | **Amended** § 100-100.3-001 to move down and renumber subsection 100-100.3.-001 (b) to subsection 100-100.3.-001 (f) and add more language to this provision:<br><br>**(f)** Due to the limited availability of CDBG-DR funds allocated to the Commonwealth of the Northern Mariana Islands (CNMI) from the U.S. Department of Housing and Urban Development (HUD), financial assistance will be limited to qualified extremely low, very low-, low-, and moderate-income homebuyers. No less than eighty percent (80%) of CDBG-DR funds will be used to assist families with income levels at or below 80 percent of the area median income while the remaining twenty percent (20%) of the funds will be used to assist families with income levels at or below 120 percent of the area median income. **Eligible households over 80% AMI will meet the national objective of urgent need.** These families' income eligibility is based on their annual income. Annual income for this purpose is the gross amount of income anticipated by | Page 044772; § 100-100.3-001 | Renumbered and amended provisional language per HUD's comments/recommendations |

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| | all adults in a family during the 12 months following the effective date of the determination. The determination of income and allowances as a criterion to qualify these homebuyers shall be guided by 24 CFR Part 5 (Part 5 annual income). | | |
| HOMEBUYER | **Amended** § 100-100.3-105 (a) 4 and (a) 5:<br><br>§ 100-100.3-105 Supplemental Information<br><br>(a) Completed applications shall be submitted together with the following supporting information which shall be used solely for the purpose of determining applicant eligibility for financial assistance:<br><br>(1) Prior year's income tax return and/or W-2 Tax Form;<br><br>(2) Recent check stubs for the past two months prior to applying for CDBG-DR program financial assistance of all household members that are 18 years old or older;<br><br>(3) Other forms of documentation of income (i.e., Social Security payments, SSI, retirement income, etc.), if any;<br><br>**(4) If property has been identified, proof of land ownership or lease agreement for principal residence to be used as collateral for the loan;**<br><br>**(5) If no land ownership or lease agreement is available, lot number and lot description;** | Page 044775; § 100-100.3-105 (a) 4 and (a) 5 | HUD comments/recommendations |

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| HOMEBUYER | **Amended** § 100-100.3-201(c):<br><br>**(c) Must be a resident of the CNMI at the time of application or have been a resident of the CNMI at the time of the qualifying event.** | Page 044776; § 100-100.3-201 (c) | HUD FHEO comment: Residency requirement is unconstitutional. |
| HOMEBUYER | **Amended** § 100-100.3-201 (d)(1):<br><br>(d) Household Income.<br><br>(1) Homebuyer(s) must qualify as a low-income household as defined in the HOME program. Income eligibility is determined based on annual income. Combined anticipated gross household income of adults 18 years old or older, must not exceed 80% of the median income for the area (adjusted for family size), as prescribed by HUD (see § 100-100.3201(a)(2)). However, household income of adults 18 years old or older exceeding 80% of the median income for the area but not greater than 120% will also be eligible for assistance.<br><br>**The Area Median Income for the Northern Mariana Islands as established by the U.S. Department of Housing and Urban Development for the HOME program as periodically revised is provided below and referenced below. NMHC shall comply with any revisions that the U.S. Congress enacts.** | Page 044776; § 100-100.3-201 (d)(1) | HUD comment/recommendation |

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| | **NORTHERN MARIANA ISLANDS HOME INCOME LIMITS 2020**<br><br>For most current HOME or CDBG-DR 120% program income limits published by U.S. Department of Housing and Urban Development, please go to https://www.hudexchange.info/programs/home/home-income-limits/ or https://www.hudexchange.info/incomecalculator/ | | |
| HOMEBUYER | **Amended** § 100-100.3-201 (e):<br><br>(e) Determination of Repayment Ability<br><br>NMHC shall use **forty-five percent** (45%) (or most current ratio) of the gross monthly income of both applicant and co-applicant (homebuyers) combined, to determine the amount of available debt-service or | Page 044776; § 100-100.3-201 (e) | HUD comment/recommendation |

| Person Household | 1 Person | 2 Person | 3 Person | 4 Person | 5 Person | 6 Person | 7 Person | 8 Person |
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| 15% of Median Income | $5,055 | $5,775 | $6,495 | $7,215 | $7,800 | $8,370 | $8,955 | $9,525 |
| 30% of Median Income | $10,150 | $11,600 | $13,050 | $14,450 | $15,650 | $16,800 | $17,950 | $19,100 |
| 50% of Median Income | $16,850 | $19,250 | $21,650 | $24,050 | $26000 | $27,900 | $29,850 | $31,750 |
| 80% of Median Income | $26,950 | $30,800 | $34,650 | $38,500 | $41,600 | $44,70 0 | $47,750 | $50,850 |
| 120% of Median Income | $40.40 | $46,200 | $51,950 | $57,700 | $62,350 | $66,950 | $71,550 | $76,200 |

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| | repayment ability. Any remaining debt-service or repayment ability after existing monthly obligations (long- and short-term combined) is/are subtracted from the total available debt-service (not to exceed **thirty-five percent (35%)** of gross monthly income for loan mortgage payment **(principal and insurance)** | | |
| HOMEBUYER | **Amended** § 100-100.3-501 (a)<br><br>**§ 100-100.3-501 Notification of Eligibility or Ineligibility**<br><br>(a) Eligible Applicants. NMHC shall send written notifications to all applicants determined eligible for financial assistance. Such notification shall be mailed no later than five working days after the determination, and shall contain a listing of additional information to be submitted for completion of loan file. Eligible applicant(s) shall be given thirty calendar days to submit the additional information requested. Applicant(s) that do not submit all pending information before the thirty (30) calendar day deadline, shall have their application file **placed on hold until required documentation/information is submitted.** | Page 044782; § 100-100.3-501 (a) | Board comment/recommendation |
| | **Amended** PART 600 to include a new section:<br><br>**§ 100-100.3-610 Homebuyer/New Construction Counseling Session**<br><br>(a) All applicants for loan assistance must attend a Homebuyer/New Construction Education and Counseling Session that will be provided by NMHC. On or before August 1, 2021, NMHC employees providing housing counseling will be HUD certified housing counselors, and NMHC will have applied directly to HUD and received approval, or NMHC will have applied to a HUD-approved intermediary and received approval by the entity to be its affiliate. NMHC shall notify the applicant(s) of the date, time, and location of the session. The education and counseling session shall be scheduled after the loan has been preliminarily approved and may be conducted before or on the | Page 044783; Part 600 | HUD comment/recommendation |

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| | day that NMHC issues the commitment letter to the applicant(s). The counseling session shall include a discussion of the terms and conditions of the loan, educate the new homeowner(s) of their financial responsibilities, the importance of budgeting, making timely payments, foreclosure prevention, as well as, home maintenance and repair measures. Acceptable delivery method for housing counseling may be in-person, phone, or internet. Duration of the housing counseling is eight (8) hours. Upon completion of the housing counseling, the borrower(s) will receive a counseling certificate and this counseling certificate is valid for 2 years. Funding for housing counseling will come from project-related soft costs.<br><br>(b) NMHC shall inform applicant(s) at the time of their submission of their application of the required homebuyer/new construction counseling session and again in written form when NMHC notifies the applicant(s) of NMHC's preliminary approval of their loan request. Failure to attend the required Homebuyer/New Construction Education and Counseling Session may be grounds for denial or cancellation of assistance. | | |

**AFFORDABLE RENTAL HOUSING DEVELOPMENT PROGRAM POLICIES AND PROCEDURES**
**TRACKED POLICY AND PROCEDURAL CHANGES**

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| **Changed** version number from "Version 1.0" to "Version 1.1" and effective date from "December 31, 2020" to "May 10. 2021." | Cover Page, Page 044886 | The policy published on the Commonwealth Register was revised with the below changes. |
| **Amended** to update allocation amount:<br><br>$39,407,033 and/or as detailed in the CDBG-DR Action Plan and Amendments from $36,120,667 | 1.0 Introduction, Section 1.1 Summary, Item 1, Page 044889 | HUD supplemental funding for CDBG-DR Housing Programs |
| **Replaced** "NMHC defines affordable rent as rental costs (including utilities) that do not exceed 30% of a renter's income." with "NMHC defines affordable rents as defined in the LIHTC program, i.e., rents set at a rate not greater than 30% of 50% of median or 30% of 60% of median income." | 1.0 Introduction, Section 1.1 Summary, Item 2, Page 044889 | HUD/ICF comments |
| **Replaced** "Affordable rent: Rental housing costs, including utilities. that is no more than 30 percent of a low- to moderate income household's gross (pre-tax) income." with "Affordable rent: Rental housing costs, including utilities, as defined in the LIHTC program, i.e., rents set at a rate not greater than 30% of 50% of median or 30% of 60% of median income." | 2.0 Policies, Section 2.4 Definitions, Item (1), Page 044891 | HUD/ICF comments |
| **Replaced** "Affordable unit: A housing unit in which the total rental expenses (including utilities) does not exceed 30 percent of a low- to moderate- income household's (pre-tax) income. "Affordable unit: A Housing unit in which the tenant is the recipient of rental assistance and the total rental expenses (including utilities) does not exceed 30 percent of a low-to moderate income household's (pre-tax) income, or alternatively for units in which tenants do not receive rental assistance the rents are set at rates not greater than the maximum amounts as permitted in the LIHTC program." | 2.0 Policies, Section 2.4 Definitions, Item (2), Page 044891 | HUD/ICF comments |
| **Added** "or if a tenant has project-based assistance." | 2.0 Policies, Section 2.4 Definitions, Item (37), Page 044895 | HUD/ICF comments |
| **Replaced** "der" with "under" | 2.0 Policies, Section 2.4 Definitions, Item (47), Page 044896 | HUD/ICF comments |
| **Replaced** "For LIHTC projects, rents are restricted and calculated using HUD income limits." with "For LIHTC projects, rents are set based on market conditions and at rates not greater than permitted under the LIHTC program and rents are restricted based on income limits published by HUD." | 3.0 Program Overview, Item (2), Page 044897 | HUD/ICF comments |

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| **Replaced** "pubic" with "public" | 3.0 Program Overview, Section 3.1 Affordable Rental Housing Development Program, Item (1), Page 044897 | HUD/ICF comments |
| **Replaced** "individually-scattered houses" to "scattered-site houses" | 3.0 Program Overview, Section 3.1 Affordable Rental Housing Development Program, Item (2), Page 044897 | HUD/ICF comments |
| **Updated** Allocation amount to $39,407,033 from $31,120,667. | 3.0 Program Overview, Section 3.2 Total Allocation, Page 044897 | HUD/ICF comments |
| **Added** "(Typhoon Mangkhut and/or Super Typhoon Yutu)" and "(Federal Register, Vol. 85, No. 17 issued January 27, 2020, as amended and effective February 3, 2020)" | 3.0 Program Overview, Section 3.3 Tie-back to the Storm, Page 044897 | HUD/ICF comments |
| **Removed** "(only if structure is elevated)" | 3.0 Program Overview, Section 3.5 Eligible Activities, Item (3)(e)(vii) & (viii) Page 044899 | HUD/ICF comments |
| **Added** "specifically, HUD has identified allocations to the jurisdictions of Saipan, Tinian, and Rota, with Saipan and Tinian earmarked as a "most impacted and distressed" area. No less than 80% of the funding shall be allocated to the Saipan and Tinian Municipalities." | 3.0 Program Overview, Section 3.9 Geographic Area(s) Served, Page 044900 | HUD/ICF comments |
| **Replaced** "a housing project" to "multifamily program" | 3.0 Program Overview, Section 3.10 Maximum Award, Item (1), Page 044900 | HUD/ICF comments |
| **Added** "(excluding LIHTC unit cap)" | 3.0 Program Overview, Section 3.10 Maximum Award, Item (1), Page 044900 | HUD/ICF comments |
| **Updated** The maximum CDBG-DR award amount for rental housing of LMI residents to $8,286,366 from $5,000,000. | 3.0 Program Overview, Section 3.10 Maximum Award, Item (2), Page 044900 | Supplemental amount added |
| **Replaced** "New construction or reconstruction of individual houses to be used as rental housing is also capped at $200,000." with "New construction or reconstruction of individual houses to be used as rental housing is capped at $250,000." | 3.0 Program Overview, Section 3.10 Maximum Award, Item (2), Page 044900 | To be consistent with other housing programs |
| **Replaced** "which do not allow households above 60% AMI." with "which do allow households up to 80% of AMI provided that the overall income for a project is at or less than 60% of AMI (through income averaging)." | 3.0 Program Overview, Section 3.10 Maximum Award, Item (3), Page 044900 | To reflect current practices in the LIHTC program |
| **Removed**<br>a. Amortized Loans: | 3.0 Program Overview, Section 3.10 Maximum Award, Item (3), Page 044901 | HUD/ICF comments. NMHC is not pursuing these options. |

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| i. Requires repayment (annually).<br>ii. Interest rates will range from zero percent (0%) to rates that will typically be lower than market lending rates (interest rates will be determined by cash flow projections and will be negotiated with the implementing agency (NMHC), plus allowable fees. A Deed of Trust will be secured for the length of the Affordability Period, or the term of the loan, whichever is longer.<br><br>b. Deferred Payment Loans:<br>i. Loan terms can be from 10 - 20 years, or at the sale or transfer of the property.<br>ii. Interest rates will range from zero percent (0%) to rates that will typically be lower than market lending rates (interest rates will be determined by cash flow projections and will be negotiated with the implementing agency (NMHC), plus allowable fees. A Deed of Trust will be secured for the length of the Affordability Period, or the term of the loan, whichever is longer.<br><br>d. Non-Interest-Bearing Loans<br>i. Loan terms vary and will be negotiated with the implementing agency (NMHC). Interest rate is zero percent (0%).<br>ii. The principal is paid back on a regular basis (annually), but no interest is charged.<br>iii. A Deed of Trust will be secured for the length of the Affordability Period, or the term of the loan, whichever is longer.<br><br>e. Surplus Cash Loans<br>i. If full amortization is not feasible due to limited cash flow, funds shall be repaid from an agreed upon percentage split of surplus cash on an annual or bi-annual basis. Borrowers must provide an Annual Cash Flow Analysis Report that demonstrates the calculation and accrual of applicable surplus cash funds. | | |
| **Removed** "ii. Most commonly used for projects with special needs populations or target below the loan income AMI threshold populations." | 3.0 Program Overview, Section 3.10 Maximum Award, Item (5)(I)(ii), Page 044901-044902 | HUD/ICF comments |
| **Replaced** "Ten (10) years" with "twenty (20) years" | 4.0 Underwriting Criteria and Program Commitments, Section 4.1 | HUD/ICF comments |

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| | Timing of Underwriting Reviews, Item (5)(b), Page 044904 | |
| **Replaced** "In the case of a transaction involving a change of use, the acquisition price must not exceed the lesser of the "as is" appraised value or the "as completed" appraised value based on the project's projected end use" with "In the case of a transaction involving a change of use, the acquisition price must not exceed the "as is" value of the property." | 4.0 Underwriting Criteria and Program Commitments, Section 4.3 Acquisition, Item (4) (b), Page 044905 | HUD/ICF comments |
| **Added** "The funds shall be paid for from a source other than CDBG-DR funds (such as equity proceeds, lender funds, etc.) and" | 4.0 Underwriting Criteria and Program Commitments, Section 4.8 Reserves, 4.8.1 Rent-up Reserves, Item (1), Page 044908 | HUD/ICF comments |
| **Added** "(funded out of equity proceeds or other sources of funds; not CDBG-DR funds)" | 4.0 Underwriting Criteria and Program Commitments, Section 4.8 Reserves, 4.8.3 Operating Reserves, Item (1), Page 044909 | HUD/ICF comments |
| **Replaced** "For the existing allocation, NMHC will be considered a qualified developer. If funding becomes available as noted in the Action Plan or Amendments, other qualified developers may be for-profit or not-for-profit housing developers applying to rehabilitate, reconstruct or develop new rental housing." with "For the existing allocation, NMHC may be considered a qualified developer and compete with other qualified developers that are for-profit or not-for-profit housing developers applying to rehabilitate, reconstruct or develop new rental housing." | 5.0 Program Administration, Section 5.4 Eligibility Criteria, Item (1), Page 044911 | HUD/ICF comments |
| **Replaced** "NMHC will act as the initial developer and take precedence over other developers and if no other housing projects are construction ready for rehabilitation or new construction. NMHC will review other project according to Program priorities and criteria for funding. Eligible and feasible projects submitted through this process are reviewed by NMHC CDBG-DR Division for available funding." with "NMHC may act as a developer and compete with other developers to take on housing projects either for rehabilitation or new construction. A third-party reviewer such as a PHA from another jurisdiction will select the project based on priorities and criteria for funding." | 5.0 Program Administration, Section 5.7 Project Selection, Page 044911-044912 | HUD/ICF comments |
| **Added** "for all projects" and "(LIHTC unit cap not included)" | 5.0 Program Administration, Section 5.11 Award Calculation for Project Scope and Budget Proposals, Item (3), Page 044913 | HUD/ICF comments |
| **Replaced** "scattered" with "site" | 5.0 Program Administration, Section 5.11 Award Calculation for Project | HUD/ICF comments |

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| | Scope and Budget Proposals, Item (3), Page 044913 | |
| **Updated** maximum total award to $8,286,366 from $5,000,000. | 5.0 Program Administration, Section 5.11 Award Calculation for Project Scope and Budget Proposals, Item (3), Page 044913 | Added supplemental funding |
| **Removed** "xviii. Builder procured" | 5.0 Program Administration, Section 5.15 Agreements, Item (m) (xviii), Page 044916 | HUD/ICF comments |
| **Added** "be" and "NMHC's" | 5.0 Program Administration, Section 5.20 Flood Insurance Policy, 5.20.5 5.20.5 Environmental Inspection Request and Clearance, Page 044925 | HUD/ICF comments |
| **Added** Appendix A Environmental Procedures<br>• Step 1: Environmental Review Determination<br>o 1. Exempt – Subject to Related Laws at 24 CFR 58.34<br>o 2. Categorically Excluded, not Subject to 58.5. (24 CFR 58.35)<br>o 3. Categorically Excluded Subject to 58.5<br>o 4. Subject to an Environmental Assessment (24 CFR 58.36)<br>o 5. Subject to an environmental impact statement (24 CFR 58.37)<br>• Step 2: Preparation of Environmental Review<br>o Tiered Environmental Review<br>o 8-Step Decision Making Process for Projects in the Floodplain<br>• Step 3: Publication of Notice of Intent (NOI) Request for Release of Funds (RROF) and Finding of No Significant Impact (FONSI)<br>o Categorical Exclusions<br>o Environmental Assessments (EA)<br>• Step 4: Preparation and Submission of the Request for Release of Funds (RROF)<br>• Step 5: After Approval of the Environmental Review Record<br>• Step 6: Environmental Review Recordkeeping | Appendix A, Page 044926 | HUD/ICF comments. Need to include environmental language in the policy |

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| INFRASTRUCTURE | **Amended** "Appendices" page (Page 044991) changing the Heading "Appendix" to "Appendices." In addition, corrected and removed Appendix C: HUD Rider and replacing it with Appendix C: Intergovernmental Agreement. Full Text of Intergovernmental Agreement is posted below and attached. The wrong documented was referenced and provided in the regulations.<br><br>**APPENDI~~X~~CES:**<br>1. **Appendix A: Crosscutting Requirements and Process Overview**<br>2. **Appendix B: Project Application Form**<br>3. **Appendix C: ~~HUD Rider~~ Intergovernmental Agreement** | Page 044991; Appendices page. | Clerical Error |

*NORTHERN MARIANAS HOUSING CORPORATION ("NMHC")*

*INTERGOVERNMENTAL AGENCY AGREEMENT*

*BETWEEN*

*NMHC (GRANTEE)*

*AND*

*[INTER-GOVERNMENTAL AGENCY NAME]*

This INTERGOVERNMENTAL AGENCY AGREEMENT, hereinafter called "Agreement", made this _____ day of _____, **2021**, by and between the **Northern Marianas Housing Corporation ("NMHC")** hereinafter called the "Grantee", whose address is P.O. Box 500514, Saipan, MP 96950, and the **[Inter-governmental Agency Name]]** hereinafter called the "Agency", whose address is **[Inter-governmental Agency Address]** concerning the **[Enter Project Title].**

**WITNESSETH**

WHEREAS, the Grantee has received Community Development Block Grant Disaster Recovery (CDBG-DR) funds from the U.S. Department of Housing and Urban Development ("HUD") under Title I of the Housing and Community Development Act of 1974, as amended. Public laws are the appropriation acts that provide funding for each disaster. In addition, to any requirements cited in the appropriation acts, the CDBG-DR regulations in 24 CFR § 570 apply to CDBG-DR funds.

WHEREAS, the purpose of this Agreement is to ensure that the Agency takes full responsibility of the project upon completion. The Grantee will be responsible for adhering to HUD's monitoring requirements, which includes frequent inspections by the Compliance Specialist or the

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| | Compliance Manager and reports the inspection findings to the Corporate Director.<br><br>NOW, THEREFORE, in consideration of the mutual promises set forth herein, the Grantee and the Agency agree as follows:<br><br>**I. Use of CDBG-DR Funds**<br><br>The CDBG-DR program will fund the completion of **the [Enter Project Title]** in the amount of **[Enter Project Allocation Amount] ($0.00)**.<br><br>**II. Scope of Services**<br><br>**A. Program Delivery and Performance Standards:**<br>***(Note: Program delivery and performance standards are subject to monitoring by Grantee after the completion of the project.)***<br><br>1. The activity involves the construction services of the **[Enter Project Title and Brief Description]**<br><br>2. The Agency will ensure proper care and maintenance of the facility upon completion of the aforementioned project in Activity 1.<br><br>3. The activity meets specified national objective set forth in the CDBG-DR Action Plan. **National Objective: Benefit to low- and moderate-income (LMI) persons**.<br><br>4. The Agency must consult with the Grantee prior to changing the approved use and intended beneficiaries in the CDBG-DR Action Plan. The Grantee will review the proposed change in use and will issue a determination whether to approve or disapprove the change. | | |

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| | 5. The Agency will ensure that citizens are given the opportunity to comment on any proposed change.<br><br>6. The Agency would be required to reimburse the CDBG-DR program if the Agency decides to change the use to a non-eligible activity which does not meet the CDBG-DR National Objectives.<br><br>7. Upon completion of the Project, the Northern Marianas Housing Corporation will turn over the plans, drawings, and the facility to the Agency.<br><br>**B. General Administration**<br><br>**1. Local and HUD Procurement Requirements**<br><br>The Grantee and the Agency agree to coordinate their efforts on the solicitation of the contractor for the construction of the **[Enter Project Title]**. All federal and Commonwealth procedures will be followed. Agency and the Grantee are responsible for ensuring that the proper local and HUD procurement requirements are followed.<br><br>In the event that a budget shortfall occurs for the Project, the Agency will be responsible in identifying other funding sources to complete the project. If the Agency fails to do so, the Agency will be solely responsible for reimbursing HUD the amount of CDBG-DR funds allocated to the Project.<br><br>2. **National Objectives**<br><br>All activities funded with CDBG-DR funds must meet one or all of the CDBG-DR Program's national objectives; benefit low-moderate income persons; aid in the prevention or elimination of slum and blight; or meet | | |

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| | community development needs which have a particular urgency, as defined in 24 CFR § 570.208 (a)(1).<br><br>3. **Level of Accomplishment**<br><br>The Agency agrees to provide the following levels of program services: Activities 1-7 will benefit the following areas:<br><br>**National Objective: Benefit to low- and moderate- income (LMI) persons**<br><br>4. **Performance Monitoring**<br><br>The Grantee will monitor the performance of the Agency against the goals and performance standards as stated above. Sub-standard performance as determined by the Grantee will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Agency within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures will be initiated.<br><br>**III. Time of Performance (Project Commencement)**<br><br>Services of the Contractor shall start upon the issuance of the Notice to Proceed and end with a specified number of Calendar days per project. The term of this Agreement and provisions herein shall be extended to cover any additional time period during which the Agency remains in control of CDBG-DR funds or other CDBG-DR assets, including program income.<br><br>**IV. Budget**<br><br>**Project Cost(s):** | | |

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| | The Grantee may require a more detailed budget breakdown than the one contained herein, and the Agency shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the Grantee. Any amendments to the budget must be approved in writing by both the Grantee and the Agency, including any foreseeable change orders necessary for the completion of the project, as allowed by NMHC Procurement regulations.<br><br>All costs associated with the proposed project will be directly taken from the established project budget. In the event bid submissions provided by the contractors exceed the established budget amounts and negotiations to bring down costs pursuant NMHC's procurement regulations, NMIAC § 100-60-205 (m)(3)[1], NMHC will review the submissions and determine whether it will be feasible for affected projects to move forward.<br><br>**V. Payment**<br><br>It is expressly agreed and understood that the total amount to be paid by the Grantee under this agreement shall not exceed **[Enter Project Allocation Amount] ($0.00).** Such funds will go to the contractor and not directly to or through the Agency. Drawdowns for the payment of eligible expenses shall be made against the line-item budgets specified in Paragraph IV herein and in accordance with performance.<br><br>**VI. Notices**<br><br>Notices required by this Agreement shall be in writing and delivered via U.S. postal service (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or | | |

NMIAC §100-60-205 (m)(3) states: In the event all bids exceed available funds and the bid of the lowest responsive and responsible bidder does not exceed those funds by more than five percent, and time or economic considerations preclude re-solicitation of work of a reduced scope, the official with expenditure authority may authorize the Procurement Officer to negotiate an adjustment of the bid price including changes in bid requirements, with the lowest responsive and responsible bidder in order to bring the bid price within the amount of available funds. The negotiation shall be documented in writing and attached to the bidding documents.

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| | sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice. All agreements must have the consent of the Grantee and the Agency.<br><br>Grantee:<br>Northern Marianas Housing Corporation (NMHC)<br>Jesse S. Palacios<br>NMHC Corporate Director<br>P.O. Box 500514<br>Saipan, MP 96950<br>Phone: (670) 234-7670 Fax: (670) 234-9021<br>jspalacios@nmhcgov.net<br><br>Intergovernmental Agency:<br>**[Inter-governmental Agency Name]**<br>**[Name of Agency Head]**<br>**[Title]**<br>**[Enter Address]**<br>**Saipan, MP 96950**<br>**[Enter Phone Number]**<br><br>**VII. General Conditions**<br><br>**A.** The Agency agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations, concerning Community Development Block Grants (CDBG-DR) including subpart K of those regulations, and Part 200 of Title 2 of the Code of Federal Regulations, concerning Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards, as now in effect and as may be amended from time to time. Except that (1) the Agency does not assume the grantee's environmental responsibilities described in 24 CFR § 570.604 and (2) the Agency does not assume the grantee's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Agency also | | |

agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Agency further agrees to utilize the funds available under this agreement to supplement rather than supplant funds otherwise available.

**B. Hold Harmless**

The Agency shall hold harmless, defend and indemnify the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Agency's performance or nonperformance of the services or subject matter called for in this Agreement.

**C. Grantee Recognition**

The Agency shall insure recognition of the role of the Grantee in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be labeled as to funding source. In addition, the Agency will include a reference to support provided herein in all publications made possible with funds made available under this Agreement.

**D. Amendments**

The Grantee or Agency may amend this Agreement at any time provided such amendments make specific reference to this Agreement, and are executed in writing, signed by duly authorized representatives of each organization, and approved by the Grantee's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Agency
from its obligations under this Agreement. The Grantee may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of

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| | this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Agency.<br><br>**E. Suspension or Termination**<br><br>In accordance with 2 CFR § 200.340 (a) (1), the Grantee may suspend or terminate this Agreement if the Agency materially fails to comply with any terms of this Agreement, which include (but are not limited to) the following:<br><br>1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;<br><br>2. Failure, for any reason, of the Agency to fulfill in a timely and proper Manner its obligations under this Agreement;<br><br>3. Ineffective or improper use of funds provided under this Agreement; or<br><br>4. Submission by the Agency to the Grantee reports that are incorrect or incomplete in any material respect.<br><br>In accordance with 2 CFR § 200.340 (a) (4), this Agreement may also be terminated for Convenience by either the Grantee or the Agency, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the Grantee determines that the remaining portion of the award will not accomplish the pose for which the award was made, the Grantee may terminate the award in its entirety.<br><br>**VIII. Administrative Requirements** | | |

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| | **A. Financial Management**<br><br>**1. Accounting Standards**<br><br>The Grantee agrees to comply with 2 CFR § 200.300-309 and agrees to adhere to the accounting principle and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.<br><br>**2. Cost Principles**<br><br>The Grantee shall administer its program in conformance with 2 CFR § 200.400-475, "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards" as specified in 2 CFR Part 200. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.<br><br>**B. Documentation and Record Keeping**<br><br>**1. Records to be Maintained**<br><br>The Grantee and Agency shall maintain all records required by Federal regulations specified in 24 CFR § 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:<br><br>a. Records providing a full description of each activity undertaken;<br>b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG-DR programs;<br>c. Records required to determine the eligibility of activities;<br>d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG-DR assistance; | | |

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| | e. Records documenting compliance with the fair housing equal opportunity components of the CDBG-DR program;<br>f. Financial records as required by 24 CFR § 570.502, and 2 CFR § 200.300-309; and<br>g. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.<br><br>**2. Retention**<br><br>The Agency shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement in compliance with 2 CFR § 200.334. The retention period begins on the date of the submission of the Grantee's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the three-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the three-year period, whichever occurs later.<br><br>**3. Client Data**<br><br>The Grantee and Agency shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to the Grantee monitors or their designees for review upon request.<br><br>**4. Disclosure**<br><br>The Agency understands that client information collected under this contract is private and the use or disclosure of such information, when not connected with the Administration of the Grantee's or Agency's responsibilities with respect to services provided under this | | |

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| | contract, is prohibited by law unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.<br><br>**5. Audits and Inspections**<br><br>All Agency records with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor agency, and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit report must be fully cleared by the Agency within 30 days after receipt by the Agency. Failure of the Agency to comply with the above audit requirements will constitute a violation of this agreement hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning Agency audits and 2 CFR Part 200 Subpart F.<br><br>**C. Use and Reversion of Assets**<br><br>The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 2 CFR Part 200 and 24 CFR 570. §§502, 570.503, 570.504 and 570.505 as applicable, which include, but are not limited, to the following:<br><br>1. The Agency shall transfer to the Grantee any CDBG-DR funds on hand and any<br>Receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.<br><br>2. Real property under the Agency's control that was acquired or improved, in whole<br>or in part with funds under this Agreement in excess of $25,000 shall be used to meet one of the CDBG-DR National Objectives pursuant to 24 CFR § 570.208. If the Agency fails to use CDBG-DR-assisted real property in a | | |

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| | manner that meets a CDBG-DR National Objective pursuant to 24 CFR § 570.208, the Agency shall pay the Grantee an amount equal to the current fair market of the Property less any portion of the value attributable to expenditures of non-CDBG-DR Funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the Grantee.<br><br>3. In all cases in which equipment acquired, whole or in part, with funds under this<br>Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment).<br>Equipment not needed by Agency for activities under this agreement shall be (a) transferred to the Grantee for the CDBG-DR program or (b) retained after compensating the Grantee [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG-DR funds to acquire the equipment].<br><br>**IX. Relocation, Real Property Acquisition and One-for-One Housing Replacement**<br><br>The Agency agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR § 570.606(b); (b) the requirements of CFR § 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under Section 104(d) of the HCD Act; and (c) the requirement in 24 CFR § 570.606(b)(2) people who are displaced as a direct result of acquisition, rehabilitation, demolition, or conversion for a CDBG-DR-assisted project. The Agency also agrees to comply with applicable Grantee ordinance, resolutions and policies concerning the displacement of persons from their residences.<br><br>**X. Severability** | | |

If any provision of this Agreement is held invalid, the remainder of the Agreement should not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

**XI. Section Headings and Subheadings**

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

**XII. Waiver**

The Grantee's failure to act with respect to a breach by the Agency does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

**XIII. Entire Agreement**

This agreement constitutes the entire agreement between the Grantee and the Agency for the use of funds received under Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and Agency with this Agreement.

Date: _____

IN WITNESS WHEREOF, the Parties have executed this agreement by:

Northern Marianas Housing Corporation and **[Inter-governmental Agency Name]**

("NMHC")

By: _____ By:

_____

Marcie M. Tomokane **[Name of Board Chair (If Applicable)]**

Chairwoman

**Chairman**

NMHC Board of Directors **[Title of Board]**

By: _____ By: _____

_____

Jesse S. Palacios **[Inter-governmental Agency Head]**

NMHC Corporate Director **[Title]**

By: _____ By:

_____

Roger Dris **[Name of CFO]**

NMHC Acting Chief Financial Officer

**[Official Title]**

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____

NMHC Legal Counsel

*NORTHERN MARIANAS HOUSING CORPORATION ("NMHC")*

*INTERGOVERNMENTAL AGENCY AGREEMENT*

*BETWEEN*

*NMHC (GRANTEE)*

*AND*

*[INTER-GOVERNMENTAL AGENCY NAME]*

This INTERGOVERNMENTAL AGENCY AGREEMENT, hereinafter called "Agreement", made this _____ day of _____, **2021**, by and between the **Northern Marianas Housing Corporation ("NMHC")** hereinafter called the "Grantee", whose address is P.O. Box 500514, Saipan, MP 96950, and the **[Inter-governmental Agency Name]]** hereinafter called the "Agency", whose address is **[Inter-governmental Agency Address]** concerning the **[Enter Project Title].**

**WITNESSETH**

WHEREAS, the Grantee has received Community Development Block Grant Disaster Recovery (CDBG-DR) funds from the U.S. Department of Housing and Urban Development ("HUD") under Title I of the Housing and Community Development Act of 1974, as amended. Public laws are the appropriation acts that provide funding for each disaster. In addition, to any requirements cited in the appropriation acts, the CDBG-DR regulations in 24 CFR § 570 apply to CDBG-DR funds.

WHEREAS, the purpose of this Agreement is to ensure that the Agency takes full responsibility of the project upon completion. The Grantee will be responsible for adhering to HUD's monitoring requirements, which includes frequent inspections by the Compliance Specialist or the Compliance Manager and reports the inspection findings to the Corporate Director.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the Grantee and the Agency agree as follows:

**I. Use of CDBG-DR Funds**

The CDBG-DR program will fund the completion of **the [Enter Project Title]** in the amount of **[Enter Project Allocation Amount] ($0.00).**

**II. Scope of Services**

**A. Program Delivery and Performance Standards:**
***(Note: Program delivery and performance standards are subject to monitoring by Grantee after the completion of the project.)***

1. The activity involves the construction services of the **[Enter Project Title and Brief Description]**

2. The Agency will ensure proper care and maintenance of the facility upon completion of the aforementioned project in Activity 1.

3. The activity meets specified national objective set forth in the CDBG-DR Action Plan. **National Objective: Benefit to low- and moderate- income (LMI) persons.**

4. The Agency must consult with the Grantee prior to changing the approved use and intended beneficiaries in the CDBG-DR Action Plan. The Grantee will review the proposed change in use and will issue a determination whether to approve or disapprove the change.

5. The Agency will ensure that citizens are given the opportunity to comment on any proposed change.

6. The Agency would be required to reimburse the CDBG-DR program if the Agency decides to change the use to a non-eligible activity which does not meet the CDBG-DR National Objectives.

7. Upon completion of the Project, the Northern Marianas Housing Corporation will turn over the plans, drawings, and the facility to the Agency.

**B. General Administration**

**1. Local and HUD Procurement Requirements**

The Grantee and the Agency agree to coordinate their efforts on the solicitation of the contractor for the construction of the **[Enter Project Title]**. All federal and Commonwealth procedures will be followed. Agency and the Grantee are responsible for ensuring that the proper local and HUD procurement requirements are followed.

In the event that a budget shortfall occurs for the Project, the Agency will be responsible in identifying other funding sources to complete the project. If the Agency fails to do so, the Agency will be solely responsible for reimbursing HUD the amount of CDBG-DR funds allocated to the Project.

2. **National Objectives**

All activities funded with CDBG-DR funds must meet one or all of the CDBG-DR Program's national objectives; benefit low-moderate income persons; aid in the prevention or elimination of slum and blight; or meet community development needs which have a particular urgency, as defined in 24 CFR § 570.208 (a)(1).

3. **Level of Accomplishment**

The Agency agrees to provide the following levels of program services: Activities 1-7 will benefit the following areas:

**National Objective: Benefit to low- and moderate- income (LMI) persons**

4. **Performance Monitoring**

The Grantee will monitor the performance of the Agency against the goals and performance standards as stated above. Sub-standard performance as determined by the Grantee will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Agency within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures will be initiated.

## III. Time of Performance (Project Commencement)

Services of the Contractor shall start upon the issuance of the Notice to Proceed and end with a specified number of Calendar days per project. The term of this Agreement and provisions herein shall be extended to cover any additional time period during which the Agency remains in control of CDBG-DR funds or other CDBG-DR assets, including program income.

## IV. Budget

**Project Cost(s):**

The Grantee may require a more detailed budget breakdown than the one contained herein, and the Agency shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the Grantee. Any amendments to the budget must be approved in writing by both the Grantee and the Agency, including any foreseeable change orders necessary for the completion of the project, as allowed by NMHC Procurement regulations.

All costs associated with the proposed project will be directly taken from the established project budget. In the event bid submissions provided by the contractors exceed the established budget amounts and negotiations to bring down costs pursuant NMHC's procurement regulations, NMIAC § 100-60-205 (m)(3)[1], NMHC will review the submissions and determine whether it will be feasible for affected projects to move forward.

## V. Payment

It is expressly agreed and understood that the total amount to be paid by the Grantee under this agreement shall not exceed **[Enter Project Allocation Amount] ($0.00).** Such funds will go to the contractor and not directly to or through the Agency. Drawdowns for the payment of eligible expenses shall be made against the line-item budgets specified in Paragraph IV herein and in accordance with performance.

## VI. Notices

Notices required by this Agreement shall be in writing and delivered via U.S. postal service (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice. All agreements must have the consent of the Grantee and the Agency.

Grantee:

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NMIAC §100-60-205 (m)(3) states: In the event all bids exceed available funds and the bid of the lowest responsive and responsible bidder does not exceed those funds by more than five percent, and time or economic considerations preclude re-solicitation of work of a reduced scope, the official with expenditure authority may authorize the Procurement Officer to negotiate an adjustment of the bid price including changes in bid requirements, with the lowest responsive and responsible bidder in order to bring the bid price within the amount of available funds. The negotiation shall be documented in writing and attached to the bidding documents.

Northern Marianas Housing Corporation (NMHC)
Jesse S. Palacios
NMHC Corporate Director
P.O. Box 500514
Saipan, MP 96950
Phone: (670) 234-7670 Fax: (670) 234-9021
jspalacios@nmhcgov.net

Intergovernmental Agency:
**[Inter-governmental Agency Name]**
**[Name of Agency Head]**
**[Title]**
**[Enter Address]**
**Saipan, MP 96950**
**[Enter Phone Number]**

## VII. General Conditions

**A.** The Agency agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations, concerning Community Development Block Grants (CDBG-DR) including subpart K of those regulations, and Part 200 of Title 2 of the Code of Federal Regulations, concerning Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards, as now in effect and as may be amended from time to time. Except that (1) the Agency does not assume the grantee's environmental responsibilities described in 24 CFR § 570.604 and (2) the Agency does not assume the grantee's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Agency also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Agency further agrees to utilize the funds available under this agreement to supplement rather than supplant funds otherwise available.

### B. Hold Harmless

The Agency shall hold harmless, defend and indemnify the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Agency's performance or nonperformance of the services or subject matter called for in this Agreement.

### C. Grantee Recognition

The Agency shall insure recognition of the role of the Grantee in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be labeled as to funding source. In addition, the Agency will include a reference to support provided herein in all publications made possible with funds made available under this Agreement.

### D. Amendments

The Grantee or Agency may amend this Agreement at any time provided such amendments make specific reference to this Agreement, and are executed in writing, signed by duly authorized representatives of each organization, and approved by the Grantee's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Agency

from its obligations under this Agreement. The Grantee may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Agency.

**E. Suspension or Termination**

In accordance with 2 CFR § 200.340 (a) (1), the Grantee may suspend or terminate this Agreement if the Agency materially fails to comply with any terms of this Agreement, which include (but are not limited to) the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;

2. Failure, for any reason, of the Agency to fulfill in a timely and proper Manner its obligations under this Agreement;

3. Ineffective or improper use of funds provided under this Agreement; or

4. Submission by the Agency to the Grantee reports that are incorrect or incomplete in any material respect.

In accordance with 2 CFR § 200.340 (a) (4), this Agreement may also be terminated for Convenience by either the Grantee or the Agency, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the Grantee determines that the remaining portion of the award will not accomplish the pose for which the award was made, the Grantee may terminate the award in its entirety.

## VIII. Administrative Requirements

### A. Financial Management

#### 1. Accounting Standards

The Grantee agrees to comply with 2 CFR § 200.300-309 and agrees to adhere to the accounting principle and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

#### 2. Cost Principles

The Grantee shall administer its program in conformance with 2 CFR § 200.400-475, "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards" as specified in 2 CFR Part 200. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

**B. Documentation and Record Keeping**

**1. Records to be Maintained**

The Grantee and Agency shall maintain all records required by Federal regulations specified in 24 CFR § 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

a. Records providing a full description of each activity undertaken;
b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG-DR programs;
c. Records required to determine the eligibility of activities;
d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG-DR assistance;
e. Records documenting compliance with the fair housing equal opportunity components of the CDBG-DR program;
f. Financial records as required by 24 CFR § 570.502, and 2 CFR § 200.300-309; and
g. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

**2. Retention**

The Agency shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement in compliance with 2 CFR § 200.334. The retention period begins on the date of the submission of the Grantee's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the three-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the three-year period, whichever occurs later.

**3. Client Data**

The Grantee and Agency shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to the Grantee monitors or their designees for review upon request.

**4. Disclosure**

The Agency understands that client information collected under this contract is private and the use or disclosure of such information, when not connected with the Administration of the Grantee's or Agency's responsibilities with respect to services provided under this contract, is prohibited by law unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

**5. Audits and Inspections**

All Agency records with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor agency, and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit report must be fully cleared by the Agency within 30 days after receipt by the Agency. Failure of the Agency to comply with the above audit requirements will constitute a violation of this agreement hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning Agency audits and 2 CFR Part 200 Subpart F.

**C. Use and Reversion of Assets**

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 2 CFR Part 200 and 24 CFR 570. §§502, 570.503, 570.504 and 570.505 as applicable, which include, but are not limited, to the following:

1. The Agency shall transfer to the Grantee any CDBG-DR funds on hand and any Receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Agency's control that was acquired or improved, in whole or in part with funds under this Agreement in excess of $25,000 shall be used to meet one of the CDBG-DR National Objectives pursuant to 24 CFR § 570.208. If the Agency fails to use CDBG-DR-assisted real property in a manner that meets a CDBG-DR National Objective pursuant to 24 CFR § 570.208, the Agency shall pay the Grantee an amount equal to the current fair market of the Property less any portion of the value attributable to expenditures of non-CDBG-DR Funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the Grantee.

3. In all cases in which equipment acquired, whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by Agency for activities under this agreement shall be (a) transferred to the Grantee for the CDBG-DR program or (b) retained after compensating the Grantee [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG-DR funds to acquire the equipment].

**IX. Relocation, Real Property Acquisition and One-for-One Housing Replacement**

The Agency agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR § 570.606(b); (b) the requirements of CFR § 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under Section 104(d) of the HCD Act; and (c) the requirement in 24 CFR § 570.606(b)(2) people who are displaced as a direct result of acquisition, rehabilitation, demolition, or conversion for a CDBG-DR-assisted project. The Agency also agrees to comply with applicable Grantee ordinance, resolutions and policies concerning the displacement of persons from their residences.

**X. Severability**

If any provision of this Agreement is held invalid, the remainder of the Agreement should not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

## XI. Section Headings and Subheadings

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

## XII. Waiver

The Grantee's failure to act with respect to a breach by the Agency does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

## XIII. Entire Agreement

This agreement constitutes the entire agreement between the Grantee and the Agency for the use of funds received under Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and Agency with this Agreement.

Date: _____

IN WITNESS WHEREOF, the Parties have executed this agreement by:

| Northern Marianas Housing Corporation ("NMHC") | and | **[Inter-governmental Agency Name]** |
|---|---|---|
| By: _____<br>Marcie M. Tomokane<br>Chairwoman<br>NMHC Board of Directors | | By: _____<br>**[Name of Board Chair (If Applicable)]**<br>**Chairman**<br>**[Title of Board]** |
| By: _____<br>Jesse S. Palacios<br>NMHC Corporate Director | | By: _____<br>**[Inter-governmental Agency Head]**<br>**[Title]** |
| By: _____<br>Roger Dris<br>NMHC Acting Chief Financial Officer | | By: _____<br>**[Name of CFO]**<br>**[Official Title]** |

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____
NMHC Legal Counsel

# APPENDIX A: CROSS CUTTING REQUIREMENTS AND PROCESS REVIEW

## 1.0 Crosscutting Requirements

### 1.1 Fair Housing

The Fair Housing Act requires all grantees, Implementing Partners and/or developers funded in whole or in part with HUD financial assistance to certify that no person was excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of their age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability or marital status. The Program complies with and enforces the Civil Rights requirements of Title I of the Housing and Community Development Act (HCDA) and the Fair Housing Law. Projects must also assess how planning decisions may affect members of protected classes, racially and ethnically concentrated areas, as well as concentrated areas of poverty; will promote the availability of affordable housing in low-poverty, non-minority areas where appropriate; and will respond to natural hazard-related impacts. Program staff will use demographic, geographic, and social vulnerability analyses to determine any positive or negative impacts to protected classes. Should a project present negative impacts, project scope or design will be re-assessed to mitigate such impacts.

### 1.2 Environmental Review

Early environmental coordination must be completed to ensure effective implementation of all CDBG-DR Programs. CDBG-DR funding is contingent upon compliance with both Territorial and federal environmental regulations. This includes compliance with NEPA and related environmental and historic preservation legislation and executive orders. In general, NMHC serves as the lead agency for purposes of NEPA.

HUD's Environmental Review process allows grantees to serve as the "Responsible Entity" to assume environmental review responsibilities under NEPA. As the grantee, NMHC serves as the Responsible Entity as it relates to environmental review responsibilities under NEPA.

Within NMHC Environmental Review Staff will be responsible for performing environmental reviews and compiling the Environmental Review Records (ERR). Reviews are conducted either directly or using qualified environmental service contractors. NMHC's Corporate Director, as the Certifying Officer, is ultimately responsible with certifying that NMHC's environmental reviews are in compliance with NEPA and HUD environmental regulations.

Federal Register Notice FR-6109-N-01 authorizes recipients of CDBG-DR funds under the Appropriations Act to adopt any environmental review, approval, or permit performed by a Federal agency for the same project to satisfy responsibilities with respect to environmental review, approval, or permit. NMHC will notify HUD in writing of its decision to adopt another agency's environmental review. NMHC will also retain a copy of the review in its environmental records. Further information concerning the environmental review process is set forth in the Environmental Policies and Procedures.

**1.3 Labor Standards**

The Davis-Bacon and Related Acts (DBRA) applies to all federally-funded or assisted construction contracts in excess of $2,000. This may apply to projects that are fully or partially funded with CDBG-DR, including FEMA or FHWA match programs. In matched projects, only the scope of the CDBG-DR portion of the project are subject to crosscutting requirements DBRA requires all workers employed by contractors or subcontractors on CDBG-DR programs, be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with DBRA, as amended. DBRA also requires that workers on federally-assisted projects are paid not less than weekly.

Wage information for labor under CDBG-DR programs will be tracked in detail by both NMHC and relevant Implementing Partners and subrecipients throughout the life of the Program. Compliance for this requirement may be tracked in the following ways:

1. Additional NMHC Program staff hired to track wages and verify contractor and agency compliance

2. External contractor hired by NMHC to track DBRA compliance

3. Enhanced TA provided to Implementing Partners to track DBRA compliance

Procedures for this process are currently under development and will be incorporated in a future update to this document.

For prime contracts in excess of $100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular pay for all hours worked over 40 in a work week. Additionally, NMHC must follow the reporting requirements per HUD and U.S. Department of Labor (DOL) regulations. This requirement also extends to NMHC Implementing Partner, and contractors.

The Fair Labor Standards Act of 1938 (FLSA), as amended, establishes the basic minimum wage levels for all work and requires the payment of overtime at the rate of at least one and one-half times the basic hourly rate of pay for hours worked in excess of 40 per week. These labor standards are applicable to the entire construction contract whether or not CDBG-DR funds finance only a portion of the project.

**1.4 Limited English Proficiency**

Federal Executive Order 13166 requires NMHC and all satellite offices, programs, Implementing Partners, contractors, subcontractors, and/or developers funded whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with Limited English Proficiency (LEP) and/or deaf/hard of hearing.

Compliance with this requirement is detailed in NMHC's Action Plan (LAP) and will be coordinated and tracked by the Monitoring and Compliance division at NMHC. Depending on

the program, NMHC, Implementing Partners, and subcontractors will share the following expectations to comply with this Executive Order:

1. Document Translation: All documents defined as "vital documents" will be translated into the CNMI's three dominant languages: Chamorro and Carolinian, Implementing Partners, and sub-recipients. Vital documents will be made available in other languages upon request. A "vital document" is defined as a document that includes information regarding eligibility requirements, applications and instructions, program eligibility determinations, and appeals procedures. NMHC may provide assistance to ensure this requirement is met.

2. Where required, seek feedback from the community the project serves (advocacy groups serve vital role).

Language maps provided in the Action Plan will be used to determine the project's location and subsequent language context and if proactive LEP outreach will be required.

**1.5 Minority and/or Women-Owned Business Enterprises**

The Federal Executive Order 12432 guidelines require selected federal agencies to promote and increase the utilization of Minority-Owned and Women-Owned Business Enterprises (M/WBEs). Following procurement guidelines under 2 CFR 200.321, NMHC must make efforts to ensure that all Implementing Partners, contractors, subcontractors, and/or developers funded in whole or in part with HUD CDBG-DR financial assistance encourage participation in contracts and other economic opportunities by small and minority firms, women-owned business enterprises (WBEs), and labor surplus area firms whenever possible. NMHC will accept a MWBE certification from another state, local or regional, DPW, SBA HUB Zone, SBA 8-A certification (economically disadvantaged and 51% locally-owned), and other eligible certification processes. Documentation and goals regarding M/WBE percentages and reporting will be determined in the contracting agreements.

**1.6 Section 3 Economic Opportunities**

Section 3 is triggered when the award of CDBG-DR funds for new construction and rehabilitation projects creates the need for new employment, contracting, or training opportunities.

Section 3 of the Housing and Urban Development Act of 1968 is to "ensure that employment and other economic opportunities generated by certain U.S. Department of Housing and Urban Development (HUD) financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed to low and very low-income individuals, especially recipients of government assistance for housing and to businesses which provide economic opportunities to low and very low-income individuals."

The Section 3 program requires that recipients of HUD CDBG-DR funds, to the greatest extent

feasible, provide (a) employment and training, and (b) contracting opportunities for low- or very low-income residents in connection with construction projects in their neighborhoods. It also specifically encourages economic opportunities for households who are recipients of government assistance for housing. NMHC and all administering entities will follow and require relevant contractors to follow Section 3 requirements in contracting.

Section 3 applies to the Commonwealth of the Northern Mariana Islands (CNMI), as recipient of HUD funding, as well as to Implementing Partners receiving HUD funding exceeding $200,000. Whenever any portion of HUD funding is invested into projects involving housing construction, demolition or rehabilitation, commercial/private improvements for economic development, or other public construction (e.g., roads, sewers, community centers, and public facilities), the requirements of Section 3 apply.

In conjunction with construction activity, Section 3 applies to projects that are fully or partially funded with CDBG-DR assistance, including projects that are financed in conjunction with territory, local, or private matching or leveraged funds, provided that the Section 3 monetary threshold requirements are met. In particular:

□ In conjunction with construction activities, Section 3 applies to contractors or subcontractors that receive contracts more than $100,000 for Section 3-covered projects/activities. Once it is determined that Section 3 applies to a project, the requirements apply to all contracts for construction work arising in connection with that project exceeding $100,000, including those not funded with CDBG-DR assistance. Contractors or subcontractors are required to comply with the Section 3 regulations in the same manner as the CNMI; and

□ "Section 3-covered contract" includes professional service contracts, provided that the work to be performed is generated by the expenditure of funds in furtherance of Section 3 covered work (e.g., housing construction, housing rehabilitation, and other public construction), arising relating to construction projects. Professional service contracts that may constitute Section 3-covered contracts include construction contract oversight, engineering, architectural, environmental and property evaluation, construction progress and draw inspections, and prevailing wage labor compliance.

The regulations pertain to new hires required to complete Section 3-covered projects and activities. If the expenditure of funding for an otherwise covered project and activity does not result in new employment, contracting, or training opportunities, Section 3 reporting will still be required. When NMHC awards CDBG-DR funds to other governmental departments, nonprofit organizations, subrecipients or other funded entities, NMHC will require they document how reasonable attempts were made to reach numerical goals set forth at 24 CFR Part 135.30. NMHC will inform its Implementing Partners and other funded entities of the requirements of

Section 3, including the language required to be inserted into all construction-related contracts, assist them and their contractors with achieving compliance, and monitor their performance with respect to the Section 3 objectives and requirements.

Implementing Partners will receive training on this requirement and methods of compliance, technical assistance from Program staff, and continual monitoring from NMHC. Currently, a Section 3 Plan is under development, the details of which will be included in an update to this manual.

**1.7 System for Award Management (SAMs)**

SAM is the federal System for Award Management and is a requirement for doing business with the U.S. government. All vendors are required to register in SAM in order to be awarded contracts under the CDBG-DR program. Vendors are required to complete a one-time registration to provide basic information relevant to procurement and financial transactions. Vendors must update or renew their registration annually to maintain an active status.

The Uniform Relocation Assistance and Real Property Acquisition Act (URA), is a federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The URA's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects. The phrase "program or project" is defined in 49 CFR Part 24 as, "any activity or series of activities undertaken by a federal agency or with federal financial assistance received or anticipated in any phase of an undertaking in accordance with the federal funding agency guidelines."

The objectives of the URA are:

• To provide uniform, fair and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects;

• To ensure relocation assistance is provided to displaced persons to lessen the emotional and financial impact of displacement;

• To ensure that no individual or family is displaced unless decent, safe, and sanitary (DSS) housing is available within the displaced person's financial means;

• To help improve the housing conditions of displaced persons living in substandard housing; and,

• To encourage and expedite acquisition by agreement and without coercion.

49 CFR 24.101(c)(1) provides that the subpart B requirements also apply to the acquisition of permanent and/or temporary easements necessary for the project. However, 49 CFR 24.101(c)(2) provides an exception for the acquisition of temporary easements which exclusively benefit the property owner.

**2.0 Implementing Partner and Subrecipient Criteria**

As a CDBG-DR program Implementing Partner or subrecipient, entities should demonstrate the following qualities:

# APPENDIX A: CROSS CUTTING REQUIREMENTS AND PROCESS REVIEW

Prior experience with executing CDBG, CDBG-DR, or other federal funded projects including, but not limited to, knowledge or prior experience with the following:

- 2 CFR 200 requirements;
- Documentation that the project meets a CDBG National Objective; and
- Documentation that the project's expenditures are for CDBG Eligible Activities.

Have internal staff capacity to effectively manage CDBG-DR grants, including but not limited to:

- Capacity to perform financial management and oversight;
- Capacity to perform grant management functions as demonstrated through prior experience with managing grants with in-house staff or with a grants management consultant;
- Internal auditing capability;
- Administrative staffing; and
- Knowledge of both federal and local procurement and contracting requirements.

Knowledge and experience in financial management of Federal grant funds, specifically of CDBGDR funds; and the ability of financial systems to meet all federal and Territorial requirements including, but not limited to:

- Accounting methods, and budget controls;
- Proof that expenditures are necessary, reasonable, and directly related to the grant;
- Monitoring and controls of timely expenditure of Federal funds;
- Compliance with 2 CFR 200;
- Completion and results of prior audits under 2 CFR 200 Subpart if applicable;
- Completion and results of any other audits as it relates to financial capacity;
- In good standing with the Territory (for entities other than public entities); and,
- Davis-Bacon and all labor standards, Section 3, M/WBE, Civil Rights, Section 504, Uniform Relocation Act, Fair Housing Act, ADA, Age Discrimination Act, and records management.

Based on the Capacity Assessment and Initial Scope and Budget Phase, NMHC will develop a Intergovernmental Agreement between the agencies for the implementation of the CDBG-DR Programs.

**2.1** Capacity Assessment and Initial Scope and Budget

Implementing Partners and subrecipients are required to produce a Capacity Assessment

for the Program to develop the Intergovernmental Agreement. The Capacity Assessment and is based on a standard form provided by NMHC to all Implementing Partners.

The Capacity Assessment submission is a package of information submitted to NMHC.

The purpose of the CDBG-DR Capacity Assessment is to proactively identify the capacity and management practices of the potential Implementing Partners of CDBG-DR funds being administered by NMHC. These types of assessments can be a useful tool in identifying ways to improve economy, efficiency, and effectiveness of disaster recovery operations, understand the level of compliance with relevant rules and regulations, and provide guidance and insight for ongoing monitoring of Implementing Partners.

The methodology to be used is based on the 2 CFR 200 requirements and also HUD's guidance on assessing capacity of Implementing Partners. The process includes assessing the Implementing Partner's history of grant management, program and activity experience, staffing capacity and experience, financial processes, and knowledge of relevant rules and regulations.

**2.1.1 Capacity Assessment Process Overview**

1. Independent research and information gathering – A review of publicly-available documentation shall be undertaken to provide context for interviews with stakeholders.

Documents to review shall include:

a. Current Action Plans and associated regulations
b. News/media articles related to the agency
c. Agency websites and online materials
d. Previous grant applications or public reports on previous grant funded spending
e. Prior federal/local OIG reports and other audit/inspection reports relevant to agency programs/projects or operations or other annual audit reports

2. Analysis: Information will be reviewed, and observations will be compiled to identify areas/items for consideration in conducting site visits, additional stakeholder discussions and in preparing the overall summary.

3. Document request – A document request list will be sent to each agency regarding documentation which is needed from them in order to facilitate the process.

a. Accounting policies and procedures including record retention policy, system of internal controls, and source documentation retention policy.

b. Procurement policies and procedures

c. Grants management policy and procedures for disaster recovery funds (including fraud, waste, and abuse reporting).

d. Copy of last Single Audit final report (or applicable annual audit if not publicly available

4. Analysis: Policies will be reviewed for level of detail present and capacity to manage significant amounts of Federal disaster grant funding. Audit reports will be reviewed for information related to internal controls.

5. Site visit – a site visit meeting shall take place with key individuals involved in managing federal disaster grant funded projects, in particular the managing of CDBG-DR funded projects
a. Agency participants: Leadership, finance/accounting, procurement, grant managers, etc.

**2.2 Program Requirements**

Implementing Partners must show:
- ☐ How the program is tied to one of the two disasters.
- ☐ How all activities of the project are eligible under the Program
- ☐ How the project meets one of HUD's three National Objectives

Program requirements include:

1. Project eligibility review under 24 CFR 570.482

2. A project description (include general timeline and how the project could include mitigation)

3. Tie to the disaster

4. Assigned National Objective according to 24 CFR 570.483

5. Project cost estimate

6. Statement of justification and recommendation

7. Other relevant information

8. Initial Duplication of Benefits review

NMHC engages primarily with the entities who have relevant jurisdictional oversight for each project and selects a suitable Implementing Partner for each project by direct, discretionary selection. NMHC works with Implementing Partners and to execute the Intergovernmental Agreement which serves as the mechanism for the transfer of funds to the agency and submission of required documents to establish proof of compliance with all federal and local laws as applicable. For projects receiving CDBG-DR funding for multiple project phases, individual

amendments may be utilized for each phase. Each amendment will include the scope, budget, and performance metrics of the applicable phase.

**2.3 Intergovernmental Agreements**

An Implementing Partner is considered a public entity receiving CDBG-DR funds from NMHC (or another subrecipient) to undertake CDBG-DR eligible activities (24 CFR 570.500(c)). For the CDBG-DR Programs, NMHC enters into "intergovernmental agreements" with these partners. These agreements allow NMHC to ensure that every Implementing Partner is prepared and understands requirements needed to satisfy applicable CDBG-DR award requirements, as well as local laws. These agreements may include provisions to help determine the subrecipient's procedures are sufficient to reduce risk of noncompliance and to ensure that NMHC can meet its own responsibility to HUD for performance and financial reporting.

**2.3.2 Memorandums of Understanding (MOUs)**

Most projects requiring funding from the CDBG-DR Programs will likely be implemented by partner Territory agencies, referred to hereafter as Implementing Partners. NMHC selects a suitable Implementing Partner for each project by direct, discretionary selection. Because many of the projects requiring a local cost share are designed to further the recovery of the local governments and repair critical infrastructure impacted by Typhoons Mangkhut and Yutu, NMHC engages primarily with the entities who have relevant jurisdictional oversight for these projects.

The agreements should include:

• Scope of Work that includes performance measures and completion of pertinent documents

• CDBG-DR Compliance Provisions: Equal Employment Opportunity, Section 504, Section 3, Access to Records, Duplication of Benefits, etc.

• Statement of Assurances that covers all federal regulations and CDBG-DR requirements

• Budget line-items with general categories such as Salaries & Benefits, Supplies, Travel, Professional Services, & Contracts: maintain detailed budget separately from the contract

• Term of Agreement

NMHC CDBG-DR Division staff and will work with Implementing Partners throughout implementation of disaster recovery programs' phases to ensure that:

□ An approved program is implemented in a manner that is consistent with application and public procurement process;

□ Approved activities are carried out and completed in a timely manner;

□ Activities and certifications are conducted in accordance with the requirements and the primary objectives of the Intergovernmental Agreement, program requirements, and other applicable local and federal rules, regulations, policies, and related statures; and,

□ Administrative systems, policies, and procedures provide adequate protection for the prevention and mitigation of fraud, waste, and abuse.

**2.3.3 Fraud, Waste, and Abuse**

HUD requires that specific policies are developed to prevent fraud, waste, and abuse. Therefore, the Program has established procedures for verifying the accuracy of information provided by program applicants, vendors, and Implementing Partners. The Program's Anti-Fraud, Waste and Abuse check is designed to identify discrepancies and risk-relevant issues in information provided by third parties that may be indicative of fraud, waste, and abuse. The Program will ensure that accurate information obtained from third party vendors and AFWA checks are conducted systematically, utilizing standardized research methodologies, and flag identification processes for consistency and equitable treatment across relevant sources. Flag codes, notations, and relevant supporting documents are checked for errors.

**2.3.5 Timely Expenditure of Funds**

As per the Supplemental Appropriations for Disaster Relief Requirements, 2018 (P.L.s 115-254 and 116-20), funds must be disbursed by November 24, 2026 - six (6) years from the signing of the initial Grant Agreement between HUD and NMHC.

**3.0 Implementation**

**3.1 Inter-agency Liaisons**

Inter-agency coordination will be a critical component of all projects implemented through the CDBG-DR Programs. As such, it is strongly encouraged that all Implementing Partners increase their staff capacity with a dedicated Interagency Liaison in order to effectively remain compliant with HUD CDBG-DR regulations, follow local planning and procurement requirements, as well as to coordinate timelines of complimentary projects with other government agencies. NMHC staff will provide TA to ensure this agency staff is trained to perform the role.

**3.2 Technical Assistance (TA)**

To assist Implementing Partners in complying with all CDBG-DR regulations and

any NMHC policies, as well as to build capacity, CDBG-DR Program staff and project coordinators will provide Implementing Partners with necessary TA throughout the life cycle of the project. NMHC's TA is comprised of formal trainings (prepared materials, in-person presentations and webinars) and informal trainings (verbal or written advice, provided as needed, through in-person meetings, emails or telephone calls). The nature and rigor of TA is continuously tailored to meet the Implementing Partner's unique needs.

**3.3 Detailed Scope and Budget Phase**

Once a project's Initial Project Application is approved, the Implementing Partner or subrecipient completes and submits to NMHC the detailed project scope and budget. CDBG-DR Program staff and project coordinators (if applicable) provide the applicants with support in completing the detailed scope and budget. The full package of information developed at this phase provides:

- ☐ Information pertaining to CDBG-DR eligibility
- ☐ A detailed description of the project
- ☐ Tie to the disaster
- ☐ A detailed project cost estimate
- ☐ Detailed Duplication of Benefits documentation
- ☐ Section 3 projection

Duplication of Benefits documentation refers to documents needed for the DOB Calculation. An example is provided below based on HUD's guidance, though additional line items may be added by the NMHC as necessary for individual projects.

**4.0 Conflicts of Interest**

The CDBG-DR Division requires all program staff to disclose any relationship with an Implementing Partner or contractor. CDBG-DR Program staff, sub-grantees, program administrators, and contractors who disclose such relationships are placed in roles where there is no opportunity for them to display favoritism or collude in order to financially or otherwise benefit themselves, the agency, or the Implementing Partner. For example, a customer representative may not perform work on the application of a family member. For purposes of this regulation, "family" is defined to include spouse, parents, mother-in-law, father-in-law, grandparents, siblings, brother-in- law, sister-in-law, and children of an official covered under the CDBG-DR conflict of interest regulations at 24 CFR 570.489(h).

NMHC may consider granting an exception to the conflict-of-interest provisions per 24 CFR 570.489(h)(4) if NMHC has determined that the Implementing Partner has adequately and publicly addressed all of the concerns generated by the conflict of interest and that an exception would serve to further the purposes of Title I of the Housing and Community Development Act of 1974, as amended and the subrecipient has complied with the requirements listed in 24 CFR 570.489(h)(4)(i) and (ii).

NMHC would consider whether the:

1. exception provides a significant cost benefit or essential degree of expertise;
2. opportunity was provided for under open competitive bidding or negotiation;
3. person affected is an LMI person;
4. affected person has withdrawn from his or her functions or responsibilities;
5. interest or benefit was present before the affected person was in a position to benefit from the conflict of interest; or,
6. undue hardship results from failure grant the exception.

**4.1 Professional Services**

In order to develop a detailed project description and a conceptual cost estimate for a project scope and budget, NMHC or the Implementing Partner may engage the services of professional services that may be needed to administer the program. If the agency engages the professional services it must comply with CDBG-DR procurement guidelines. The scope of the procurement may also include future services. The CDBG-DR Programs may allow Implementing Partners to conduct professional services using force account labor with prior approval and with an understanding that additional oversight from NMHC to ensure cost reasonableness in lieu of competitive bidding.

**5.0 Administrative Records**

**5.1 Recordkeeping**

Implementing Partners and subrecipients must establish a system for recordkeeping that assists NMHC with the review of files for compliance. In other words, records should be kept in a manner that clearly tells the whole story of a Community Development Block Grant Disaster Recovery (CDBG-DR) project from beginning to end. The Implementing Partner is responsible for maintaining all records pertinent to a grant, including supporting documentation, for three (3) years from the date NMHC closes the CDBG-DR program with HUD. Because this required record retention period is not an exact date or time period, NMHC will notify Implementing Partners when the program has been closed with HUD and include the end date of the record retention period. A list of potential records, by activity, can be found in the Recordkeeping and Reporting Policy.

**5.2 Reporting**

Implementing Partners are required to submit a Monthly Performance Report (MPR) to NMHC. Monthly reports will be used to assess program progress, timeliness, and to justify needs. It is important because it provides NMHC with information that is required to be provided to the HUD on a quarterly basis. Therefore, reports must be submitted on time and accurately. Submission of the required Monthly Performance Report begins with the first report deadline after the Implementing Partner receives project approval and continues until the Implementing Partner has

submitted the Final Monthly Performance Report and the closeout forms. The report template can be found in the Administrative Manual.

**6.0 Official Monitoring Phase**

NMHC will conduct interim official monitoring as needed through the life of the project. The official monitoring process includes the following:

More information on this phase is available in the Monitoring and Compliance Manual.

| Section | Old | New | Reasoning |
|---|---|---|---|
| **1.1 Version Policy**<br><br>**Page 045383** | No Table 1 listed | Added: Table 1 with version changes | - Table is now needed after first version change. |
| **2.1 Summary**<br><br>**Page 045385** | This document represents the policies of implementation of Tourism Marketing inclusive of the conditions prescribed under the *Tourism Waiver* as stipulated and announced through Federal Register Notice No. 85 60821. | This document represents the policies of implementation of Tourism Marketing inclusive of the conditions prescribed under the *Tourism Waiver* as stipulated and announced through Federal Register Notice No. 85 60821 and HUD's CDBG-DR Policy Bulletin on Economic Revitalization and Tourism Activities published on February 15, 2021. | - HUD Bulletin, released 02/15/2021 adds additional information on eligible Activities. |
| **3.1 Method of Distribution**<br><br>**Page 045386** | **Eligible Activity:** Technical Assistance (HCDA Section 105(a)(19)); Assistance to for-profit business (HCDA Section 105(a)(17); Micro Enterprise Assistance (HCDA Section 105(a)(22); Marketing - waiver request approved.<br><br>**Estimated Start and End Dates:**<br><br>**National Objective**: Low- and Moderate-Income Jobs; Low- and Moderate-Income Limited Clientele; Low- and Moderate-Income Area Benefit; Urgent Need. | ~~**Eligible Activity**: Technical Assistance (HCDA Section 105(a)(19)); Assistance to for-profit business (HCDA Section 105(a)(17); Micro Enterprise Assistance (HCDA Section 105(a)(22); Marketing - waiver request approved.~~<br><br>**Eligible Activity:** Tourism Activities per HUD's CDBG-DR Policy Bulletin on Economic Revitalization and Tourism Activities<br><br>**Estimated Start and End Dates:** 01/12/2021 – 01/12/2023 | - Added HUD Bulletin which includes eligible activities.<br><br>- Changed start and end dates to correct dates.<br><br>- Removed National Objective because it does not apply to the Tourism Waiver.<br><br>- Added Program Allocation amount per CNMI DR Action Plan. |

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| | Geographic Area(s) Served: CNMI-wide (Saipan, Tinian, and Rota).<br><br>**Administering Entity:** Marianas Visitors Authority (MVA)<br><br>**Eligibility Criteria:** Marketing Initiatives<br><br>• The projected use of funds for global marketing and outreach efforts will be focused as follows: event and festival planning and sponsorship in impacted areas within the CNMI; advertising creation; niche marketing; and media placement (social media/ television/ radio/ digital and out-of-home advertising) in targeted markets<br><br>**Program Allocation: [Enter Approved $ Amount Here]** | ~~**National Objective:** Low- and Moderate-Income Jobs; Low- and Moderate-Income Limited Clientele; Low- and Moderate-Income Area Benefit; Urgent Need.~~<br>~~Geographic Area(s) Served: CNMI-wide (Saipan, Tinian, and Rota).~~<br>**National Objective**: N/A<br><br>**Administering Entity:** Marianas Visitors Authority (MVA)<br><br>**Eligibility Criteria:** Marketing Initiatives<br><br>• The projected use of funds for global marketing and outreach efforts will be focused as follows: ~~event and festival planning and sponsorship in impacted areas within the CNMI;~~ advertising creation; niche marketing; and media placement (social media/ television/ radio/ digital and out-of-home advertising) in targeted markets<br><br>**Program Allocation: ~~[Enter Approved $ Amount Here]~~$7,500,000** | |
| **3.2.2 Implementing Partner (MVA)**<br><br>**Page 045387** | The Implementing Partner under the Tourism Program refers to the entity managing and executing the project | The Implementing Partner under the Tourism Program refers to the entity managing and executing the project | - Added additional requirements for eligible expenses. |

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| | activities. Implementing Partners can request funds from the Tourism Program by submitting the Project Application Form to NMHC (Appendix B). | activities. Implementing Partners can request funds from the Tourism Program by submitting the Project Application Form to NMHC (Appendix B) and submitting required documentation, e.g., invoices, in support of eligible expenses. | |
| **3.3 Marketing Initiatives**<br><br>**Page 045388** | Through the approved waiver, the CNMI plans to allocate $7,500,000 for marketing/promotional activities. These funds will be utilized to create a global branding and marketing strategy establishing an identity of an alluring and desirable island resort destination for the travel community. | Through the approved waiver, the CNMI plans to allocate $7,500,000 for marketing/promotional activities. More details on permitted activities can be found in both through Federal Register Notice No. 85 60821 and HUD's CDBG-DR Policy Bulletin on Economic Revitalization and Tourism Activities. These funds will be utilized to create a global branding and marketing strategy establishing an identity of an alluring and desirable island resort destination for the travel community. | - Referenced HUD Bulletin as well as Federal Register Notice to elaborate on eligible activities |
| **3.4.1 General Program Oversight**<br><br>**Page 045389** | All activities must comply with any applicable federal laws and regulations and effectively meet their stated goals. | All activities must comply with any applicable federal laws and regulations and effectively meet their stated goals, which will be listed in the intergovernmental agreement between NMHC and MVA. | - Added reference to MVA-NMHC Intergovernmental agreement per HUD's request. |
| **3.4.2.1 Marketing Initiatives**<br><br>**Page 045389** | MVA will develop a comprehensive marketing campaign to | MVA will develop a comprehensive marketing campaign to | - HUD agreed that MVA would be able to use its |

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|---|---|---|---|
| | re-establish that the CNMI is open for business following the 2018 Typhoons. It will procure a firm to assist in development of the campaign through competitive sealed proposals in conformance with NMHC's procurement regulations. | re-establish that the CNMI is open for business following the 2018 Typhoons. It will procure a firm(s) to assist in development of the campaign through competitive sealed proposals in conformance with ~~NMHC's~~MVA's procurement regulations in compliance with CDBG-DR Guidelines. | own procurement processes. |
| **4.0 CDBG-DR PROGRAM REQUIREMENTS**<br><br>**Page 045389** | The Government of the Commonwealth of the Northern Mariana Islands (CNMI), through the Northern Marianas Housing Corporation, will ensure that each activity which receives funding under the Tourism Industry Support Program complies with the waiver requirements included in Federal Register Notice No. 85 60821.<br><br>The approved waiver paves way to the eligible use of CDBG-DR funds (currently capped at Enter $ Amount Here) for assistance to promote the CNMI in general or specific components of the islands.<br><br>• No elected officials shall appear in tourism marketing materials financed with | The Government of the Commonwealth of the Northern Mariana Islands (CNMI), through the Northern Marianas Housing Corporation, will ensure that each activity which receives funding under the Tourism Industry Support Program complies with the waiver requirements included in Federal Register Notice No. ~~85 60821~~85 60821 as well as eligible activities listed in HUD's CDBG-DR Policy Bulleting – Economic Revitalization and Tourism Activities.<br><br>The approved waiver paves way to the eligible use of CDBG-DR funds (currently capped at ~~Enter $ Amount Here~~$10,000,000) for assistance to promote the CNMI in general or specific components of the islands. | - Added additional reference to FR notice and HUD Bulletin<br><br>- Added capped amount per the FR notice to increase detail<br><br>- Added two year deadline to increase detail. |

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| | CDBG-DR funds;<br>• Oversight of procurement activities to ensure compliance with applicable procurement requirements; and,<br>• Waiver expires two years after first draw of CDB G-DR funds; | • No elected officials shall appear in tourism marketing materials financed with CDBG-DR funds;<br>• Oversight of procurement activities to ensure compliance with applicable procurement requirements; and,<br>• Waiver expires two years after first draw of CDB G-DR funds; or within 01/12/2021 to 01/12/2023 | |

**COMMONWEALTH CASINO COMMISSION**
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Email: info@cnmicasinocommission.com

## PUBLIC NOTICE OF ADOPTION OF PROPOSED RULES AND REGULATIONS FOR THE COMMONWEALTH CASINO COMMISSION

**INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS**: The Commonwealth of the Northern Mariana Islands, Commonwealth Casino Commission ("the Commission") intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act,1 CMC § 9104(a). These proposed regulations were considered at the Commission's meeting on or about April 22, 2021. Once finally adopted, the Regulations would become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b)).

**AUTHORITY:** The Commission has the authority to adopt rules and regulations in furtherance of its duties and responsibilities pursuant to Public Laws 18-56, Public Law 19-24, and 21-38, including but not limited to 4 CMC §2314 and §2316. Specifically including, but not limited to 4 CMC §2314(b).

**THE SUBJECTS AND ISSUES INVOLVED:** These rules and regulations repeal the current Part 2600 of the regulations on or before October 1, 2022.

**THE TERMS AND SUBSTANCE**: Among other things, the attached Rules and Regulations: repeal the current Part 2600 of the regulations on or before October 1, 2022; prohibit the processing, granting or issuance of new junket licenses per Part 2600; and prohibit the renewal of existing junket licenses per Part 2600.

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

**TO PROVIDE COMMENTS**: Send or deliver your comments to Commonwealth Casino Commission, *Attn: New Casino Commission Rules and Regulations*, at the above address, fax or email address, with the subject line "New Casino Commission Rules and Regulations". Comments are due within 30 days from the

date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2)). The Commonwealth Casino Commission approved the attached Regulations on or about 4/22/21.

Submitted by: _____ 4/28/21
RAFAEL S. DEMAPAN — Date
Acting Chairman of the Commission

Received and Filed by: _____ 04/29/21
MATHILDA A. ROSARIO — Date
Special Assistant for Administration

Filed and
Recorded by: _____ 05.25.2021
ESTHER SN. NESBITT — Date
Commonwealth Registrar

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

Dated the 29 day of April, 2021.

_____
Hon. EDWARD MANIBUSAN
Attorney General

**COMMONWEALTH KUMISION HUEGUN SALÅPPI'**
Edward C. DeLeon Guerrero, Kabesiyu
COMMONWEALTH KUMISION HUEGUN SALÅPPI'
P.O. Box 500237, Saipan, MP 96950
Tel. 670-233-1857/8 ** Fax. 670-233-1856
Email: info@cnmicasinocommission.com

# NUTISIAN PUPBLIKU PUT I ADÅPTASION I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA GI COMMONWEALTH KUMISION HUEGUN SALÅPPI'

**I AKSION NI MA'INTENSIONA PARA U ADÅPTA ESTI I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA:** I Commonwealth gi Sangkattan na Islas Mariånas, Commonwealth Kumision Huegun Salåppi' ("i Kumision") ha intensiona para u adåpta kumu petmanienti na regulasion i mañechettun Manmaproponi na Regulasion siha, sigun gi manera siha gi Åktun Administrative Procedures gi, 1 CMC § 9104(a). Esti i manmaproponi na regulasion siha manmakunsidera gi hunatan-ñiha i Kumision gi pat kåsi gi Abrit 22, 2021.
An ma'adåpta insigidas, i Regulasion siempri umifektibu gi halum 10 dihas dispues di adåptasion yan pupblikasion gi halum i Rehistran Commonwealth. (1 CMC § 9105(b)).

**ÅTURIDÅT:** I Kumision gai åturidåt para u adåpta i areklamentu yan i regulasion siha ni para u kunsigi mo'na i ubligasion yan i responsabilidåt-ñiha siha sigun para Lai Pupbliku 18-56 yan Lai Pupbliku 19-24, yan 21-38 ingklusu låo ti chi'ña para 4 CMC §2314 yan §2316. Ispesifikåo umingkluklusu, låo ti chi'ña para 4 CMC §2314(b).

**I SUHETU NI MASUMÅRIA YAN ASUNTU NI TINEKKA:** Esti siha na areklamentu yan regulasion ha repela i mås nuebu na Pått 2600 nu i regulasion siha gi pat åntis di Oktubri 1, 2022.

**I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA**: Yan kuntodu otru siha, i mañechettun na Areklamentu yan Regulasion siha: repela i mås nuebu na Pått 2600 nu i regulasion gi pat åntis di Oktubri 1, 2022; pruhibi i "processing," granting" o sino "issuance" i nuebu na "junket licenses per" Pått 2600; yan prubihi i rinueban i maneksisisti na "junket licenses per" Pått 2600.

**DIREKSION PARA U MAPO'LU YAN MAPUPBLIKA**: Esti i Manmaproponi na Regulasion siha debi na u mapupblika gi halum i Rehistran Commonwealth gi halum i seksiona ni maproponi yan nuebu na ma'adåpta na regulasion siha (CMC § 9102(a)(1)) ya u mapega hålum gi kumbinienti na lugåt siha gi halum i civic center yan i ufisinan gubietnamentu gi kada distritun senadot; i nutisia debi na parehu Inglis yan i prinsipåt na lingguåhin natibu. (1 CMC § 9104(a)(1)).

**PARA U MAPRIBENIYI UPIÑON SIHA**: Na'hånåo pat intrega hålum i upiñon-mu guatu gi Commonwealth Kumision Huegun Salåppi', *Attn: Nuebu na Areklamentu yan Regulasion Kumision Huegun Salåppi' Siha*, gi sanhilu' na address, fax pat email address, yan i suhetu na råya "Nuebu na Areklamentu yan Regulasion Kumision Huegun Salåppi' Siha". I upiñon siha debi na u fanhålum gi halum 30 dihas ginen i fetchan pupblikasion esti na nutisia. Put fabot na'hålum iyom-mu data pat kinentestan kinentra siha. (1 CMC § 9104(a)(2)). I Commomwealth Kumision Huegun Salåppi' ma'aprueba i mañechettun na Regulasion siha gi pat kåsi gi 04/22/2021.

Nina'hålum as: _____ 4/28/21
RAFAEL S. DEMAPAN — Fetcha
Acting na Kabesiyun i Kumision

Rinisibi yan pine'lu as: _____ 04/29/21
MATHILDA A. ROSARIO — Fetcha
Ispisiåt Na Ayudånti Para I Atministrasion

Pine'lu yan
Ninota as: _____ 05.25.2021
ESTHER SN. NESBITT — Fetcha
Rehistran Commonwealth

Sigun i 1 CMC § 2153(e) (I Abugådu Heneråt ha aprueba i regulasion siha na para u macho'gui kumu fotma) yan i 1 CMC § 9104(a)(3) (hentan inaprueban Abugådu Heneråt) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligåt ginin i CNMI Abugådu Heneråt yan debi na u mapupblika, 1 CMC § 2153(f) (pupblikasion areklamentu yan regulasion siha).

Mafetcha gi diha 29 gi April, 2021.

_____
Hon. EDWARD MANIBUSAN
Heneråt Abugådu

**COMMONWEALTH CASINO COMMISSION**
Edward C. DeLeon Guerrero, Chairman
Commonwealth Casino Commission
P.O. Box 500237, Saipan, MP 96950
Tel. 670-233-1857/8 ** Fax. 670-233-1856
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# ARONGORONGOL TOULAP REEL REBWE ADÓPTÁÁLI POMMWOL ALLÉGH ME MWÓGHUTUGHUT NGÁLI COMMONWEALTH CASINO COMMISSION

**MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL ALLÉGH ME MWÓGHUTUGHUT:** Commonwealth Téél Falúw kka Efáng llól Marianas, Commonwealth Casino Commission ("Commission we") re mángemángil rebwe adóptááli Pommwol Mwóghutughut ikka e appasch bwe ebwe llégh1ó, sángi mwóghutughutúl Administrative Procedure Act, 1 CMC § 9104(a). Ra takkal amwuri pommwol mwóghutughut kka igha re yéélágh Commission wóól Sééta 22, 2021. Mwiril aal adóptááli, ebwe bwunguló Mwóghutughut kkal seigh (10) ráál mwiril aar adóptááli me akkatééwowul me llól Commonwealth Register. (1 CMC § 9105(b)).

**BWÁNGIL:** Eyoor bwángil Commission reel rebwe adóptááli allégh me mwóghutughut ikka e ffil llól lemelemil mwotal sángi Alléghúl Toulap 18-56, Alléghúl Toulap 19-24, me 21-38, e schuulong nge ese yúgh ngáli 4 CMC § 2314 me § 2316. Ebwe ffat bwe e schuulong, nge ese yúgh ngáli 4 CMC §2314(b).

**KKAPASAL ME ÓUTOL:** Allégh me mwóghutughut kkal e siiweli iye e lo bwe Part 2600 reel mwóghutughut wóól Sarobwél 1, 2022.

**KKAPASAL ME WEEWEL:** Llól akkáaw mwóghut, Allégh me Mwóghutughut; siiweli iye e lo bwe Part 2600 reel mwóghutuhgut wóól Sarobwél 1, 2022; pileey "processing" "granting" me isiisiwowul "new junket licenses per Part 2600"; me pileey mille "renewal of existing junket licenses per Part 2600".

**AFAL REEL AMMWELIL ME AKKATÉÉWOWUL:** Ebwe akkatééwow Pommwol Mwóghutughut me llól Commonwealth Register llól tálil pommwol me ffél mwóghutughut ikka ra adóptááli (1 CMC § 9102(a)(1)) me ebwe appaschetá llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district; ebwe toowow arongorong yeel llól English me mwáliyaasch. (1 CMC § 9104(a)(1)).

**REEL ISIISILONGOL KKAPAS:** Afang ngáre bwughiló yóómw ischil kkapas ngáli Commonwealth Casino Commission, *Attn: New Casino Commission Rules and Regulations,* reel féléfél iye e lo weiláng, fax ngáre email address, ebwe lo wóól subject line bwe "New Casino Commission Rules and Regulations". Kkapas ebwe toolong llól eliigh (30) ráál mwiril aal akkatééwow arongorong yeel. 1siisilong yóómw data, views

ngáre angiingi. (1 CMC § 9104(a)(1)). Commonwealth Casino Commission ra átirowa Mwóghutughut ikka e appasch wóól 4/22/21.

Isáliyalong: _____ 4/28/21
RAFAEL S. DEMAPAN — Ráál
Acting Chairman-il Commission

Bwughiyal me Ammwelil: _____ 04/29/21
MATHILDA A. ROSARIO — Ráál
Special Assistant ngáli Administration

Ammwelil: _____ 05.25.2021
ESTHER SN. NESBITT — Ráál
Commonwealth Registrar

Sángi 1 CMC § 2153(e) (mwiril aal átirow sángi AG reel mwóghutugh bwe aa lléghló reel ffééról) me 1 CMC § 9104(a)(3) (sángi átirowal AG) reel pommwol mwóghutughut ikka e appasch bwe ra takkal amwuri fischiy me átirowa bwe aa lléghló reel ffééról me legal sufficiency sángi Soulemelemeil Allégh Lapalapal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (arongowowul allégh me mwóghutughut).

Aghikkilátiw wóól 29 ráálil April, 2021.

_____
Hon. EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

**§ 175-10.1-2655 Sunset Provision.**

(a) This Part 2600 will sunset, and the provisions of this Part 2600 will no longer be operative as of:

(1) October 1, 2022; or

(2) The surrender, revocation or other termination of the last of any license issued pursuant to this Part which was in effect as of April 22, 2021;

whichever first occurs.

(b) No new license shall be granted pursuant to this Part 2600.

(c) No license which has been granted pursuant to this Part 2600 shall be renewed.

Commonwealth Ports Authority
Francisco C. Ada/Saipan International Airport
PO BOX 501055•SAIPAN•MP•96950
Phone: (670) 237-8500/01 Fax: (670) 234-5962
E-Mail Address: cpa.admin@pticom.com Website: https://cnmiports.com

# PUBLIC NOTICE

## Proposed Amendments to the Temporary Land Use Permits Rules and Regulations of the Commonwealth Ports Authority

The Executive Director of the Commonwealth Ports Authority ("CPA") hereby notifies the public that the Commonwealth Ports Authority intends to promulgate amendments to its Temporary Land Use Permits Rules and Regulations.

**INTENDED ACTION TO ADOPT THESE PROPOSED AMENDMENTS TO THE TEMPORARY LAND USE PERMITS RULES AND REGULATIONS OF THE COMMONWEALTH PORTS AUTHORITY:** Notice is hereby given pursuant to 1 CMC § 9104(a) of the Administrative Procedure Act that the Commonwealth Ports Authority intends to promulgate the following additional provisions and revisions to its Temporary Land Use Permits Rules and Regulations.

**TERMS, SUBSTANCE, AND DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED:** These proposed regulations overhaul NMIAC § 40-60. The proposed regulations include CPA's policies and procedures regarding the administration of leasing and permitting of CPA real property. The Chapter is renamed from "Temporary Land Use Permits Rules and Regulations" to "Land Management Rules and Regulations." Part 001 - General Provisions of the proposed regulations provides, among other things, the authority, purpose, and applicability of Chapter 40-60; the definition of certain terms used throughout the Chapter; the authorized use and penalties for unauthorized use of CPA real property; and the minimum terms and conditions of a land use authorization. Part 100 of these proposed regulations provides CPA's policies regarding short-term and long-term leases, including CPA's procedure in leasing CPA real property—whether through an unsolicited proposal or through a CPA initiated land use proposal. Part 200 of these proposed regulations provides CPA's policy regarding temporary use permits, including the process to apply for a permit, associated permit fees, and other terms and conditions. Subpart A of Part 200 provides the fees and minimum terms and conditions that apply specifically to temporary grazing permits.

**AUTHORITY:** The following proposed amendments have been fully reviewed by the CPA Board of Directors, which exercises all powers vested in the Commonwealth Ports Authority. During the board meeting held on March 31, 2021, the Board of Directors approved the proposed amendments for publication in the Commonwealth Register for Notice and Comment pursuant to the Administrative Procedure Act and for approval by the Attorney General pursuant to 1 CMC § 2153(e). The Commonwealth Ports Authority has the authority to promulgate these regulations pursuant to 2 CMC § 2122.

**DIRECTIONS FOR FILING AND PUBLICATION:** These Proposed Regulations shall be published in the Commonwealth Register in the section on Proposed and Newly Adopted

Regulations, 1 CMC § 9102(a)(1), and posted in convenient places in the civic center and in local governments in each senatorial district, both in English and in the principal vernacular. 1 CMC § 9104(a)(1).

**TO PROVIDE COMMENTS:** Persons or entities wishing to submit comments must do so in writing to Mr. Christopher S. Tenorio, Executive Director, CPA, by means of one of the following: Email, fax, mail or hand-delivery to the CPA Administrative Office located on the Second Floor of the Francisco C. Ada/Saipan International Airport with the subject line **"Comments on Proposed Amendments to the Temporary Land Use Permits Rules and Regulations."**

Commonwealth Ports Authority
P.O. Box 501055 Saipan, MP 96950
Tel. (670) 237-6500/6501
Fax: (670) 234-5962
Email: cpa.admin@pticom.com

All written comments shall be submitted within 30 days after publication of this notice.

Submitted by: _____ 5/12/2021
CHRISTOPHER S. TENORIO — Date
Executive Director, CPA

Received by: _____ 05/14/21
MATHILDA A. ROSARIO — Date
Special Assistant for Administration

Filed and Recorded by: _____ 05.25.2021
ESTHER SN. NESBITT — Date
Commonwealth Registrar

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

_____ 5/17/2021
EDWARD MANIBUSAN — Date
Attorney General

Commonwealth Ports Authority
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# NUTISIUN PUPBLIKU

## Priniponin tinilaika osino amendasión gi Temporåriu na Usun Tånu', Pitmisu yan Areklamentun i Aturidåt Puettun i Commonwealth.

I Eksekutibu na Direktót i Aturidåt Puettun Commonwealth (CPA) ha nutittisia i pupbliku na u mana'fanmanungu' put Inamenda osino tinilaika gi Pitmisun Tempuråriu na Usun Tånu' yan Areklamentu.

**I INTINDET NA AKSIÓN PARA U MA'ADÅPTA ESTI SIHA NA PRINIPONIN AMENDASIÓN GI PITMISUN TEMPURÅRIU NA USUN TÅNU' PUT AREKLAMENTU YAN REGULASIÓN I ATURIDÅT PUETTUN COMMONWEALTH:** Estagui' notisia manmanånnå'i sigun gi 1 CMC 9104(a) Åktu Areklamentun Administrasión, na i Aturidåt Puettun Commonwealth ha intiendi para u arekla i sigenti na siniñåla inadaniña' gi prubisión i Tempuråriu na Pitmisun Usun Tånu' na Areklamentu.

**TETMINU, SUSTÅNSIA, YAN DISKRIPSIÓN I SUBYEKTU YAN KÅSU INEMBRÅRÅSA**: I Priniponin Regulasión CPA, ha na'såsåonåo i Areklamentu yan Månda put Inatkila yan sinedin Propriadåt CPA. I Kapitulu Marinombra osino Matulaika na'åniña ginin "Tempuråriu na Pitmisu yan Areklamentun Usun Tånu'" para "Areklamentun Minanehan Tånu'". Påtti 001- Prubisión Heneråt put i Priniponi na Regulasión hana' guahahayi, entri pumalu, i Aturidåt, Rason, yan i Ma'usan Kapitulu 40-60; i sustånsian tafkåo na Palåbras ni Ma'usa gi interu gi Kapitulu; i ma'aturisa na usu yan pehnan ti ma'aturisan i usun Prupriadåt Tånu' CPA; yan put mås menus na tetminu yan kundisión Aturisasión pat Pudet ma'usan Propriadåt Tanu' CPA. Påtti 100 gi Priniponin Areklamentu hana' guahahayi Areklu yan "Policy" put parehu ha' kaddada' yan anåkku' na Atkilón, ha inklulusu Påsu yan Areklamentun CPA, put para u na Ma'atkila Propriadåt—maseha ti Kumbidåo na Prinoponi osino Tinituhun Usun Tånu' na Priniponi. Påtti 200 gi Priniponin Areklamentu hana' guahahayi Areklu yan "Policy" put Pitmisun Tempuråriu na Usu, ha Imbråråsa i Påsu osino i Areklamentu put Inaplikan para Pitmisu, Dinañaña'i yan Åpas "Permit", yan tafkåo siha mannisisåriu yan Kundisión. Gi sumampapa' Påtti 200 hana' guahahayi i bålin åpas yan put mås menus na Tetminu yan Kundisión ni u inaplika tempuråriu na "Permit" Paståhi.

**ATURIDÅT:** I sigenti siha na Inamenda Priniponi Ma'ina na kabålis ni CPA "Board of Directors" ni ha Eksisisa todu Pudet-ña gi Aturidåt Puettun Commonwealth. Gi durântin i huntan i "Board" ni mandanña gi Måtsu 31, 2021, i man Diriktot i Board ma'apreba i Priniponi ni Ma'amenda para u ma Pupblika gi Rehistran Commonwealth para Nutisia yan Upiñion sigun gi Åktun Areklamentun Administrasión, yan para u ma'apreba ni Abugådun Heneråt, sigun ginanagåo gi 1 CMC 2153(e). I Aturidåt Puettun Commonwealth gai Pudet Aturidåt para u Arekla esti siha na Areklamentu sigun gi 2 CMC 2122.



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Benjamin Taisacan Manglona International Airport
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Tel. (670) 532-9497 Fax. (670) 532-9499

Tinian International Airport/Seaport
PO Box 235, Tinian, MP 96952
Tel. (670) 433-9294 Fax. (670) 433-0790

**DIRIKSIÓN PARA MANA'HÅLUM YAN MAPUPBLIKA:** Esti siha na Priniponin Areklamentu u fan mapupblika gi Rehistran Commonwealth, gi seksion Priniponi yan Nuebu na Inadåpta na Areklamentu siha, 1 CMC 9102(a)(1), yan u mapega gi man kumbinienti siha na lugåt gi "Civic Center", yan gi "Local Government" gi katkuet na Distritun Senadót siha, parehu ha' gi finu' English yan i Prinsipåt na Lingguåhin Natibu guihi na "Senatorial District".

**PARA MANA' GUAHAYI UPIÑON:** Petsona osino Akåsu ni dumiseseha numa'halum upiñon pat puntun sinangan, debi di u cho'gui ya u tugi'i si Siñot Christopher S. Tenorio, Executive Director, CPA, gi unu na manera gi sigenti: Email, fax, hand-delivery para guatu gi "CPA Administrative Office" ni gaigi gi sigundu bibenda gi Francisco C. Ada/Saipan International Airport yan i subyektu na filan tinigi' **"Comments on Proposed Amendments to the Temporary Land Use Permits Rules and Regulations".**

Commonwealth Ports Authority
P.O. Box 501055 Saipan, MP 96950
Tel. (670) 237-6500/6501
Fax: (670) 234-5962
Email: cpa.admin@pticom.com

Todu i matugi' na hinasso debi di ma intrega gi halum 30 dihas dispues di ma pupblika i notisia.

Muna'halom: _____ 5/12/2021
CHRISTOPHER S. TENORIO — Fe'cha
Direktot Ekseklatibu, CPA

Murisibi: _____ 05/14/21
MATHILDA A. ROSARIO — Fe'cha
Ispisiåt Ayudåntin Administrasion

Mu File yan Mu Record: _____ 05.25.2021
ESTHER SN. NESBITT — Fe'cha
Commonwealth Registrar

Sigun i 1 CMC § 2153(e) yan 1 CMC § 9104(a)(3) i ma propoponi na regulasion ni ma na chettun guini esta ma ina ya ma apreba kumu i "form" yan ligåt, sufisienti para i Abugådun Heneråt CNMI yan siempre ma pupblika. 1 CMC § 2153(f).

_____ 5/17/2021
EDWARD MANIBUSAN — Fe'cha
Abugådun Heneråt


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# ARONGORONGOL TOULAP

## Pommwol Liiwel ngáli Angúúngúl Yáayál Falúw iye e "Temporary" Alléghúl me Mwóghutughutúl Commonwealth Ports Authority

Executive Director-il Commonwealth Ports Authority ("CPA") re arongaar toulap bwe Commonwealth Ports Authority re mángemángil rebwe aronga liiwel ngáli aar "Temporary Land Use Permits Rules and Regulations".

**MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL LIIWEL NGÁLI ANGÚÚNGÚL YÁÁYÁL FALÚW IYE E "TEMPORARY" ALLÉGHÚL ME MWÓGHUTUGHUTÚL:** E toowow arongorong yeel sángi 1 CMC § 9104(a) reel Administrative Procedure Act iye Commonwealth Ports Authority re mángemángil rebwe aronga reel "provision" ikka e schuulong me liiwel ngáli "Temporary Land Use Permits Rules and Regulations."

**KKAPASAL, WEEWEL, ME ARONGORONGOL KKAPASAL ME ÓUTOL:** Pommwol liiwel kkal e ffééró sefáálíy NMIAC § 40-60. E schuulong llól Pommwol mwóghutughut aar "policies me procedures" CPA ikka e ssúl ngáli mwóghutughutúl atkkilóónol me angúúngúl faluweer CPA. Ra aita sefáálí Chapter sángi "Temporary Land Use Permits Rules and Regulations" ngáli "Land Management Rules and Regulations". "Part 001 – General Provision" reel pommwol mwóghutughut e ayoora, llól akkááw kkosas, bwángil, bwulul, me "applicability of Chapter 40-60"; weewel kkapas ikka e ffat bwe re yááyá llól Chapter; bwángil igha re yááyá me mwuttal reel yááyál faluweer CPA iye ese yoor bwángil; me "minimum terms and conditions" reel yááyál falúw iye eyoor bwángil. Part 100 reel pommwol mwóghutughut kkal e ayoora aar CPA "policies" ikka e ssúl ngáli atkkilóón ikka e lo bwe "short term and long-termPart 200 reel pommwol mwóghutughut e ayoorai aar CPA "policy" ikka e ssúl ngáli "temporary use permits", e schuulong mwóghutughutúl igha ubwe bweibwogh ngáre "apply" angúúngúl, me akkááw "conditions" ikka e ffil ngáli "temporary grazing permits".

**BWÁNGIL:** Ra takkal amwuri fischiiy pommwol liiwel ikka e amwirimwiritiw sángi CPA Board-il Directors, iye re yáálí maamaawal iye re aiti ngáliir Commonwealth Ports Authority. Atol aar yéélágh wóól Máálap 31, 2021, Board of Directors re áirowa pommwol liiwel ngáli ebwe akkatééwow me llól Commonwealth Register ngáli "Notice and Comment" sángi Administrative Procedure Act me aa átirow sángi Soulemelemil Allégh Lapalap sángi 1 CMC § 2153(e). Eyoor bwángil Commonwealth Ports Authority reel rebwe arongawow mwóghutughut sángi 2 CMC § 2122.

**AFAL REEL AMMWELIL ME AKKAÉÉWOWUL:** Ebwe akkatééwow Pommwol Mwóghutughut kkal me llól Commonwealth Register llól tálil Pommwol me Ffél Mwóghutughut ikka ra adóotáálí, 1 CMC § 9102(a)(1), me ebwe appaschetá llól civic center me bwal llól

bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch. 1 CMC § 9104(a)(1)).

**REEL ISIISILONGOL KKAPAS:** Aramas ngáre schóó kka re tipáli rebwe isiisilong kkapas rebw ischi ngáli Mr. Christopher S. Tenorio, Executive Director, CPA, emmwelil ubwe yáayá ikka e amwirimwiritiw: Email, fax, mail ngáre bwughiló CPA Administrative Office iye e lo Second Floor reel Francisco C. Ada/Saipan International Airport fengál wóól subject line "**Comments on Proposed Amendments to the Temporary Land Use Permits Rules and Regulations."**

Commonwealth Ports Authority
P.O. Box 501055 Saipan, MP 96950
Tel. (670) 237-6500/6501
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Email: cpa.admin@pticom.com

Alongal ischil kkapas ebwe toolong llól eliigh (30) ráál mwiril aal akkatééwow arongorong yeel.

Isáliyalong: _____ 5/12/2021
CHRISTOPHER S. TENORIO — Ráál
Executive Director, CPA

Bwughiyal: _____ 05/14/21
MATHILDA A. ROSARIO — Ráál
Special Assistant ngáli Administration

Ammwelil: _____ 05.25.2021
ESTHER SN. NESBITT — Ráál
Commonwealth Registrar

Sángi 1 CMC § 2153(e) me 1 CMC § 9104(a)(3) ra takkal amwuri fischiiy pommwol mwóghutughut kkal me ra átirowa me aa lléghló reel ffééról me legal sufficiency sángi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow. 1 CMC § 2153(f).

_____ 5/17/2021
EDWARD MANIBUSAN — Ráál
Soulemelemil Allégh Lapalap

# CHAPTER 40-60

# ~~TEMPORARY~~ LAND ~~USE PERMITS~~MANAGEMENT RULES AND REGULATIONS


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Chapter Authority: 2 CMC § 2122(j) and (n).

Chapter History: Amdts Adopted 2040 Com. Reg. 16406 (Dec. 15, 1998);40924 (Sept. 28, 2018); Amdts Proposed 2039 Com. Reg. 40425 (Dec. 28, 2017); Amdts Adopted 39 Com. Reg. 39217 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39052 (Dec. 28, 2016); Amdts Proposed 28 Com. Reg. 25491 (Jan. 30, 2006);* Adopted 24 Com. Reg. 19402 (July 29, 2002); Proposed 24 Com. Reg. 16137 (Sept. 15, 199818913 (Jan. 29, 2002).

*As of August 31, 2007, a notice of adoption had not been published.

Commission Comment: For the history of the regulatory authority of the Commonwealth Ports Authority, see the general comment to chapter 40-10.

## Part 001 - General Provisions; Purpose and Scope

### § 40-60-001 Authority

(a) The rules and regulations in this chapter are hereby promulgated by the Authority in accordance with 2 CMC § 2101, et seq., and subsequent amendments thereto, which, amongst other things, authorizes the Commonwealth Ports Authority to enter into leases granting the privilege of using or improving Commonwealth Ports Authority property for any port-connected purposes and port-related operations.

### § 40-60-002 Purpose

The purpose of this chapter is to establish a procedure for the administration of leasing and permitting of Commonwealth Ports Authority real property.

### § 40-60-003 Applicability

This Chapter applies to all agreements involving the Commonwealth Ports Authority's real property except for those agreements governed under the Commonwealth Ports Authority Concession Regulations.

### § 40-60-004 Definitions

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As used in this Chapter, the term:

(a) "Applicant" means any person who submits an application for a land use authorization under this Chapter.

(b) "Authority" means the Commonwealth Ports Authority.

(c)~~(~~ "CPA" means the Commonwealth Ports Authority.

(d) "CPA lands" means lands or interests in lands, including adjacent waters, that are administered by the Commonwealth Ports Authority or under its jurisdiction.

(e) "Executive Director" means the Executive Director of the Commonwealth Ports Authority or his designee.

(f) "Holder" means a person that has a current and effective land use authorization.

(g) "Land use authorization" means any authorization to use CPA lands issued under this Chapter.

(h)~~") in accordance with 2 CMC § 2122~~ "Lease" means an authorization to possess and use CPA lands for a fixed period of time.

(i) "Permit" means a short-term revocable authorization to use CPA land or property for specified purposes.

(j) "Permittee" means a person that has been awarded a Permit.

(k) "Proponent" means any person who submits a land use proposal either on his own initiative or in response to a notice for submission of such proposals.

**§ 40-60-005 Authorized Use**

Any ~~and~~ use not specifically authorized under other laws or regulations and not specifically forbidden by law may be authorized under this Chapter.

**§ 40-60-006 Terms and Conditions**

(a) In all land use authorizations, CPA reserves the right to use CPA lands or to authorize the use of CPA lands by the general public in any way compatible or consistent with the authorized land use, and such reservations shall be included as a part of all land use authorizations. Authorized representatives of CPA and other individuals conducting official business on behalf of Federal or CNMI agencies shall, at all times, have the ~~force and effect of law~~right to enter the premises to conduct such official business. Holders shall not close or otherwise obstruct the use of roads or trails commonly in public use.

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(b) As additional terms and conditions of each land use authorization, each Holder shall:
(1) Carry out the purposes of applicable law and regulations issued thereunder;
(2) Minimize damage to scenic, cultural, and aesthetic values; fish and wildlife habitats; and otherwise protect the environment;
(3) Comply with air and water quality standards established pursuant to applicable Federal or CNMI law; and
(4) Comply with CNMI standards for public health and safety, environmental protection, siting, construction, operation and maintenance of, or for, such use if those standards are more stringent than applicable Federal standards.

(c) Land use authorizations shall also contain such other terms and conditions as the Executive Director considers necessary to:
(1) Protect or advance CPA, CNMI, and Federal property and economic interests;
(2) Manage efficiently CPA or CNMI public lands that are subject to the use or adjacent to or occupied by such use;
(3) Protect lives and property;
(4) Protect the interests of individuals living in the general area of the use who rely on the fish, wildlife, and other biotic resources of the area subsistence purposes;
(5) Require the use to be located in an area which shall cause least damage to the environment, taking into consideration feasibility and other relevant factors; and
(6) Otherwise protect the public interest.

(d) Holders shall not cut, remove, use, or destroy any mineral or vegetative materials, including timber, without an express written authorization explicitly permitting such activities from the Executive Director.

(e) Holders shall not use CPA lands for any purposes other than those specified in the land use authorization without the approval of the Executive Director.

(f) Liability provisions:
(1) Holders and all owners of any interest in, and all affiliates or subsidiaries of any Holder shall pay CPA the full value for all injuries or damage to CPA lands or other property of CPA caused by the Holder or by its employees, agents or servants, or by a contractor, its employees, agents, or servants. Holders shall be held to standards of strict liability where the Executive Director determines that the activities taking place on the area covered by the land use authorization present a foreseeable hazard or risk of danger to CPA lands or other property of CPA. Strict liability shall not be applied where such damages or injuries result from acts of war or negligence of CPA.
(2) Holders of a land use authorization and all owners of any interest in, and affiliates or subsidiaries of any Holder shall pay third parties the full value of all injuries or damage to life, person, or property caused by the Holder, its employees, agents, or servants or by a contractor, its employees, agents, or servants.
(3) Holders shall indemnify or hold harmless CPA against any liability for damages to life, person or property arising from the authorized occupancy or use of the CPA lands under the land use authorization. Where a land use authorization is issued to any entity that has no legal power to assume such liability with respect to damages caused by it to lands or

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property, such as CNMI government agencies, such entity in lieu thereof shall be required to repair all damages.

(g) The Executive Director may require a bond or other security satisfactory to him/her to insure the fulfillment of these regulations and the terms and conditions of the land use authorization.

(h) Any land use authorization existing on the effective date of this regulation is not affected by this regulation and shall continue to be administered under the statutory authority under which it was issued. However, upon execution of an amendment or renewal, the holder of a land use authorization shall be considered to have agreed to convert the entire authorization to the current legal authority at the time of approval of the amendment or renewal.

(i) Holders that have complied with the provisions of their land use authorization, may, upon the filing of a request for renewal, be considered the preferred user for a new land use authorization provided that the CPA lands are not needed for another use. Renewal, if granted, shall be subject to new terms and conditions.

(j) Land use authorizations may be transferred in whole or in part but only under the following conditions:
(1) Holders may not transfer, sublease, assign, mortgage, encumber, or otherwise alienate or transfer their land use authorization or any interest therein, except with the express prior written consent of the Executive Director;
(2) The Executive Director may modify the terms and conditions of the land use authorization and the transferee shall agree, in writing, to comply with and be bound by the terms and conditions of the authorization as modified; and
(3) Transfers shall not take effect until approved by the Executive Director.

(k) If CPA lands included in a lease or easement are to be disposed of, the conveyance shall be made subject to the lease or easement. Permits shall be revoked prior to disposal of CPA lands.

**§ 40-60-007 Penalties for Unauthorized Use**

(a) Any use, occupancy, or development of CPA lands without authorization under this Chapter shall be considered a trespass. Anyone determined by the Executive Director to be in trespass on CPA lands shall be notified of such trespass and shall be liable to CPA for:
(1) The administrative costs incurred by CPA as a consequence of such trespass; and
(2) A reasonable rental rate, as determined by the Executive Director, for the lands for the current year and past years of trespass; and
(3) Rehabilitating and stabilizing the lands that were the subject of such trespass, or if the person determined to be in trespass does not rehabilitate and stabilize the lands determined to be in trespass within the period set by Executive Director in the notice, he shall be liable for the costs incurred by CPA in rehabilitating and stabilizing such lands.

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(b) In addition, the following penalties may be assessed by the Executive Director for a trespass not timely resolved:
(1) For non-willful trespass, the penalty shall be twice the fair market rental value which has accrued since the inception of the trespass, not to exceed a total of 6 years; and
(2) For knowing and willful trespass, three times the fair market rental value which has accrued since the inception of the trespass, not to exceed a total of 6 years.

(c) For any person found to be in trespass on the CPA lands under this section, the Executive Director may take action under § 40-60-008 to terminate, revoke, or cancel any land use authorization issued to such person under this Chapter.

(d) Failure to satisfy the liability and penalty requirements imposed under this section for unauthorized use of CPA lands may result in denial of a use authorization under this Chapter.

(e)~~(b) The CPA has the duty and responsibility to develop, maintain, operate and manage all air and sea ports within the Commonwealth of the Northern Mariana Islands pursuant to 2 CMC § 2122(a). CPA has certain airport lands under its jurisdiction and ownership, which are being reserved for future port development. These lands are being maintained as unimproved property, but may be used for farming, grazing or other activities so that they remain in a clean and unobstructive* state. CPA finds that such lands would best be maintained by farmers and ranchers willing to clean and maintain the lands in return for short term farming, grazing or short term noncommercial/commercial purposes under the terms of this chapter and the temporary permit issued. The activities permitted under this chapter shall be deemed "portconnected" pursuant to the requirements of 2 CMC § 2122(e) and as a matter of CPA policy.~~

~~*So in original.~~
Any person who knowingly and willfully uses CPA lands without the authorizations required by this Chapter, may, in addition to the civil penalties provided for in this part, be subject to a fine of not more than $1,000.

**§ 40-60-008 Termination and Suspension**
(a) Land use authorizations may be terminated under the following circumstances:
(1) If a land use authorization provides by its terms that it shall terminate on the occurrence of a fixed or agreed-upon event, the land use authorization shall thereupon automatically terminate by operation of law upon the occur ence of such event.
(2) Noncompliance with applicable law, regulations, or terms and conditions of the land use authorization.
(3) Failure of the Holder to use the land use authorization for the purpose for which it was authorized. Failure to construct or nonuse for any continuous six-month period shall constitute a presumption of abandonment and termination.
(4) Mutual agreement that the land use authorization should be terminated.
(5) If payment is on a monthly basis, nonpayment of rent for two consecutive months, following notice of payment due.
(6) So that the public lands covered by the permit can be disposed of or used for any other purpose.

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(b)(1) Upon determination that there is noncompliance with the terms and conditions of a land use authorization which adversely affects the public health, safety or welfare or the environment, the Executive Director shall issue an immediate temporary suspension.
(2) The Executive Director may give an immediate temporary suspension order orally or in writing at the site of the activity to the Holder or a contractor or subcontractor of the Holder, or to any representative, agent, employee or contractor of any of them, and the suspended activity shall cease at that time. As soon as practicable, the Executive Director shall confirm the order by a written notice to the Holder addressed to the Holder or the Holder's designated agent. The Executive Director may also take such action considered necessary to require correction of such defects.
(3) The Executive Director may order immediate temporary suspension of an activity regardless of any action that has been or is being taken by another Federal agency or CNMI agency.
(4) An order of temporary suspension of activities shall remain effective until the Executive Director issues an order permitting resumption of activities.
(5) Any time after an order of suspension has been issued, the Holder may file with the Executive Director a request for permission to resume. The request shall be in writing and shall contain a statement of the facts supporting the request.
(6) The Executive Director may render an order to either grant or deny the request to resume within 10 working days of the date the request is filed. If the Executive Director does not render an order on the request within 10 working days, the request shall be considered denied.

(c) Process for termination or suspension other than temporary immediate suspension.
(1) Prior to commencing any proceeding to suspend or terminate a land use authorization, the Executive Director shall give written notice to the Holder of the legal grounds for such action and shall give the Holder a reasonable time to correct any noncompliance.
(2) After due notice of termination or suspension to the Holder of a land use authorization, if noncompliance still exists after a reasonable time, the Executive Director shall give written notice to the Holder that the land use authorization is suspended or terminated.
(3) The Executive Director shall the lift suspension order when he determines that the violation causing such suspension has been rectified.

(d) Upon termination, revocation, or cancellation of a land use authorization, the Holder shall remove all structures and improvements except those owned by the Authority within 30 days of the notice of termination, revocation, or cancellation and shall restore the site to its pre-use condition, unless otherwise agreed upon in writing or in the land use authorization. If the Holder fails to remove all such structures or improvements within a reasonable period, they shall become the property of the Authority, but that shall not relieve the Holder of liability for the cost of their removal and restoration of the site.

**§ 40-60-009 Applicable Laws**

This Chapter and any land use authorization issued hereunder shall be interpreted in accordance with the laws of the Commonwealth of the Northern Mariana Islands.

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Modified, 1 CMC § 3806(d).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

**§ 40-60-~~005 Purpose~~010 Severability**

If any of the ~~Regulations~~

~~(~~provisions of this Chapter or the terms and conditions of any land use authorization issued hereunder is held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

Modified, 1 CMC § 3806(d).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

**§ 40-60-011 Attorney's Fees**

In the event CPA files any civil action with a court of competent jurisdiction to enforce any term or provision of this Chapter or any land use authorization, including any lease or permit, issued hereunder, or for breach of any such term or condition, Holder shall pay CPA its reasonable attorney's fees and court costs, if CPA is successful.

Modified, 1 CMC § 3806(d).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

**Part 100 - Leases**

**§ 40-60-101 Policy**

(a) Leases shall be used to authorize use of CPA lands involving, among other things, substantial construction, development, or land improvement. A lease conveys a possessory interest and is revocable only in accordance with its terms and the applicable provisions of this Chapter.

**§ 40-60-102 Long-term Leases**

(a) Any lease with a term of more than five years must be approved by the Board of Directors of the Commonwealth Ports Authority to become effective.

(b) No term of any lease shall exceed the maximum term allowable by law.

**§ 40-60-103 Short-term Leases**

(a) The Executive Director may approve and execute leases with a term of five years or less. For leases with terms of more than five years, approval by the Board of Directors of

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the Commonwealth Ports Authority is required.

**Subpart A - Unsolicited Proposals**

**§ 40-60-104 Unsolicited Proposals**

(b) Land use authorizations may be offered under this Subpart on a negotiated, non-competitive basis, when, in the judgement of the Executive Director, no competitive interests or equities exist, such as prior use of the lands, or where competitive bidding would represent unfair competitive and economic disadvantage to the originator of the unique land use concept. The land use authorization shall not be for less than fair market value.

(a) Any Proponent who seeks to use CPA lands may contact the Executive Director to discuss the land use proposal. This contact should be made as early as possible so that administrative requirements and potential con licts with other land uses can be identified.

(b) The Executive Director will discuss with the Proponent the proposal, the suitability or non-suitability of the requested land use based on the Authority's preliminary examination of existing land use plans, where available, local zoning ordinances, and any other pertinent information. The Executive Director will discuss the general requirements for the types of land use which may be granted. The Executive Director may request additional information, including, but not limited to: the Proponent's qualifications; associated clearances and other permits or licenses which may be required; and environmental and management considerations.

(c) A proposal for a land use authorization shall be submitted in writing to the CPA Administrative Office on the island the land is located.

(d) The submission of a proposal gives no right to use CPA lands.

**§ 40-60-105 Proposal Content**

(a) Proposals for a land use authorization shall include a description of the proposed land use in sufficient detail to enable the Executive Director to evaluate the feasibility of the proposed land use; the impacts, if any, on the environment, the public or other benefits from the proposed land use; the approximate cost of the proposal; any threat to the public health and safety posed by the proposal; and whether the proposal is, in the Proponent's opinion, in conformance with CPA plans, programs, and policies for the CPA lands covered by the proposal. The description shall include but not be limited to:
(1) Details of the proposed uses and activities;
(2) A description of all facilities for which authorization is sought, including access needs and special types of easements that may be needed;
(3) A map of sufficient scale to allow all of the required information to be legible;
(4) A legal description of primary and alternative project locations; and
(5) A schedule for construction of any facilities.

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(b) The proposal shall include the name, legal mailing address, and telephone number of the land use Proponent.

**§ 40-60-106 Proposal Review**

(a) A land use proposal shall, upon submission, be reviewed by the Executive Director to determine if the CPA lands covered by the proposal are appropriate for the proposed land use.

(b) If the proposal is found to be appropriate for further consideration, the Executive Director shall examine the proposal and make one of the following determinations:
(1) The proposed land use is in conformance with the appropriate land use plan or port masterplan and can be approved;
(2) The proposed land use has not been addressed in an existing land use plan or port masterplan and shall be referred to the CPA Board of Directors for either approval or to proceed under Subpart B of this Part;
(3) The proposed land use is not in conformance with the approved land use plan or port masterplan and may not be approved.

(c)(1) If a proposed land use does not meet the requirements of this Subpart or is found not to be in conformance with the land use plan or port masterplan, the Executive Director shall so advise the Proponent and shall provide a written explanation of the reasons the proposed use does not meet the requirements of this Chapter and/or is not in conformance with an existing land use plan.

**Subpart B – CPA Initiated Land Use Proposals**

**§ 40-60-107 Notice of Realty Action**

(a) Land use authorizations may be offered under this Subpart if, in the judgment of the Executive Director, a competitive interest exists or if no equities, such as prior use of the lands, warrant non-competitive land use authorization. Land use authorizations shall be awarded on the basis of the public benefit to be provided, the financial and technical capability of the bidder to undertake the project, and the bid offered. Land use authorizations under this Subpart must be at least at fair market value. Each bidder shall submit information required by the notice of realty action.

(b) A notice of realty action indicating the availability of CPA lands for use shall be issued and published when a determination has been made that such CPA lands are available for a particular use.

(c) The notice shall include the use proposed for the CPA lands and shall notify the public that applications for land use shall be considered.

(d) The notice of realty action shall be published once a week for 3 weeks in a newspaper

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of general circulation in the CNMI.

**§ 40-60-108 Filing of Applications for Land Use Authorizations**

(a) Only after publication of a notice of realty action shall an application for a land use authorization be filed with CPA.

(b) The filing of an application gives no right to use the public lands.

**§ 40-60-109 Application Content**

(a) Applications for land use authorizations shall include a reference to the notice of realty action under which the application is filed and a description of the proposed land use in sufficient detail to enable the Executive Director to evaluate the feasibility of the proposed land use, the impacts, if any, on the environment, the public or other benefits from the land use, the approximate cost of the proposed land use, any threat to the public health and safety posed by the proposed use and whether the proposed use is in conformance with CPA plans, programs, and policies. The description shall include, but not be limited to:
(1) Details of the proposed uses and activities;
(2) A description of all facilities for which authorization is sought, access needs, and special types of easements that may be needed;
(3) A map of sufficient scale to allow all of the required information to be legible and a legal description of primary and alternative project locations; and
(4) A schedule for construction of any facilities.

(b) Additional information:
(1) After review of the project description, the Executive Director may require the applicant(s) to fund or take any other action, such as providing studies or additional data, or both, to ensure compliance with other applicable laws and regulations.
(2) An application for the use of CPA lands may require additional private, CNMI, local or other Federal agency licenses, permits, easements, certificates, or other approval documents. The Executive Director may require the applicant to furnish such documents, or proof of application for such documents, as part of the application.
(3) The Executive Director may require evidence that the applicant has, or prior to commencement of construction will have, the technical and financial capability to construct, operate, maintain and terminate the authorized land use.

(c) The application shall include the name and legal mailing address of the Applicant.

(d) Business Associations. If the Applicant is other than an individual, the application shall include the name and address of an agent authorized to receive notice of actions pertaining to the application.

(e) If any of the information required in this section has already been submitted as part of a land use proposal submitted under Subpart A of this Part, the application need only refer to that proposal by filing date and the office the proposal was previously submitted. The

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applicant shall certify that there have been no changes in any of the information.

**§ 40-60-110 Application Review**

Every application shall be reviewed to determine if it conforms to the notice of realty action. If the application does not meet the requirements of this Chapter, the application may be denied, and the Applicant shall be so advised in writing, with an explanation.

**§ 40-60-111 Applicant Selection**

(a) After review of applications filed, the Executive Director shall select one application for further processing. The Executive Director shall provide public notice of the selection of an Applicant and notify the selected Applicant, in writing, of the selection.

(b) The selected land use Applicant shall submit any additional information that the Executive Director considers necessary to process the land use authorization.

(c) The Executive Director may commence negotiations with the selected Applicant to determine the terms of the land use authorization. If the Executive Director and the selected Applicant cannot come to an agreement as to the terms of the land use authorization within 45 days from the notice of selection, the Executive Director may, but is not required to, select another applicant.

**§ 40-60-112 Reimbursement of Costs**

(a) When two or more applications are submitted for a land use authorization, each applicant shall be liable for the identifiable costs of processing the application. Where the costs of processing two or more applications cannot be readily identified with particular applications, all applicants shall be liable for such costs, to be divided equally among them.

(b) The selected land use applicant shall reimburse CPA for the reasonable administrative and other costs incurred by CPA in processing a land use authorization application and for the monitoring of construction, operation, maintenance, rehabilitation, or restoration of the facilities or lands.

(c) The Executive Director may, before beginning any processing of a land use authorization application, require payment, as may be needed, to cover the estimated costs of processing the application. Before granting a land use authorization, the Executive Director may assess and collect any underpayment of the actual costs of processing after furnishing the applicant with a statement of costs.

(d) A selected applicant who withdraws, in writing, a land use application before a final decision is reached on the authorization is responsible for all costs incurred by CPA in processing the application up to the day that the Executive Director receives notice of the withdrawal and for all costs subsequently incurred by CPA in terminating the proposed land use authorization process. Reimbursement of such costs shall be paid within 30 days

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of receipt of notice from the Executive Director of the amount due.

(e) The Executive Director may require advanced payments for the monitoring of construction, operation, maintenance, rehabilitation, or restoration of the facilities or lands.

(f) Upon expiration of the land use authorization, the selected applicant shall submit a payment for any unpaid costs incurred or that may reasonably be incurred by CPA for the monitoring of construction, operation, maintenance, rehabilitation, or restoration of the facilities or lands.

(g) If payments, as required by this section, exceeds actual costs to CPA, the Executive Director may issue a refund or adjust the next billing to reflect the overpayment. Neither an Applicant nor a Holder shall offset or otherwise deduct any debt due to or any sum claimed to be owed them by CPA without the prior written approval of the Executive Director.

(h) When through partnership, joint venture, or other business arrangement, more than one person, partnership, corporation, association or other entity jointly make application for a land use authorization, each such party shall be jointly and severally liable for the costs under this Chapter.

(i) Requests for modification of or addition to the land use authorization or reconstruction or relocation of any authorized facilities shall be treated as a new application for cost recovery purposes and are subject to the cost requirements of this Chapter.

## Part 200 - Temporary Use Permits

### § 40-60-201 Policy

(a) To establish a uniform land use policy regarding the application, review, and award of ~~agricultural, grazing, and~~ short-term non-commercial or commercial permits, including Temporary Grazing Permits, Revocable Berthing Permits, CPA Field Permits, and CPA Office Use Permits, to use CPA lands without erecting any permanent improvement thereon.

~~(b) To establish uniform terms and conditions for the use of CPA lands pursuant to temporary land use permits.~~

(b)

~~(c)~~ To ensure that the award of temporary land use permits do not violate any applicable local or federal law, regulation, or policy, and that the mission and best interest of ~~the~~ CPA ~~are~~ is carried out and promoted.

(c) Permits may be used to authorize uses of CPA lands and property. Permits shall not exceed 5 years. Permits convey no possessory interest. Permits are renewable at the discretion of the Executive Director and may be revoked for any reason whatsoever and for other reasons in accordance with its terms and the applicable provisions of this Chapter.

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History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

§ 40-60-~~010 Applicability~~
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~~This chapter shall apply to all agricultural, grazing and other short term non commercial or commercial permits, subject to cancellation at the discretion of the CPA, with or without cause, as provided for under this chapter. This chapter shall not apply to commercial leases and concessions with a term of more than one year, or to other commercial arrangement related to CPA operation of airport and seaport properties.~~

~~Modified, 1 CMC § 3806(d), (e).~~

~~History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).~~

**~~§ 40-60-015 Definitions~~**

~~(a) "Application" or "renewal application" means the temporary land use permit application made on form provided by the Authority and available to all permit applicants, existing or prospective.~~

~~(b) "Authority" or "CPA" means the Commonwealth Ports Authority.~~

~~(c) "Board" or "Board of Directors" means the Board of Directors of the Commonwealth Ports Authority.~~

~~(d) "CPA lands," for purposes of this chapter means any unimproved airport land owned by or that is under the control of the Authority and which has been designated by CPA for agricultural, grazing or short term noncommercial or commercial use.~~

~~(e) "Executive Director" means the Executive Director of the CPA or his designee.~~

~~(f) "Permanent improvement" means any permanent or fixed structure, constructed of materials generally associated with permanency such as concrete, hollow block, or metal, and incapable of being dismantled or removed upon expiration of the permit except through demolition or destruction of the improvement.~~

~~(g) "Permit" means the legal instrument issued by the Authority authorizing the agricultural, grazing, short term commercial or non commercial use of CPA lands and issued pursuant to this chapter, or were issued prior to this chapter but are now made subject to this chapter.~~

~~(h) "Permittee" means the person issued a permit to use CPA lands, pursuant to this chapter and the terms and conditions of the permit.~~

~~Modified, 1 CMC § 3806(d), (f), (g).~~

~~History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).~~

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Commission Comment: In subsection (d), the Commission changed "or is under" to "or that is under" to correct a manifest error. The Commission inserted a comma after the word "block" in subsection (f) pursuant to 1 CMC § 3806(g).

## Part 100 - Cancellation of Existing Permit and Application for New Permit

### § 40-60-101 Cancellation of Existing Permits

All existing permits for the use of CPA lands issued prior to the adoption of this chapter shall be canceled by the Authority no later than ninety days after the effective date of this chapter. Any existing permittee of CPA lands who fails to file an application forindividual seeking a new permit as set forth in § 40-60-105 below shall be deemed a trespasser after such period, and CPA may take any action, legal or equitable, to remove any unlawful occupant who does not have a valid permit to use CPA lands.

Modified, 1 CMC § 3806(c), (d), (e).

History: Adopted 20 Com. to use CPA propertyReg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

### § 40-60-105 Application for New Permit

Any existing permittee who wishes to obtain a new permit to use CPA land as a result of the proposed termination of an existing permit, must file a completed application for a new temporary use permit with the Executive Director within ninety days after the effective date of this chapter. Such person shall obtain anthe appropriate application form from the Authority. Any existing permittee making an application may be allowed to continue the use and occupancy of CPA land described by the canceled permit, pending the final decision of the Authority on the application for a new permit.

Modified, 1 CMC § 3806(d), (e).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

## Part 200 - Application for a New Permit

### § 40-60-201203 Application Form

The Executive Director shall make available uniforma permit application forms for agricultural, grazing, short-term commercial and non-commercialform for the temporary use of CPA lands. Application forms shall be made available at the Authority's office at theoffices in Saipan International Airport on Saipan and at the office of the airport manager on, Tinian, and Rota.

Modified, 1 CMC § 3806(f).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

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**§ 40-60-~~205~~204 Application Fee**

A non-refundable application fee of twenty-five dollars shall be assessed for each application. The fee shall be used to defray the cost of processing, review, and other administrative costs.

Modified, 1 CMC § 3806(e).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

§ 40-60-~~210 Renewal~~

~~Any permittee who wishes to renew his permit to use CPA land shall file a new application with the Authority no later than sixty days prior to the expiration of the existing permit. All applications for renewal shall be accompanied with the standard application fee and any rental payment due and payable the Authority. No permit may be renewed without payment of the application fee and any outstanding rental due under the existing permit. Any permittee submitting an application for renewal under this section shall continue to use the CPA land he is occupying pending the final decision of the Authority on his application, provided that he pays all rental as the same become due and payable.~~

~~Modified, 1 CMC § 3806(e205).~~

~~History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).~~

~~**§ 40-60-215 Permit Application for Newly Designated CPA Lands**~~

~~(a) The Authority may designate, for temporary land use permits, other idle lands under its ownership or control and which are being reserved for future port expansion or development by the Authority. The Authority may designate such property, as appropriate, for temporary use under permits issued pursuant to this chapter.~~

~~(b) In the event the Authority designates for permit issuance any CPA lands, it shall publish a notice of intention to offer for temporary use permitting such CPA lands and shall prescribe in the notice the method for making application. Publication by notice in a newspaper of general circulation in the Commonwealth at least twice within thirty days of CPA designation shall be made by the Authority.~~

~~Modified, 1 CMC § 3806(d), (e).~~

~~History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).~~

**~~§ 40-60-220~~ Review and Award of Permit**

(a) The ~~Authority's Airport Facilities Committee~~Executive Director shall review each application for a temporary permit to use CPA land. ~~It may, as it deems necessary, provide for a public hearing on the permit applications for newly designated CPA land. If there is~~

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~~a hearing, each applicant shall be entitled to present testimony concerning his/her application and why his/her permit application, if granted, will serve the best interests of the Authority. The Authority may reject any and all application at its sole discretion. Notice of the award or denial of a permit application and the basis for the award or denial shall be given to all applicants.~~

In approving or denying an application, the Executive Director may consider, among other things, whether the Applicant has previously complied with past CPA-issued permits, the Applicant's

~~(b) Where there are several permit applications for the same parcel of land, the Authority's Airport Facilities Committee will base its selection on the applicant's past experience and~~ ability to successfully carry ~~on~~out the ~~farming or cattle grazing~~permitted activity, ~~the applicant's relative need to support himself and his family, and the applicant's~~and the Applicant's current ability to comply with the permit terms and conditions and this ~~chapter. Where all of the applicants~~Chapter. If multiple applications are received and the Applicants appear to equally qualify for a permit, the ~~Committee shall select the~~ successful ~~applicant by~~ Applicant will be selected by the drawing of lots.

Modified, 1 CMC § 3806(d).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

~~Modified, 1 CMC § 3806(d).~~

~~History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).~~

**§ 40-60-~~225 Appeal of Rejection of Application~~206 Permit Not Assignable**

No permit issued under this Chapter shall be assignable to any third party, for any reason. Any permit assigned or transferred to a person other than the named permittee shall be immediately canceled and termina ed by the Authority.

Modified, 1 CMC § 3806(d).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

~~Any unsuccessful permit applicant may appeal the decision of the Authority denying his application as provided in § 40-60-370.~~

**§ 40-60-207 Prohibited Uses**

(a) Unless provided written authorization by the Executive Director, the following restrictions shall apply to the use of CPA land covered by a temporary use permit:
(1) No employee barracks shall be constructed on CPA land.
(2) No residential structure shall be constructed on CPA land.
(3) No extension of any business other than agricultural/nursery shall be made.
(4) No mining, drilling, extraction of land, mineral, or soil shall be made on CPA land.
(5) Permittee shall not use CPA land as a waste deposit or landfill.

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(6) Permittee shall not store explosives, dangerous chemicals, flammable and inflammable liquids or other hazardous materials on CPA land.
(7) Permittee shall not conduct any hazardous activities on CPA land.
(8) No permit will be issued for CPA lands within 100 feet from any port perimeter fence.
(9) Permittee shall not transplant any permanent trees growing on CPA land, such as coconut trees, fruit trees, or breadfruit.
(10) Permittee shall not use moored balloons, kites, amateur rockets, or unmanned free balloons within five miles of the boundary of any airport.
(11) Permittee
~~Modified, 1 CMC § 3806(e).~~

~~History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).~~

**~~§ 40-60-230 Restrictions on Who May Apply~~**

~~No director, officer, or employee of the CPA, either personally or as an agent of another shall be permitted to apply or benefit directly or indirectly from a permit issued under this chapter. Any application submitted by a director, officer, employee, or an immediate family member shall be summarily rejected. The restrictions imposed by 2 CMC § 2131 and the Ethics in Government Law shall apply.~~

~~Modified, 1 CMC § 3806(d).~~

~~History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).~~

~~Commission Comment: The Commission inserted a comma after the word "employee" pursuant to 1 CMC § 3806(g).~~

**~~Part 300 - Minimum Terms and Conditions of Permits~~**

**~~§ 40-60-301 Uniform Permit~~**

~~The Authority~~ shall ~~prepare a uniform permit for all permittees. Such permit~~not allow or partake in any political activity.
(12) Permittee shall not allow or use fireworks.
(13) Permittee shall not use or allow the use of alcohol.
(14) Permittee shall not allow or use drones.
(15) Permittee shall not allow or use all-terrain vehicles.
(16) Permittee shall not fire any firearms.

Modified, 1 CMC § 3806(g).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

Commission Comment: In subsection (e), the Commission changed "waste depositor or landfill" to "waste deposit or landfill" to correct a manifest error.

**§ 40-60-208 Proper Maintenance of CPA Lands**

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All permittees shall properly maintain CPA lands at all times. A permittee shall not commit any waste of the property nor shall he remove any existing trees, or vegetation without first obtaining written approval from the Executive Director. A permittee shall not allow litter, garbage, or other refuse to accumulate on the property or allow the property to become an eyesore. Permittee shall repair or replace any property that it damages or destroys.

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

**§ 40-60-209 Utilities**

All electrical, water, telephone or other utility services may only be installed after first receiving permission from the Executive Director. All installations are at permittee's expense and must be in permittee's own name. Permittee shall pay any and all utility bills and invoices as they come due. No utility provider shall be allowed to place any lien or encumbrance on CPA lands or any fixtures attached thereto as a result of a permittee's failure to pay any sums due for such utility services.

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

**§ 40-60-210 Indemnification and Release of Liability**

Permittee shall indemnify and hold the Authority, directors, officers, employees, and agents free and harmless from any and all liability for any damage to persons or property arising from permittee's activities on CPA land.

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

**§ 40-60-211 Unilateral Modification**

The Authority shall have the right to unilaterally amend any of the terms or conditions of any permit issued under this Chapter, including any rates and charges stated therein, whether or not any such amendments conform to this Chapter, in order to conform with any applicable federal regulations or directives, or the order of any federal agency, including, but not limited to, the Federal Aviation Administration and the U.S. Department of Transportation.

Modified, 1 CMC § 3806(d).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

~~**incorporate the terms and conditions of the regulations in this chapter, in addition to other pertinent**~~ **§ 40-60-212 Monitoring for Compliance**

The Authority may conduct regular visual inspections, including unannounced inspections, of the permitted premises and take such measures or actions needed to correct any violation

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of the permit terms and conditions. and this Chapter. The Permittee or others acting for or on behalf of the Permittee shall not prohibit CPA from conducting such inspections.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

~~History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).~~

~~**§ 40-60-305 Term of Permit**~~

~~All permits issued under this chapter shall be for a period not to exceed one year.~~

~~Modified, 1 CMC § 3806(d).~~

~~History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).~~

**§ 40-60-~~310 Other Conditions of~~ 213 Renewal**

Any renewal application shall be subject to approval by the Executive Director. ~~after payment of all fees and rentals, as set forth under § 40-60-210. Any permittee~~. Permittees seeking renewal must satisfy any and all outstanding payments and obligations due to the Authority before the renewal application is approved. Any Permittee who has complied with the terms of his permit thr ughout the duration of the permit and is seeking renewal of his permit shall be given priority over other ~~applicants~~Applicants unless the Authority in its best judgment determines otherwise. Any decision to reject a ~~permittee's~~Permittee's renewal application and to award a new permit to another ~~applicant~~Applicant must be for good and justifiable reasons and shall not be based on arbitrary or capricious reasons. Any existing Permittee making a renewal application may be allowed to continue the use and occupancy of CPA land described by the canceled permit, pending the final decision of the Authority on the renewal application.

Modified, 1 CMC § 3806(c).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

**§ 40-60-~~315 Rentals~~214 Application Denial and Grievance Appeals**

Applicants shall have the right to appeal the denial of any permit application or may raise any other grievance within ten days after he knows or should have known the facts giving rise to such grievance. Permittees may request an extension of time to vacate CPA lands upon the termination of any permit. All appeals and requests for extension of time shall be filed in writing specifying the grounds therefore and addressed to the Executive Director. A CPA Appeals Committee consisting of three CPA Board Members appointed by the Chairman shall consider and hear any appeal taken. The committee's decision shall be final and unreviewable.

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Modified, 1 CMC § 3806(c).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

~~Rental rates~~**Subpart A – Temporary Grazing Permits**

**§ 40-60-215 Permit Fees**

Permit fees for Temporary Grazing Permits shall be assessed on a per acreage basis~~, as stated below~~. For any land use not stated below, the Authority may impose a different rate, provided it is reasonable.

(a) For non-commercial cattle grazing: $30.00 minimum per hectare per year.

(b) For non-commercial agriculture (i.e. subsistence farming): $30.00 minimum per hectare per year.

(c) For short-term commercial ~~agriculture~~activities: $30.00 minimum per hectare per year, plus three percent of that portion of ~~permittee's~~Permittee's quarterly business gross revenues attributable to the gross income received by ~~permittee~~Permittee from commercial agricultural activity on CPA land covered by the permit. Permittee shall submit a copy of his ~~quarterly~~monthly BGRT within thirty days after the end of each ~~quarter~~month along with any payment due. Permittee shall, at all times, keep complete books and records evidencing all commercial transactions conducted on the permitted land.

~~(d) For short-term plant nursery activity: $30.00 minimum per hectare per year plus three percent of that portion of permittee's quarterly business gross revenues attributable to the gross income received by permittee from commercial agricultural activity on CPA land covered by the permit. Permittee shall submit a copy of his quarterly BGRT within thirty days after the end of each quarter along with any payment due. Permittee shall, at all times, keep complete books and records evidencing all commercial transactions conducted on the permitted land.~~

~~(e) For other uses (including the use of land by government agencies and non-profit organizations): All applications for use of CPA lands other than for the above purposes shall require approval of the Board of Directors; and the Authority may use any other method to establish rental for such use as it deems fair and would further its best interest and the interest of people of the Commonwealth.~~

Modified, 1 CMC § 3806(e), (f).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

**§ 40-60-~~320~~216 Security Deposit**

Authority shall require each ~~permittee~~Permittee to post a security deposit of $250.00, refundable without interest upon permit expiration on the condition that the ~~permittee~~Permittee has restored the land to the satisfaction of the Authority and ~~permittee~~Permittee has vacated the premises and has paid all due rentals, fees and charges.

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

~~History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).~~

**§ 40-60-~~325~~217 Construction ~~of~~and Improvements**

(a) Permittee may construct temporary structures only (i.e. non-permanent improvements) on CPA land, only upon obtaining the prior written consent ~~of~~from the ~~Authority.~~Executive Director and under the following terms and conditions:

(1) Permittee shall not construct any permanent improvement on the land, either concrete, metal, or otherwise. The determination of what is a permanent improvement shall lie with CPA alone.

(2) Prior to construction of any temporary improvement on CPA land, a written request describing the proposed improvement and specifications thereto must be approved in advance in writing by Executive Director.

(3) Any temporary improvement placed on CPA land shall not create a lien on the land.

(4) Upon approval by the Authority~~,~~ and before using the land, a ~~permittee~~Permittee must obtain ~~any~~all required permits ~~before using the land,~~ from all pertinent government agencies, including but not limited to~~:~~, the Division of Environmental Quality, the Department of Lands and Natural Resources, Coastal Resources Management, ~~or~~and the Historic Preservation Office~~, and so forth.~~.

(5) Upon expiration of the term of the permit, ~~permittee~~Permittee shall remove all the improvements placed thereon, at his sole expense.

(b) The ~~permittee~~Permittee shall not have any right to remain on CPA ~~lands~~land after the expiration or termination of his or her permit~~; and the~~. The Authority shall have the right to remove any improvement, fixture, and other property of permittee and dispose of such as it sees fit. In exercising this right, the Authority shall:

(1) Not be liable for damages to or loss of any property removed;

(2) Have the right to recover costs of removal and/or storage or disposal; and,

(3) Recover any attorney's fees or other costs incurred as a result.

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

~~§ 40-60-330 Restrictions on Use~~

~~The following restrictions shall apply to the use of CPA land covered by a temporary use permit:~~

~~(a) No employee barracks shall be constructed on CPA land.~~

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(b) No residential structure shall be constructed on CPA land.

(c) No extension of any business other than agricultural/nursery shall be made, unless specifically approved by the Board of Directors and specifically identified in writing as a variance from these restrictions.

(d) No mining, drilling, extraction of land, mineral, or soil shall be made on CPA land.

(e) Permittee shall not use CPA land as a waste deposit or landfill.

(f) Permittee shall not store explosives, dangerous chemicals, flammable and inflammable liquids or other hazardous materials on CPA land.

(g) Permittee shall not conduct any hazardous activities on CPA lands.

(h) No permit will be issued for CPA lands within 100 feet from any port perimeter fence.

(i) Permittee shall not transplant any permanent trees growing on CPA land, such as coconut trees, fruit trees, breadfruit, etc., except upon the prior written approval of the Authority.

Modified, 1 CMC § 3806(g).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

Commission Comment: In subsection (e), the Commission changed "waste depositor or landfill" to "waste [redacted]".

**§ 40-60-335 Monitoring for Compliance**

To insure that this chapter and the terms and conditions imposed by the land use permit are complied with, CPA's Lease Enforcement and Compliance Office shall conduct regular visual inspections of the permitted premises and take such measures or actions needed to correct any violation of the permit terms and conditions and this chapter. Unannounced inspections shall be conducted and CPA shall not be prohibited by the permittee or others acting for or on behalf of the permittee from conducting such inspections. The CPA Comptroller's Office shall monitor and enforce all financial matters relating to the permit issued, including the collection of unpaid fees and charges.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

**§ 40-60-340 Proper Maintenance of CPA Lands**

All permittees shall properly maintain CPA lands at all times. A permittee shall not commit

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~~any waste of the property nor shall he remove any existing trees, or vegetation other than underbrush, shrubs and tangan-tangan. A permittee shall not allow litter, garbage or other refuse to accumulate on the property or allow the property to become an eyesore. Any property of the Authority which is damaged or destroyed by permittee shall be repaired or replaced by permittee.~~

~~History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).~~

~~**§ 40-60-345 Utilities**~~

~~All electrical, water, telephone or other utility services may be installed but at permittee's expense and in permittee's own name. Permittee shall pay any and all utility bills and invoices as they come due. No utility provider shall be allowed to place any lien or encumbrance on CPA lands or any fixtures attached thereto as a result of a permittee's failure to pay any sums due for such utility services.~~

~~History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).~~

~~**§ 40-60-350 Permit Not Assignable**~~

~~No permit issued under this chapter shall be assignable to any third party, for any reason. Any permit assigned or transferred to a person other than the named permittee shall be immediately ca[illegible]rity.~~

~~Modified, 1 CMC § 3806(d).~~

~~History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).~~

**~~§ 40-60-355~~218 Waiver of Aircraft Noise and Pollution Claims**

~~Any person given a permit to use CPA lands under this chapter shall be deemed to have waived~~Permittee shall waive any claim or cause of action for aircraft nuisance, noise pollution, or other nuisance or pollution. Permittee waives any claims for damages suffered for the loss of, or injury to, ~~any crop or~~ its property, including crops and livestock, against CPA, any airline, or any aircraft operator conducting business or operating at any airport under the Authority's control.

Modified, 1 CMC § 3806(d).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

**§ 40-60-~~360~~219 Termination**

(a) Notwithstanding any contrary regulation, including § 40-60-008, Temporary Grazing Permits issued under this Subpart may be terminated under any of the following conditions:

(1) Any permit issued pursuant to this ~~chapter~~Subpart shall be terminable by either party, without cause.

~~(b)~~ (2) A party may terminate a permit, to be effective forty-five days after written notice to the other party.

~~(c)~~ (3) Authority shall not be liable to the ~~permittee~~Permittee for damages suffered due to any early termination of the permit.

~~(d)~~ (4) Any permit issued hereunder shall include a waiver of any claim for assistance which might be afforded under the Federal Relocation Assistance Act.

~~(e)~~ (5) Upon termination, ~~permittee~~Permittee shall be solely responsible for removing any temporary improvements within the time allowed in the notice of termination.

~~(f)~~ (6) Upon termination, permittee shall be responsible for restoring the land to the satisfaction of the Authority.
~~(1)~~ 7) If permittee fails to restore CPA land to the satisfaction of the Authority, the Authority will make such restoration and deduct any and all costs and expenses incurred from the security deposit.
~~(2)~~ 8) If the security deposit is insufficient to pay such expenses and costs, permittee shall reimburse the Authority for the additional expenses incurred by the Authority.
~~(3)~~ 9) In the event the permittee fails to reimburse the Authority for any costs and expenses incurred, the Authority may file suit for damages to recover such costs and expenses. If successful in such suit, it shall be entitled to recover court costs and ~~attorneys~~attorney's fees incurred.

Modified, 1 CMC § 3806(e).

~~History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).~~

~~**§ 40-60-365 Indemnification and Release of Liability**~~

~~Permittee shall indemnify and hold the Authority, directors, officers, employees, and agents free and harmless from any and all liability for any damage to persons or property arising from permittee's activities on CPA land.~~

~~History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).~~

~~**§ 40-60-370 Right to Appeal**~~

~~Permittee shall have the right to appeal the denial of any permit application, denial of renewal, permit termination, or other grievance within ten days after he knows or should have known the facts giving rise to such grievance. He may also request an extension of time to vacate CPA lands upon the termination of any permit. All appeals and requests for extension of time shall be filed in writing specifying the grounds therefore and addressed to the Executive Director. The CPA Board's appeals panel consisting of three Board members appointed by the Chairman shall consider and hear the appeal taken. The panel's decision shall be final and unreviewable.~~

Modified, 1 CMC § 3806(f).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

**§ 40-60-375 Unilateral Modification**

The Authority shall have the right to unilaterally amend any of the terms or conditions of any permit issued under this chapter, including any rates and charges stated therein, whether or not any such amendments conform to this chapter, in order to conform with any applicable federal regulations or directives, or the order of any federal agency including but not limited to the Federal Aviation Administration and the U.S. Department of Transportation.

Modified, 1 CMC § 3806(d).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

**§ 40-60-380 Attorney's Fees**

In the event the Authority files any civil action with a court of competent jurisdiction to enforce any term or provision of this chapter or any permit issued hereunder, or for breach of any such term or condition, permittee shall pay Authority reasonable attorney's fees and court costs, if Authority is successful.

Modified, 1 CMC § 3806(d).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

**Part 400 – Miscellaneous Provisions**

**§ 40-60-401 Applicable Laws**

This chapter and any permit issued hereunder shall be interpreted in accordance with the laws of the Commonwealth of the Northern Mariana Islands.

Modified, 1 CMC § 3806(d).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

**§ 40-60-405 Severability**

If any of the provisions of this chapter or the terms and conditions of any permit issued hereunder is held invalid or unenforceable by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

Modified, 1 CMC § 3806(d).

History: Adopted 20 Com. Reg. 16406 (Dec. 15, 1998); Proposed 20 Com. Reg. 16137 (Sept. 15, 1998).

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Eli D. Cabrera
Administrator

Janice E. Castro
Director, DCRM

# PUBLIC NOTICE OF PROPOSED AMENDMENTS TO NMIAC CHAPTER 15-20 TO REPEAL THE EXISTING JET SKI RULES AND REGULATIONS AND ADOPT NEW WATER SPORTS REGULATIONS

NOTICE OF INTENDED ACTION: The Commonwealth of the Northern Mariana Islands, Office of the Governor, Coastal Resources Management (CRM) Regulatory Agencies intend to amend NMIAC Chapter 15-20 to repeal the existing Jet Ski Regulations and adopt new Water Sports Regulations pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC §§ 9101 *et seq.*, and the Coastal Resources Management Act, 2 CMC §§ 1501 *et seq.*

AUTHORITY: These amendments are promulgated under the authority of the CRM Regulatory Agencies to adopt new regulations under 1 CMC § 1531(d). These proposed regulations were approved by the CRM Regulatory Agencies in a public meeting on April 8, 2021, and the Division of Coastal Resources Management (DCRM) Director was authorized to promulgate these regulations on behalf of the CRM Regulatory Agencies.

TERMS AND SUBSTANCE: These proposed amendments seek to repeal the Jet Ski Rules and Regulations and adopt new Water Sports Regulations, which:

1. Adopt general provisions stating the short title, authority, purpose and scope, and definitions for the Water Sports Regulations, NMIAC §§15-20-001 to 15-20-015;
2. Prohibit Commercial operation of Water Sports and Recreation Activities (including certain Motorized Activities, Non-Motorized Activities, Parasailing, Water-Jet Craft, and Towed Floatation) except as authorized by a Water Sports Permit issued by DCRM, NMIAC §15-20-101;
3. Restrict issuance of Water Sports Permits to one per person in various categories and limit the maximum number of permits for each category, NMIAC §§ 15-20-105 & 15-20-115;
4. Establish procedures for permit issuance, including terms for permit expiration, renewal, fees, and property rights, NMIAC §§15-20-110, 15-20-120 to 15-20-125, and 15-20-135;
5. Require registration of Commercial Vessels and Operators, NMIAC §15-20-130;
6. Establish regulations for Commercial Water Sports Operators, including provisions stating public policies and requiring safety measures, limiting hours of operation, and prohibiting certain operation/activities, NMIAC §§ 15-20-201 to 15-20-205;
7. Prohibit transferability of Water Sports Permits, regulate change of ownership in permitted Business Entities and transfer of Vessels authorized for Commercial use relating to Water Sports and Recreation Activities, and require notification to DCRM for certain changes, NMIAC §§ 15-20-301 to 15-20-310;
8. Establish designated areas for Water Sports and Recreational Activities for Rota, Tinian, and Saipan, NMIAC §15-20-401;
9. Require personal, recreational, and non-Commercial Water-Jet Craft operations to be conducted in designated areas, NMIAC §15-20-501;

10. Identify grounds for enforcement action and establish procedures for enforcement, including issuance of warnings and enforcement hearing, conducting enforcement hearings, and issuing penalties and other sanctions including permit revocation and suspension, NMIAC §§15-20-601 to 15-20-630;
11. Provide an exception to the regulations for emergencies, law enforcement or rescue craft, and Vessels operating under an event permit, NMIAC §15-20-635; and
12. Adopt miscellaneous provisions for the interpretation and validity of the regulations, NMIAC §§15-20-701 to 15-20-705.

CITATION OF RELATED AND/OR AFFECTED STATUTES, RULES, AND REGULATIONS: The proposed amendments affect NMIAC Chapter 15-20 by repealing all existing Jet Ski Rules and Regulations at NMIAC §§15-20-101 to 15-20-405 and adopting new Water Sports Regulations at NMIAC §§15-20-001 to 15-20-705.

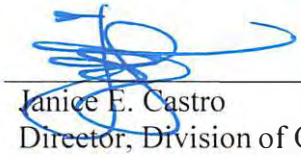
DIRECTIONS FOR FILING AND PUBLICATION: The proposed amendments shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9201(a)(1)) and posted in convenient places in the civic center and in local governmental offices in each senatorial district, both in English and in the principal vernacular (1 CMC § 9104(a)(1)).

COMMENTS: Interested parties may submit written comments on the proposed amendments to Sam Sablan, DCRM Permit Branch Manager, to the following address, fax, or email address, with the subject line "Proposed Water Sports Regulations."

BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY
DIVISION OF COASTAL RESOURCES MANAGEMENT
PO Box 501304
Saipan, MP 96950
Fax: (670) 664-8540
Email: ssablan@dcrm.gov.mp

Comments are due within thirty (30) calendar days from the date of publication of this notice. 1 CMC § 9104(a)(2).

Submitted by:



Janice E. Castro — Date
Director, Division of Coastal Resources Management

Received by:

05/18/21

Ms. Mathilda A. Rosario — Date
Special Assistant for Administration

Filed and Recorded by:

Ms. Esther SN. Nesbitt
Commonwealth Registrar

05.21.2021
Date

I certify, pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3), that I have reviewed and approved these regulations as to form and legal sufficiency.

Mr. Edward Manibusan
Attorney General

5/19/2021
Date

Commonwealth of the Northern Mariana Islands
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Eli D. Cabrera
Administrator

Janice E. Castro
Director, DCRM

# NUTISIAN PUPBLIKU PUT I MÅ PROPONI PÅRA MÅ ÅMENDA I NMIAC KAPITULU KINSI ESTA BENTI (15-20) ANAI PÅRA MÅ DIROGA I PRISENTI NA ALEKGRAMENTU YAN REGULASION KOSA KI SIÑA MÅ ÅDOPTA I NUEBU NA AREKLAMENTU

NUTISIA PUT I INTENSION AKSION: I Gobietnamenton i San Katan na Islas Marianas, Ofisinan Gobietno, yan i Minanehan Frenkas Kanton Tåsi (CRM) Areklamentun Asensia ha intension-na påra u åmenda I NMIAC Kapitulu kinsi esta benti (15-20) anai påra må diroga i prisenti na areklamentun Jet Ski kosa ki siña må ådopta i nuebu na areklamentun huegun tåsi sigun ginen i Aktun Dinirihin Atministrasion (APA), 1 CMC §§ 9101 et seg., yan i aktun Minanehan Frenkas Kanton Tåsi, 2 CMC §§ 1501 et seq.

ATURIDAT: I må åmenda-ña må diklara gi påpa' i aturidat i regulasion i CRM asensia nai påra må ådopta i nuebu na areklamentu gi påpa' 1 CMC § 1531 (d). Esti i må proponi na regulasion siha må åpreba nai regulasion i CRM asensia gi huntan pupbliku gi Abrit dia ocho, dos mit benti uno; ya i direktot i dibosion i Minanehan Frenkas Kanton Tåsi må aturisa påra u deklara esti siha na regulasion en kuenta ginen i Regulasion i CRM asensia.

TETMINU YAN SUSTANSIA: Esti i må proponi påra må åmenda ha espipiha påra u diroga i prisenti na areklamentu yan regulasion i Jet Ski kosa ki siña må ådopta i nuebu na regulasion huegun tåsi Tat Kumu:

1. Ådopta i hinerat na probision må yama i kadada' na titulu, aturidat, hangai yan månu chiña kumeke-elek-ña i regulasion huegun tåsi, NMIAC §§ 15-20-001 esta 15-20-015;
2. Pribidu na opurasion kometsio gi huegun tåsi yan aktibidat dibetsion (inklusu patikulat menti aktibidat makineria, yan eyu i aktibidat tai-makineria, hinalan rak-ka' nai tålin boti, blesketan moto'-jet-ski, yan eyu i man gaga-ma ya man hinahala nai talin boti SOLAMENTI man inaturisa nai lisensian huegun tåsi ginen gi DCRM, NMIAC §15-20-101;
3. Prohibi i nina'en lisensian huegun tåsi para un petsona gi katkuet katigurat yan midi i kuantu na kantida siña na lisensia påra kada katigurat, NMIAC §§ 15-20-105 Yan 15-20-115;
4. Estapblesi sistema påra nina'en lisensia inklusu yan i tetmino-ña nai påra u fakpo' i lisensia, i påra må rinueba, i apås-ña, yan i diricho-ña, NMIAC §§15-20-110, 15-20-120 esta 15-20-125, yan 15-20-135;
5. Opbliga i må rehistran kometsio botin tåsi yan i driba, NMIAC §15-20-130;
6. Estapblesi i regulasion påra i driban kometsio huegun botin tåsi, inklusu yan i probision må yama påra arekglamentun pupbliku nai inepbliga na debi u såfu, u må midi i oran opurasion, yan prohibi i gaigi na opurasion yan aktibidat gi påpa' NMIAC §§ 15-20-201 esta 15-20-205;

7. Prohibi i trinansferian lisensian huegun tasi, manea i tinilaikan dueñun i kometsio yan i trinansferian boti yan oma achuli' yan huegun tåsi yan aktibidat dibetsion yan opbligao na u guaha inatuñgo' pára guato gi DCRM yanggen guaha tinilaika, NMIAC §§ 15-20-301 esta 15-20- 310;
8. Estapblesi i má disik-na na lugat pára aktibidat huegu yan dibetsion tåsi para Luta, Tini'an yan Sa'ipan;
9. Opbliga i petsonat, dibetsion yan i ti-kometsio na opurasion makeniria moto'-jet-ski botin tåsi pára má konduk-ta guatu gima disik-na na lugat siha, NMIAC §15-20-501;
10. Adentifika taimanu i sistema pára má infuetsa aksion put kinentran areklamentu inklusu i má i yama i kininseha yan i inekoñgok infuetsamentu yan inklusu i pena yan otro siha na kastigu yan inklusu i pára má richasa yan para má diroga i lisensia, NMIAC §§15-20-601 esta 15-20-630;
11. Guåha gi regulasion omlat solamenti pára yanggin guaha ira, pára ma infuetsa lai, achaki, yan opurasion makineria tåsi gi lisensian aktibidat bida, NMIAC §15-20-635; yan
12. Adopta i katkuet probision pára má intetpiti yan pára má apreba gi påpa' i regulasion siha, NMIAC §§15-20-701 esta 15-20-705.

SITASION I MAN Å-ÅCHULI' SIHA NA LAI, AREKLAMENTU YAN REGULASION: I má propoponi na amenda pára tinilaika ha ifefek-ta NMIAC Kapitulu Kinsi esta Benti (15-20) anai pára má diroga todu i presenti na reklamentu yan regulasion gi påpa' I NMIAC §§ 15-20-101 esta 15-20- 405 yan pára má adopta i nuebu na regulasion huegun tåsi gi påpa' i NMIAC §§ 15-20-001 esta 15-20-705.

DIREKSION PARA MÅ REHISTRA YAN PARA MÅ PUPBLIKA: I má propoponi pára má åmenda debi di u má pupblika yan má rihistra gi "Commonwealth Register" i má propoponi na seksion- na yan i nuebu na má adopta na regulation (1 CMC § 9201(a)(1)) ya debi di u má kåna' gi kombinenti na lugat tat kumo i sentron sibid yan i munisipat ofisinan gobietnamentu gi distritun senadot Luta, Tini'an yan Sa'ipan gi linguahin Amerikano yan i prinsipio na linguahin Chamoru.

INEPI: Todus man interisao na pattida/taotao, siña man na'hålom inepi nai måtugi' pára esti i má propoponi pára u fan má åmenda guatu gi as Sam Sablan, DCRM Manehantin i Ramas Lisensia guatu gi address, fax or email address ya Matka I Asuntu: "Priniponin Regulasion Para Huegun Tåsi."

BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY
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I inepi debi di u fattu gi hålom trenta dias (30 days) ginen anai má pupblika esti na notisia. 1 CMC § 9104 (a)(2).

Nina' Hålom Ginen As

JANICE E CASTRO
DIREKTOT, DIBUSION I MINANEHAN FRENKAS KANTON TASI

05/07/2021
FECHA

Må Risibi As

Ms. Mathilda A. Rosario
Espisiat Na Ayudantin Atministrasion

05/18/21
FECHA

Må Rihistra Yan Ma Rikod

Ms. Esther SN. Nesbitt
Commonwealth Registrar

05.21.2021
FECHA

Hu testiguyi, sigun ginen i åturidat gi påpa' i 1 CMC §2153 (e) yan i 1 CMC § 9104(a)(3), ya hu ripåsa yan hu apreba esti siha na regulasion ya hu kon fotma na sufisenti gi legat.

Mr. Edward Manibusan
Hineråt Na Abugao (Attorney General)

5/19/2021
FECHA

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Eli D. Cabrera
Administrator

Janice E. Castro
Director, DCRM

**ARONGORONGOL TOWLAP Reel mille Rekke mengi bwe rebwe ayoora siwel mellól aweeweel autol bwulasiyol gobeino ye reghal ira bwe (NMIAC) Tettelil 15-20 nge rebwe siweliiló fasil autol aweeweel JET SKI nge raa ayoora allégh mil ffé bwe rebwele atabwei bwe ebwe lemeli alangal ukkur sàát me saschuugh.**

ARONGORONGOL MENGEMENG: Bwulasiyol CRM (Coastal Resources Managenent) ye e lo faal bwulasiyol Gobietno ye eyoor schuulap (board) ngere iir schóól aweeweel allégh ngere (regulatory agencies—DEQ, HPO, NMICUC, DOC, DPW, DLNR ) re mwuschel rebwe ayoora siwel mellól NMIAC Tettelil 15-20 ye ebwe liweli sengi mille e lo ighila bwe aweeweel me allèghil Jet Ski nge rebwele atabwei allègh ffè kkaal reel ukkurul wóól sàát me saschugh ye mwetteto mereel allèghil mwóghuttughuttul bwulasiyol gobietno (Administrative Procedures Act (APA) 1 CMC SS 9101 et seq., me Coastal Resources Management Act, 2 CMC §§ 1501 et seg.;

Bwungúl Lemelem: Alangal siiwel kka raa ayoora nge e toowol mereel bwungul bwulasiyo kka re ghal ira bwe CRM Regulatory Agencies ngere eew schuulap ye rebwele bwungiw fenglelli allégh mil ffé. Nge e toowol mereel bwulasiyo ye eew schulap llól (CRM regulatory agencies) maamawal bwe ebwe mmwel ebwe isissiwow aweewee me allégh bwe rebwe atabwei bweigha e lo (CRM Regulatory Agencies) faal 1 CMC § 1531 (d). Allégh kka re aweeweità me re bwungiw fengelli reer Regulatory Agencies mellól yéélághil towlap iwe re ayoora wóól Samwolul Division Abriit 8, 2021, nge of Coastal Resources Management (DCRM) re ngalei mamawal ebwe atotowow aléégh kka e lo faal CRM Regulatory Agencies.

Aweeweel me autol: Alangal siwel kka e liwililó aweeweel me allègghil Jet Ski) ukkurul wóól sàát me saschugh (Water Sports) Regulation, aa aweeweitiw:

1. Rebwe tabwei meeta ekke tungóór rebwe féèri reel rebwe ayoora iit mwoscomosch, meeta faal rebwe ayoora, me lapal me tool meeta rebwe féèri llól ukkurul wóól sàát me saschugh (Water Sports Regulations, NMIAC §§ 15-20-001 to 15-20-015);
2. Esóór bisnis kka rebwe toolong lemeli ukkurul wóól sàát me saschugh; e weewe schagh bwoot kka speed boat, bwoot kka waar aramasal faliw malal leeset ngere re ukkur, Parasailing, Water-Jet Craft, me Towed Floatation) nge saabw bwoot ikka eyoor permit mereel ukkurul sàát me saschugh llól DCRM, NMIAC ss 15-20-101;
3. Ese mmwel bwe aschai aramas ebwe lo llól ssohul ghilighil me esóbw ssogh atotowowul permit reel ukkurul wóól sàát me saschugh reel aschai aramas. Bwe ebwe ghal yoor ghilighil aschai me ghilighilil bwulei igha rebwe lo iye (category), nge eew ghilighil esóbw ssogh ngeli aschai schagh aramas ghilihhil yeel nge e toowow mellól NMIAC ss 15-20-105 mwette ngeli 15-20-115;
4. Rebwe ayoora aweeweel eew me eew permit kkaal bwe aramasal faliw rebwe metaf reel permit, ileeta ebwe úúló, fitow mèél me meeta igha rebwe ló iye reel aar jet ski, e lo llól NMIAC ss 15-20-110, 15-20-120 mwette ngeli 15-20-135;

5. Alanger schókka rebwe túútà ngere fiti ukkurul wóól sàát me saschugh rebwe ischilong waar bwoot me yaar permit bwe emmwel rebwe àffàràgh bwoot-- Jet Ski NMIAC SS 15-20-130;
6. Rebwe ayoora aweewe me allèghil towlap reel schóól àfàràghil Jet Ski llól ukkurul wóól sàát me saschugh, aweeweel meeta towlap rebwe fèèri, meeta rebwe afelliir reel meeta ebwe anguwaar, me rebwe bwal ayoora fitow schagh atol (ora) rebwe àfàràgh Jet Ski, me rebwe amwuri bwe saabw alangal meeta tipper nge emmwel rebwe ayoora llól ukkurul wóól sàát me saschugh mereel DCRM, NMIAC § 15-20-101;
7. Esóbw mmwel bwe ubwe bwughi yaal aschai permit reel affareghil Jet Ski nge uwa yààli. Ese bwal mmwel ubwe siwililó permit ittal aschai bwe ebwe lo llól ittómw. Ubwe faffaingi DCRM ngere eyoor siwel ye ubwe fèèri, aweeweel NMIAC ss 15-20-301 mwette ngeli 15-20-310;
8. Ayoora schèschèl bwuleyil aschi me aschai me yaar Jet Ski llól ukkurul wóól sàát me saschugh me ebwe bwal tongeliir aweewe kkaal schóól Tchúlúyól (Tinian), Luuta me Seipèl, aweeweel NMIAC ss 15-20-401;
9. Schókka emmwel rebwe fiti ukkurul wóól sàát me saschugh yeel, nge aramas towlap nge saabw fferul bisnis ngere ffèèr selaapi, nge inaamwo iyo emmwel ebwe toolong nge ebwe yoor schagh leliyal aschai me aschai ngere aa yoor permit, aweeweel NMIAC ss 15-20-501;
10. Rebwe ayoora eew arrepi (enforcement) alangal meeta kka ese mmwel ubwe fèèri llól ukkurul wóól sàát me saschugh. Ngere ese ghatch yómw maghuttughut, nge rebwe ngallèègh tilighiyal arrepi (ticket of violation). E weewe schagh me mille rebwe lool me amengi ngelugh (warning) bwe ese ghatch meeta ukke fèèri. Ebwal mmwel rebwe faffaingugh reel rebwe asseling meeta bwulul u fèèri mil alleew (hearing), emmwel rebwe teisengúgh permit-il affàràgh bwoot (Jet Ski) ngere aúúló yómw lisensiya, emmwel schagh rebwe bwal ngallegh fitow selaapi ubwe abwóssu reel mil alleew ye u fèèri, aweeweel NMIAC ss 15-20-601 mwette ngeli 15-20-630;
11. Ebwe yoor mille rebwe ayoora ngeliir schókka re ghal ghitiposch (emergency) llól yaar melau, pulisiya, schóól alillis, me bwoot kka eyoor yaar permit bwe rebwe toolong llól ukkurul wóól sàát me saschugh e lo llól aweeweel NMIAC ss 15-20-635 me;
12. Rebwe bwungiw fengelli alangal autol aweewe kkaal bwe emmwel rebwe seleti me ebwe affattaaló allègh kkaal.

Arongorong reel meeta kka ebwe siwel llól allègghil me aweewel ukkurul wóól sàát me saschugh: Siwel kka rebwe ayoora nge ebwe yoor siwel reel allègh ye NMIAC ss 15-20 ye rebwe siweliló alangal autol reel bwoot kka Jet Ski ye e fasul lo llól NMIAC ss 15-20-11 mwette ló 15-20-401 nge raa ayoràtà allègh mil ffè llól NMIAC ss 15-20-001 mwette ngeli 15-20-705.

Aweeweel ebwe faisúl yómw ubwe isissilong meeta ngere toolong llól me arongorongol towlap: Alangal siwel kkaal nge ebwe toowow llól Commonwealth Register nge ebwe lo reel bwulei ye re ghal arongówow meeta allègh fèè kka raa ayoora (1 CMC ss 920(a)(1) me rebwe apaschàtà allègh kka aa siwel reel bwulei kka aramasal faliw emmwel rebwe uri. Sibwe ira bwulasiyol gobietno, leliyal bisnis igha aramas re ghal ló iye, e weewe schagh Tchúliyól me Luuta nge ebwe lo llól kkapasal Amerikano me sessel ngeli mweliyer aramasal faliw ye e lo llól (1 CMC ss 9104(a)(1).

Meeta Mengemengimw: Malle e ghal eyoor mengemengil reel siwel kkaal, ebwe ischi nge aa

iselilong reel Sam Sablan, DCRM Permit Manager, llól address kkaal: fax, ngere email nge ebwe lo llól ittal yómw aweewe bwe: Proposed Water Sports Regulations."

BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY
DIVISION OF COASTAL RESOURCES MANAGEMENT
PO Box 501304
Saipan, MP 96950
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Ngere eyoor yómw aweewe nre usóbw uti ngere amwei fetel bwe llól schagh eliigh rààl nge aa tittiló nge esaa mmwel lo ubwe atotolong llól bwulasiyo yeel igha re arongóówow llól arongorongol towlap 1 CMC SS 9104(A)(2).

Isiis me reel:

05/07/2021

Janice E. Castro
Director, Division of Coastal Resources Management

Rál

Bwughi me reel:

05/18/21

Ms. Mathilda A. Rosario
Special Assistant for Administration

Rál

Fayeli me Rekodili:

05.21.2021

Ms. Esther SN. Nesbitt
Commonwealth Registrar

Rál

Sángi ówtol 1 CMC § 2153(e) (AG e aprebáli regulations rebwe fééri) me aléghúw fééril me 1 CMC § 9104(a)(3) (AG e amweschúl lúghúw appreba kkaal) reel proposed regulations kka e appasch bwe ra árághil me aweewel me apprebáli bwe legal me e allégh sángi CNM Attorney General bwe ebwe atowowul bwe aramas towlap rebwe repiyálil (1 CMC § 2153(f)(publication of rules and regulations).

5/19/2021

Mr. Edward Manibusan
Attorney General

Rál

## Chapter 15-20 ~~Jet Ski~~Water Sports and Recreational Activities Rules and Regulations

### Part 001 - General Provisions

#### § 15-20-001 Short Title

These rules and regulations shall be known and cited as the "Water Sports Regulations."

#### § 15-20-005 Authority

(a) These regulations are issued pursuant to 2 CMC § 1531(d); 2 CMC § 1532(c); 1 CMC § 9115; the federal Coastal Zone Management Act (16 U.S.C. § 1451 *et seq.*); and the Statement of Mutual Agreement and Memorandum of Understanding entered into by and between the Commonwealth and the National Oceanic and Atmospheric Administration (NOAA) by and through the Office of Oceans and Coastal Resources Management (OCRM), which delegated to the Division, all authority respecting Water Sports and Recreational Activities, such as:

i. The issuance of permits;

ii. The enforcement of existing policies, guidelines, and procedures regarding coastal management matters particularly as they relate to public safety and coastal environment protection, including:

1. emphasizing the protection of threatened and endangered species, marine habitat conservation, and underwater marine life preservation;
2. conducting regular monitoring to further ensure public safety and the balance of public enjoyment and coastal environment preservation;
3. developing major program changes on matters concerning such activities or operations; and
4. formulating additional guidelines as the Division may seem fit due to arising needs, changes and transition in different scales regarding such activities or operations.

iii. The performance of all other powers, duties, and functions inherent or incidental thereto for the interest of the general public and the people of the CNMI.

(b) Furthermore, these regulations are issued pursuant to the laws of the Commonwealth, in particular, the provisions of the Division of Coastal Resources Management's power to promote the economic development of coastal resources consistent with coastal resources management policies, 2 CMC 1512(k), including the coastal resources management policy to encourage the development of recreation facilities which are compatible with the surrounding environment and land uses, 2 CMC 1511(a)(20).

#### § 15-20-010 Purpose and Scope

(a) In general, these rules and regulations focus on the continued protection of marine life, particularly those of endangered and threatened species; the concern of environmental protection; the promotion of compatible and beneficial use of marine resources; and the protection of public safety as it pertains to ~~marine and~~ W~~w~~ater Ssports and Recreational Aactivities.

(b) The rules are intended to ensure the implementation of the Commonwealth policies on coastal resources management. Furthermore, they are promulgated to better coordinate the

planning and implementation of the coastal resources management policies by the Commonwealth government agencies; to ensure the consistency of permit decisions with the Commonwealth coastal resources management policies; and to better coordinate the permit processing by:

i. Providing for necessary reorganization of regulations and requirements in order to address the existing and increasing complexities affecting Wwater Ssports and Rrecreational Aactivities;

ii. Reducing conflicts among ocean water users, especially in areas of high activity; and

iii. Prescribing procedures and requirements regarding the issuance of commercial permits or licenses for the conduct of Wwater Ssports and Rrecreational Aactivities within the coastal waters of the Commonwealth.

These Rules and Regulations are adopted to ensure that all these matters in all instances are safeguarded to balance public enjoyment, economic development, ecological conservation, and equitable use and enjoyment of coastal resources.

§ 15-20-~~[Reserved.]~~

**015 Definitions**

(a) **Business Entity** means a partnership, firm, corporation, association or other legal entity.

(b) **Commercial** means the conduct of an activity for hire in exchange for compensation including pay or wages, payment through services or goods, or barter of goods and services, including but not limited to a rental, lease, or charter related to Water Sports and Recreational Activities.

(c) **Commonwealth** means the Commonwealth of the Northern Marianas Islands.

(d) **Director** means the Director of DCRM appointed pursuant to EO 2013-24.

(e) **Division of Coastal Resources Management or DCRM or Division** means the entity described in 2 CMC § 1512.

(f) **Motorized Activities** includes any water-based recreational activity other than a water-jet craft that depends on the use of a motorized Vessel (except those Vessels that are used solely for transportation of passengers by an Operator credentialed pursuant to § 15-20-130(e), such as ferries, sightseeing boats, and sunset cruises), including any Vessel with an inboard or outboard motor, whether powered by gasoline or electricity (including but not limited to pontoon boats, fishing boats, motorized kayaks, barbeque donut boats, and hot tub boats).

(g) **Non-Motorized Activities** includes any water-based recreational activity that does not depend on the use of a motorized Vessel (except for transportation of participants to the location of the activity), including Snorkeling, UBA Activities, windsurfing and kite-boarding, or operation of a non-motorized Vessel (including but not limited to an Aqua-cycle water trike, rowboat, canoe, kayak, scull boat, surfboard, bodyboard, or stand-up paddleboard).

(h) **Operator** means the person who is in control or in charge of a Vessel while it is in use.

(i) **Owner** means a person who claims lawful possession of a Vessel by virtue of legal title or equitable interest which entitles such person to possession of that Vessel.

(j) **Parasailing** means the activity in which an individual is transported or carried aloft by a parachute, parasail, kite, wing, or other similar equipment attached to a tow-line which is towed by a Vessel.

(k) **Permittee** means a Person to which a Water Sports Permit is issued.

(l) **Person** means an individual or Business Entity.

(m) **Snorkeling** means the activity in which a swimmer uses a mask, snorkel (a special tube that makes it possible for a swimmer to breathe with the swimmer's face in the water), and/or fins.

(n) **Towed Floatation** means the activity in which an individual is towed behind a Vessel, whether barefoot skiing or with waterskis, a wakeboard or kneeboard, or a floating device (including but not limited to a tube or banana boat).

(o) **UBA Activities** means the activity in which an individual uses underwater breathing apparatus (UBA) equipment, whether in the form of self-contained air (including but not limited to Self-Contained Underwater Breathing Apparatus (SCUBA), a Breathing Observation Bubble (BOB), or Supplied Air Snorkeling for Youth (SASY)) or surface-supplied air (including but not limited to Surface Nexus Underwater Breathing Apparatus (SNUBA)).

(p) **Vessel** means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on the water in connection with Water Sports and Recreational Activities.

(q) **Water Sports and Recreational Activities** means Motorized Activities, Non-Motorized Activities, Parasailing, ~~Snorkeling~~Water-Jet Craft, and Towed Floatation.

(r) **Water Sports Permit** means a privilege granted by the Division of Coastal Resources Management Division to a qualified Person to conduct Commercial Water Sports and Recreational Activities in DCRM-regulated waters, for a particular category of Water Sports and Recreational Activity.

(s) **Water-Jet Craft** means the activity in which an individual operates any craft that is self-propelled by means of water or hydro jet propulsion (including but not limited to a Jet Ski®, WaveRunner®, Sea-Doo, jet bike, flyboard, Jetovator or other jet pack, Seabreacher or other submersible, or jet board/jet surf).

**Part 100 - ~~Jet Ski Operations~~Permit Issuance**

**§ 15-20-101 ~~Application~~Requirement to Obtain a Water Sports Permit**

Commercial operation of Water Sports and Recreational Activities is prohibited except as authorized by a Water Sports Permit issued by DCRM.

**§ 15-20-105 Restrictions to Issuance of Water Sports Permits**

(a) No person may hold more than one Water Sports Permit in each of the various categories of Water Sports and Recreational Activity-category as described in NMIAC § 15-20-115.

(b) One Water Sports Permit may authorize a Permittee to conduct Commercial activity in more than one category of Water Sports and Recreational Activities. A permit that authorizes activity in more than one category will count as a permit in each category for purposes of the maximum number of permits under NMAIC § 15-20-115.

**§ 15-20-110 Water Sports Permit Renewal**

DCRM shall evaluate each Permittee's application for renewal of an existing Water Sports Permit based on the overall performance rating of the Permittee, in consideration of the number of warnings and enforcement notices issued to the Permittee under NMIAC § 15-20-610. Each

warning and enforcement notice shall have a weight factor to be determined by the Director based on the severity of the incident or violation. In the event a Permittee's overall performance rating exceeds the maximum threshold established by DCRM, the Permittee's permit shall not be renewed.

**§ 15-20-115 Maximum Number of Permits**

(a) The maximum number of Water Sports Permits that DCRM may issue for the various Water Sports and Recreational Activities is as follows:

i. Saipan

| | |
|---|---|
| Water-Jet Craft | 14 |
| Parasailing | 12 |
| Towed Floatation | 24 |
| Non-Motorized Activities | no limit |
| Motorized Activities | no limit |

ii. Rota

| | |
|---|---|
| Water-Jet Craft | 6 |
| Parasailing | 4 |
| Towed Floatation | 10 |
| Non-Motorized Activities | no limit |
| Motorized Activities | no limit |

iii. Tinian

| | |
|---|---|
| Water-Jet Craft | 4 |
| Parasailing | 2 |
| Towed Floatation | 6 |
| Non-Motorized Activities | no limit |
| Motorized Activities | no limit |

(b) DCRM shall process all timely applications for renewal of existing Water Sports Permits prior to processing applications for new Water Sports Permits. As a result, there may be some permit terms in which DCRM is unable to issue new Water Sports Permits.

(c) Unless otherwise provided by law, all applications for new Water Sport Permits shall be processed by DCRM on a first-come, first-served basis (*i.e.*, in the order each complete application is received by DCRM).

**§ 15-20-120 Duration and Terms of Permit**

(a) All ~~jet skis~~Water Sports Permits shall expire on the 30th of May of each year, per NMIAC § 15-10-205(h)(4).

(b) All Water Sports Permits shall be renewable under the conditions set forth in NMIAC § 15-20-110.

(c) All Water Sports Permits for which a complete renewal application is not timely received by DCRM shall terminate automatically upon expiration of the permit. Any application submitted late will be treated by DCRM as an application for a new Water Sports Permit.

**§ 15-20-125 Fees**

Fees associated with a Water Sports Permit are set forth in NMIAC § 15-10-205(h)(4).

## § 15-20-130 Registration of Commercial Vessels and Operators

(a) All ~~subject to this part and all~~ Vessels used in connection with Commercial Water Sports and Recreational Activities shall be registered with the Commonwealth's Department of Public Safety Bureau of Motor Vehicles in compliance with its rules and regulations. The Vessel's registration information shall be listed within the issued Water Sports Permit and only the listed Vessel may be used by the Permittee to conduct the permitted Water Sports and Recreational Activity. No Water Sports Permit may be issued to a permit applicant unless at least one registered Vessel used in connection with each permitted Water Sports and Recreational Activities is listed in the permit application.

(b) A Water Sports Permit may list multiple registered Vessels. Up to five (5) registered Vessels may be listed for Parasailing operations. There is no limit to the number of registered Vessels that may be listed for other categories of Water Sports and Recreational Activities.

(c) At all times a Water Sports Permit for Water-Jet Craft operations is in effect, at least four (4) operational Water-Jet Craft shall be made available for operation by participants during the hours of operation listed in the Water Sports Permit. At all times a Water Sports Permit for other categories of Water Sports and Recreational Activities is in effect, at least one (1) registered Vessel used in connection with each permitted Water Sports and Recreational Activities shall be available for operation by participants during the hours of operation listed in the Water Sports Permit.

(d) At all times a Vessel is being used in connection with Commercial Water Sports and Recreational Activities, the Vessel shall be marked to identify the Permittee for which the Vessel is operating. Temporary markings including flags, banners, or signage are sufficient to meet this requirement.

(e) All Operators of each Vessel used in connection with Commercial Water Sports and Recreational Activities (other than Vessels operated by customers) must hold a Merchant Mariner Credential (MMC) issued by the U.S. Coast Guard. The applicant for a Water Sports Permit shall submit a copy of the MMC for each Operator as an attachment to the permit application. No Water Sports Permit may be issued for a Vessel used in connection with Water Sports and Recreational Activities unless at least one Operator holding an MMC is listed in the permit application. The Operator(s) shall be listed within the issued Water Sports Permit and only a listed Operator may operate a Vessel in connection with the permitted Water Sports and Recreational Activities. DCRM understands that an Operator may be employed to operate multiple Vessels and therefore may be listed as an Operator on multiple Water Sport Permits.

## § 15-20-135 Property Rights

A Water Sports Permit does not give the Permittee any vested property right in the continued Commercial operation of a Water Sport and Recreational Activity. DCRM reserves the right not to issue or renew any Water Sports Permit(s) at the Director's discretion, and to revoke any issued Water Sports Permit(s) if upon presentation of evidence that any of the grounds for action under NMIAC § 15-20-605 are present.

Part 200 - ~~applicable parts of~~ Commercial Water Sports Operations

§ 15-20-201 General Applications

(a) **Public Policy Statement** – In all cases and all instances, the Permittee shall:

i. Always observe public safety first above all.

ii. Always take into account environmental protection and conservation concerns by proper dissemination of information emphasizing such concerns to the Permittee's participants and by participation in environmental protection and conservation campaigns, particularly focusing on the importance and protection of marine and wildlife species and habitat; preservation of coral reefs and other maritime habitat; and conservation and preservation of all other coastal and marine resources.

iii. Commit to a drug-free environment at all times participants are on the Vessel.

iv. Strictly observe and comply with all rules prohibiting or regulating pollution; help the campaign on anti-pollution for the protection of marine life, including marine habitat, within the coastal and marine environment; and work to reduce land-based pollution that may negatively impact these ~~regulations and the~~ resources.

v. Commit to a "nefarious activity-free zone" to avoid involvement with activities that may cause destruction and devastation to the territorial coastal and shoreline expanse.

(b) **Safety Measures**

i. Regular Operations

1. All Vessel Operators and Permittees shall ensure that all Vessels operating in connection with Water Sports and Recreational Activities are seaworthy to protect the life and property of persons at sea. Among others, this includes:
   a. Conducting regular and routine check-ups, as far as practicable, regarding the Vessel's condition (particularly its engine) and all related equipment, tools, and related amenities,
   b. Exercising reasonable care during operations, and
   c. Ensuring compliance with all other relevant boater safety requirements.
2. All Operators and Permittees shall, before operating, check all facilities and equipment on board a Vessel necessary for its operation in connection with Water Sports and Recreational Activities and ensure its completeness and functioning condition, including but not limited to life jackets, life rafts, and all other forms of life preservers or life saving device.
3. All Operators and Permittees shall ensure that each patron is given enough safety information to protect the safety of life at sea and during the course of the permitted Water Sports and Recreational Activities.
4. All Operators and Permittees shall comply with and ensure that participants comply with life jacket requirements in accordance with Commonwealth Boating Safety ~~Act of 1982 as amended~~and USCG rules and regulations.
5. DCRM may from time to time curtail Water Sports and Recreational

Activities operations within the designated areas for the activities set forth in NMIAC § 15-20-401 as necessary to avoid possible adverse impacts to protected marine life.

6. Insurance. Each Permittee shall secure and maintain for the entire duration of the Water Sports Permit insurance coverage with a minimum coverage of $50.000 for property damage and $1.000.000 bodily injury per occurrence. The liability insurance shall name the Commonwealth as an additional insured. Upon request by the Permittee, DCRM may waive the requirement to maintain insurance provided that Permittee submits evidence satisfactory to DCRM that the Permittee has sought to obtain insurance coverage from no less than three (3) insurance companies and has received documentation that the Water Sports and Recreational Activities to be conducted by Permittee is not eligible for coverage.

ii. Prohibited Operation/Activities

1. No person may permanently moor rafts or platforms for use in any Water Sports and Recreational Activities within the Lagoon and Reef APC. All persons using rafts and platforms in connection with Water Sports and Recreational Activities shall remove all such rafts and platforms daily from the Commonwealth waters, unless the raft or platform is located in a designated anchorage or harbor in accordance with a valid permit issued by DCRM. Ground tackle for mooring of rafts and platforms shall be placed in areas that will not cause damage to live corals or sea-grass beds.
2. No person shall operate or manipulate any Vessel or Water Sports and Recreational Activity equipment or device(s) in a reckless or negligent manner so as to endanger the life, limb, or property of any person or marine life in a way that may cause harm to any environmentally-sensitive area such as coral or sea-grass beds.
3. No person shall operate any commercial Vessel while under the influence of alcohol or any other controlled substance such as a narcotic drug, barbiturate, or marijuana.
4. No Vessel except Water-Jet Craft and Vessels used for Towed Floatation and Non-Motorized Activities may be driven onto or launched from the shore except from established boat ramp facilities. No Vessel except those used for Non-Motorized Activities may be anchored in the Lagoon and Reefs APC. No fueling or refueling activities shall be conducted for any Vessel in the water, except in such areas so designated hereunder for each category of Water Sports and Recreational Activity.

No refueling activities shall be conducted within an APC except at the designated location in a bermed

~~**§ 15-20-105 Exclusion Areas**~~

~~No jet ski may be landed, launched, or operated within the following areas:~~

~~(a) North Lagoon. All of the water extending from the mean high water line seaward to the outer shelf of the barrier reef north of a line beginning at the tip of Punta Flores and extending due north.~~

(b) South Lagoon. All of the water extending from the mean high water line seaward to the outer shelf of the barrier reef south of a line beginning at a point on the shoreline thirty feet south of Sugar Dock and extending due west.

(c) Micro Beach. An area extending two hundred yards seaward from the mean low water line from the northern end of the Dai Ichi Hotel tennis courts north to the tip of Point Muchot.

(d) Hafa Adai Beach. An area extending two hundred yards seaward from the mean low water line from the drainage channel north of the Carolinian Utt to the southern edge of the Hafa Adai Beach Hotel.

(e) Grand/Saipan World Resort Hotel. An area extending two hundred yards seaward from the mean low water line from the southern edge of the Saipan Grand Hotel north to the northern edge of the Saipan World Resort Hotel.

(f) Tachungnya/Kammer. An area extending seventy-five yards seaward from the mean low water line from the southern edge of Tachungnya Beach to the northern edge of Kammer Beach adjacent to the Tinian harbor dock.

(g) Marina/Harbor/Shipping Channel. An area extending from the mean low water line seaward at the Tinian Marina including the entire area within the Tinian harbor breakwater and the Tinian shipping channel.

(h) Managaha. An area surrounding Managaha Island bounded by lines running at latitude 15° 14' 0" N; latitude 15° 14' 45" N; longitude 145° 41' 30" E; longitude 145° 42' 50" E.

(i) **Lake Susupe. The entire area of Lake Susupe.**

**Part 200 – Jet Ski Rental Operations**

**§ 15-20-201 Definitions**

"Jet ski rental operation" means the rental of a jet ski to others on a regular basis for the purpose of operating the jet ski.

**§ 15-20-205 Launching and Landing**

5. Jet ski rental operations shall only stage their operation and allow the launching and landing of their jet skis at the following locations: ramp or as otherwise specified in the Water Sports Permit.

(a) The Chalan Kanoa – Susupe Regional Park;

(b) The southern end of Civic Center Beach;

(c) The public beach at the Samoan housing in Garapan north of the Hafa Adai Hotel;

## § 15-20-205 Operations of Specific Water Sports and Recreational Activities

**Water-**

~~(d) The public beach adjacent to Martin's Bar and Grill;~~

~~(e) The South Sea plane ramp;~~

~~(f) Off Taga Beach as designated by the Coastal Resources Management Office with jet-skis to be launched from a floating dock; and~~

~~(g) The public beach adjacent to the Carolinian Utt in Garapan.~~

~~**§ 15-20-210 Operation**~~

(a) Jet ~~ski rental~~Craft

i. Areas of Operations.

1. Water-Jet Craft operations shall only ~~allow their patrons to~~be conducted in the designated areas for Water-Jet Craft set forth in NMIAC § 15-20-401, unless additional areas are specifically authorized by the Water Sports Permit.

Water-Jet Craft may only operate ~~jet skis~~ on marked courses ~~in the areas of the lagoon~~established or approved by DCRM that are adjacent to ~~the~~ launching and landing areas ~~set forth in~~. The Permittee

2. ~~§ 15-20-~~205 ~~as specified in the operator's coastal permit issued by the coastal resources management program. The jet ski rental operators~~ shall be responsible for installing and maintaining all required buoys and other ~~lagoon~~course markings ~~required for their operations by permit or law~~.

ii. ~~§ 15-20-215~~ Hours of Operations. Water-Jet Craft operation shall only be conducted between 8:00 a.m. and 6:00 p.m.

iii. Prohibited Operation/Activities.

1. No Permittee may operate or allow the operation of any water-propelled craft that carries more than four (4) persons, provided that only those sit-down jet skis capable of carrying no more than two (2) persons are permitted.
2. No Permittee may operate or allow the operation of more than two (2) Sea Breacher or similar devices (*i.e.*, submersible personal watercraft) on a designated course.
3. No Permittee may operate or allow the operation of any Water Jet Craft on a designated course unless at least one Operator is present on the course to monitor safety at all times participants are on the course, on behalf of the Permittee or Permittees operating or allowing the operation of the Water Jet Craft.
4. No more than a total of four (4) Water Jet Craft may be operated on a designated course at one time, whether operated or allowed by a single Permittee or multiple Permittees, provided that a fifth (5th) device used by an Operator to monitor the safety of the Permittee's operations shall be allowed and will not be counted toward this limit.

(b) Parasailing Activities.

i. Areas of Operations.

1. Parasailing operations shall only be conducted in the designated areas for Parasailing set forth in NMIAC § 15-20-401, unless additional areas are specifically authorized by the Water Sports Permit.
2. All Vessels used for Parasailing operations shall only access the designated areas from established marinas, harbors, or boat ramp facilities or from outside the reef, by the most direct route consistent with safety considerations.
3. No Parasailing operations shall carry passengers in the air within the shipping channel area.

ii. Hours of Operation. Parasailing operations shall only be conducted between 8:00 a.m. and 6:00 p.m.

iii. Prohibited Operation/Activities.

1. No Vessel may tow any Parasailing device at a speed in excess of twenty-five (25) knots, and no Vessel may transport participants from the shoreline to the designated area for Parasailing at a speed in excess of fifteen (15) knots or other applicable limits such as slow/no-wake zones, whichever is less.
2. No Parasailing operations may be conducted if winds are gusting above the safe limit proscribed by the equipment manufacturer.
3. No Vessel may tow any Parasailing device at the same time as that Vessel is towing any Towed Floatation device.
4. No Permittee shall operate more than two (2) Vessels identified in its Water Sports Permit at one time.

(c) Towed Flotation Device Activities

i. Areas of Operations.

1. Towed Flotation operations shall only be conducted in the designated areas for Towed Floatation set forth in NMIAC § 15-20-401, unless additional areas are specifically authorized by the Water Sport Permit.
2. Towed Floatation operations may be conducted within or outside DCRM's Lagoon and Reefs Area of Particular Concern.

ii. Hours of Operations. Towed Flotation Device operation shall only be conducted between 8:00 a.m. and 6:00 p.m.

iii. Prohibited Operation/Activities.

1. Notwithstanding any of the other provisions herein, no Vessel may tow any Towed Flotation device carrying passengers within 200 feet of the high tide line at speeds exceeding 5 mph or creating a wake.
2. No Vessel may tow any Towed Floatation device that exceeds twenty-five (25) feet in length or carries or has the capacity to carry more than six (6) passengers.

(d) Non-Motorized Activities.

i. Areas of Operations. Non-Motorized Activities shall only be conducted in the designated areas for Non-Motorized Activities set forth in NMIAC § 15-20-401, unless additional areas are specifically authorized by the Water Sport Permit.

ii. Hours of Operations. Non-Motorized Activities shall only be conducted between 8:00 a.m. and 6:00 p.m., unless additional hours are specifically authorized by the Water Sport Permit.

iii. Prohibited Operation/Activities.

1. The ~~Vessel~~ Operator of any Vessel transporting a Snorkeling or UBA Activity participant to the location of the activity shall not at any time leave the Vessel while any Snorkeling or UBA Activity participant is in the water.

2. No Snorkeling or UBA Activity participant entering the water from a Vessel may be allowed in the water unless a certified lifeguard is present on the Vessel.
3. No Non-Motorized Activities may be conducted in locations that have been closed by the Commonwealth due to unsafe weather conditions.
4. No Non-Motorized Activities may be conducted in areas without cell coverage unless radio communications are available in case of emergencies.

(e) Motorized Activities.

i. Areas of Operation. Motorized Activities shall only be conducted in the designated areas for Motorized Activities set forth in NMIAC § 15-20-401, unless additional areas are specifically authorized by the Water Sport Permit.

ii. House of Operation. Motorized Activities shall only be conducted between 8:00 a.m. and 6:00 p.m., unless additional hours are specifically authorized by the Water Sports Permit.

iii. Prohibited Operation/Activities.

1. No Permittee may rent any Vessel used in connection with Motorized Activities for operation by the customer without first verifying that the customer is at least 16 years old and holds any license otherwise required by applicable CNMI law or regulation to operate the type of Vessel.
2. No Motorized Activities may be conducted in locations that have been closed by the Commonwealth due to unsafe weather conditions.
3. No Motorized Activities may be conducted in areas without cell coverage unless radio communications are available in case of emergencies.

## Part 300 - Change in Ownership or Information

### § 15-20-301 Transferability of Commercial Use Permits

(a) A Water Sports Permit is issued to a specific Permittee and is not transferable to a new Permittee.

(b) As provided in NMIAC § 15-20-130, a Water Sports Permit identifies specific Vessels that are authorized for Commercial use relating to Water Sports and Recreational Activities. Whenever the Permittee named in the Water Sports Permit parts with possession of or sells, assigns, leases, or otherwise transfers the title to or interest in the identified Vessel to another Person, the Water Sports Permit shall terminate with respect to that Vessel. The new possessor, transferee, or owner of the transferred Vessel shall have no right to use the Water Sports Permit. Notwithstanding this general prohibition on transfer of Water Sports Permits, DCRM will allow the one-time transfer of ownership of a Vessel titled in the name of an individual to a Business Entity without terminating the rights to operate that Vessels under the Water Sports Permit, provided that (i) the individual holds a majority interest in the Business Entity, and (ii) the Permittee notifies DCRM within seven (7) days after the one-time transfer of the conversion to corporate ownership.

### § 15-20-305 Change in Ownership of Business Entity or Information

(a) For any Water Sports Permit issued to a Business Entity that remains in effect and has not yet expired, transfer of any interest in the Business Entity that results in a change

of the individual or entity holding the majority interest in the Business Entity shall be considered a transfer of the Water Sports Permit and the permit shall terminate automatically upon transfer; provided, however, that any Person owning an interest in a Business Entity named as the Permittee of an issued Water Sports Permit may transfer any or all of such Person's interest in the Business Entity to another person without terminating the right of the Business Entity to retain or renew its Water Sports Permit if (i) the Business Entity has been engaged in the permitted Water Sport and Recreational Activity for a minimum of one (1) year, (ii) the Permittee notifies DCRM within seven (7) days after the transaction that amounts to a transfer of the interest, (iii) the Business Entity is in good standing with the Office of the Registrar of Corporation and meets the criteria for permit renewal under NMIAC § 15-20-110; and (iv) the Permittee pays an administrative review fee in the amount of two hundred dollars ($200).

(b) For purposes of this section § 15-20-305, "interest" includes any claim of right, title, or ownership of any stock, shares, profit, benefit or gain in a Business Entity.

**§15-10-310 Notification to DCRM**

In addition to the notification required by NMIAC § 15-20-301 and NMIAC § 15-20-305, the Permittee of any Water Sports Permit shall notify DCRM in writing within seven (7) days if (i) the Permittee no longer has possession of a permitted Vessel or acquires ownership of a new Vessel to be operated for Water Sport and Recreational Activity; (ii) the Permittee transfers all or any interest in a permitted Vessel to another Person; (iii) the listed Operator on the issued Water Sports Permit has changed; (iv) the Permittee's name, address, or telephone number has changed; or (v) any other information shown on the face of the Water Sports Permit has changed.

**Part 400 - Designated Areas of Operation**

**§ 15-20-401 Designated Areas**

DCRM has approved designated areas for Water Sports and Recreational Activities as shown on the maps incorporated into this regulation as Appendix I–III, and as follows:

(a) Rota

| Type | Location of Operational Area | Coordinates | Access to Area |
|---|---|---|---|
| Water-Jet Craft; Parasailing; Towed Floatation | Sasanhaya Bay* (Wedding Cake Mountain to Puntan Pona) | East of Latitude 14.117684, Longitude 145.1262 and west of Latitude 14.119784, Longitude 145.168124 | Access to the operational area shall be via East Harbor |
| | Sasanlagu Bay* (Tweksberry Beach to Pinatang Beach) | North of Latitude 14.134898, Longitude 145.12511 and south of Latitude 14.148754, Longitude 145.139242 | Access to the operational area shall be via West Harbor |

| | | | |
|---|---|---|---|
| | Alaguan Bay* (Puntan Haina to I'Chenchon Park Bird Sanctuary) | East of Latitude: 14.132685, Longitude 145.230542 and west of Latitude 14.15186, Longitude 145.26514 | Access to the operational area shall be via East Harbor |
| Non-Motorized Activities: Motorized Activities | All Areas | N/A | N/A |

**Operational area shall be beyond the reef flat.*

Tinian

~~Jet ski rental operations shall only operate between eight o'clock a.m. and six o'clock p.m.~~

(b) ~~§ 15-20-220 Insurance~~

| Type | Location of Operational Area | Coordinates | Access to Area |
|---|---|---|---|
| Water-Jet Craft: Parasailing; Towed Floatation | Tachogna and Taga Beach (sandy bottom area adjacent to Taga Beach) | 145.625946°E, 14.958281°N<br>145.625786 °E, 14.956962°N<br>145.627049°E, 14.956682°N<br>145.62718°E, 14.95814°N | Access to the operational area shall be via the Tinian Harbor |
| Non-Motorized Activities: Motorized Activities | All Areas | N/A | N/A |

(c) Saipan

| Type | Location of Operational Area | Coordinates | Access to Area |
|---|---|---|---|
| Water-Jet Craft: Operation of Water-Jet Crafts that are intended to operate on the surface of the water, such as a Jet Ski®, WaveRunner®, Sea-Doo, jet bike, or jet board/jet surf and the like. | **Commercial:**<br>300 ft. x 400 ft. marked course, Saipan Lagoon, Garapan | The marked area within the following coordinates:<br><br>145.7141512°E, 15.2107799°N<br>145.7150129°E, 15.2107257°N<br>145.7149493°E, 15.2097222°N<br>145.7141263°E, 15.2097387°N | Access to the operational area shall be via Grandvrio Resort |
| | 300 ft. x 600 ft. marked course, Saipan Lagoon, Garapan | The marked area within the following coordinates:<br><br>145.7140311°E, 15.2146583°N<br>145.7148454°E, 15.2146509°N<br>145.7148264°E, 15.2136302°N | Access to the operational area shall be via Hyatt Regency/Fiesta Resort |

| | | | |
|---|---|---|---|
| | 300 ft. x 600 ft. marked course, Saipan Lagoon, Susupe | 145.7140007°E, 15.2136669°N<br><br>The marked area within the following coordinates:<br>145.6991133°E, 15.1606853°N<br>145.6998962°E, 15.1601668°N<br>145.7008886°E, 15.1614146°N<br>145.7001512°E, 15.1618803°N | Access to the operational area shall be via Saipan World Resort/Kanoa Resort |
| | **Non-Commercial:** 2,500 ft. x 1,200 ft. area in the northern lagoon (located about 1.20 miles NW of DPW Channel Ramp)<br><br>400 ft. x 800 ft. area in southern lagoon (located about ¼ mile off the shoreline from the Kanoa and World Resort properties) | There are two operational areas within the northern lagoon located within the following coordinates:<br>145.7245053°E, 15.2340399°N<br>145.7305580°E, 15.2381884°N<br>145.7321583°E, 15.2356363°N<br>145.7259347°E, 15.2316259°N<br><br>***AND***<br><br>145.7394044°E, 15.2437213°N<br>145.7446500°E, 15.2470024°N<br>145.7463615°E, 15.2446005°N<br>145.7410714°E, 15.2411908°N<br><br>The operational area in the southern lagoon shall be within the following coordinates:<br>145.6968380°E, 15.1568860°N<br>145.6979212°E, 15.1586125°N<br>145.6989332°E, 15.1581517°N<br>145.6979070°E, 15.1564527°N | Access to the operational area shall be via a DLNR-approved site. |
| Water-Jet Craft: Operation of Water-Jet Crafts that are intended to operate above or below the surface of the water such as a flyboard. | **Commercial:** about ¾ of a mile SW of Garapan Fishing Base beyond the reef | 145.7037777°E, 15.1958462°N<br>145.7081377°E, 15.1996482°N<br>145.7088206°E, 15.1990226°N<br>145.7053838°E, 15.1956756°N | Access to the operational area shall be via a DLNR-approved site. |
| | **Non-Commercial:** | Same as commercial | Same as commercial |

| | | | |
|---|---|---|---|
| Jetovator or other jet pack, Seabreacher or other submersible, and the like. | | | |
| Parasailing | 2.5 $mi^2$ (6.22 $km^2$) in the area that overlaps the Saipan Shipping Channel, the Mañagaha Marine Conservation Area, and the transit corridor | 145.6935892°E, 15.2331186°N<br>145.6963784°E, 15.2198480°N<br>145.7203266°E, 15.2294994°N<br>145.7378309°E, 15.2423982°N<br>145.7315793°E, 15.2499144°N<br>145.7159986°E, 15.2377585°N | Access to the operational area shall be via a DLNR-approved site. |
| Towed Floatation | The primary transit corridor that begins at the Kanoa/World Resort course to Mañagaha | 500 ft. wide corridor that extends from:<br>145.6975420°E, 15.1549126°N<br>145.6996888°E, 15.1544575°N<br>145.7125683°E, 15.2385322°N<br>145.7094583°E, 15.2388756°N | Access to the operational area shall be via a DLNR-approved site. |
| Non-~~M~~motorized Activities: Motorized Activities | All Areas | N/A | N/A |

The DCRM Director may in the Director's discretion approve an operational area outside of the designated areas upon request by an applicant, provided that the Director determines that the applicant has sufficiently assessed all potential environmental impacts to the proposed operational area.

**Part 500 - Personal, Recreational and Non-Commercial Uses**

**§ 15-20-501 Designated Areas**

Personal, recreational, and non-Commercial Water-Jet Craft operations shall only be conducted in the designated areas for Water-Jet Craft set forth in NMIAC § 15-20-401.

**Part 600 - Enforcement**

**§ 15-20-601 Purpose**

The provisions of this part are intended to establish procedures whereby the Director shall enforce the terms and conditions of Water Sport Permits and/or the Water Sports Regulations.

## § 15-20-605 Grounds for Action

The Director shall take action to enforce compliance with DCRM program policies, DCRM Water Sports Permit conditions, and/or the Water Sports Regulations in each of the following circumstances:

(i) The Permittee has violated a material term or condition of the issued Water Sports Permit.

(ii) The permitted Water Sport and Recreational Activity has a newly discovered adverse impact to coastal or marine resources or public safety and/or welfare or is likely to imminently have such an adverse impact.

(iii) The Water Sport and Recreational Activity is being conducted without the required Water Sports Permit or otherwise is not in compliance with the Water Sports Regulations.

## § 15-20-610 Warnings and Enforcement Notices

When any of the grounds for action set forth in NMIAC § 15-20-605 are present, DCRM or other enforcement agents authorized to enforce DCRM's regulations shall issue a written warning or an enforcement notice, as appropriate, setting forth, at the minimum, the person and/or permittee cited; the date and approximate time of violation; a brief factual-statement of the violation; the particular regulatory section or permit provisions violated; necessary corrective measures and the period in which they shall be effected, if any; and the amount of penalty assessed pursuant to NMIAC § 15-20-620, if any.

## § 15-20-615 Enforcement Hearing

Warnings and enforcement notices for violation of a term or condition of an issued Water Sports Permit shall be issued and enforced pursuant to DCRM's regulations for enforcement of DCRM permits, NMIAC § 15-10-801 *et seq*. Warnings and enforcement notices for activities conducted without a required Water Sports Permit or otherwise not in compliance with the Water Sports Regulations shall be issued and enforced pursuant to CRM's regulations for enforcement of DCRM standards and policies, NMIAC § 15-10-901 *et seq*. As such, enforcement hearings shall be conducted upon request pursuant to NMIAC § 15-10-825 or NMIAC § 15-10-930, as applicable.

## § 15-20-620 Penalties and Sanctions

The following penalties and sanctions apply to each violation of or failure to comply with any of the provisions of these rules and regulations:

| | |
|---|---|
| First Infraction: | Written warning; |
| Second Infraction: | Up to $500.00 fine per violation; |
| Third Infraction: | Up to $1,000.00 fine per violation and permit suspension; |
| Fourth Infraction: | Discretionary fine up to $10,000.00 per violation and revocation of permit or license. |

Each day of violation is a separate offense.

**§ 15-20-625 Revocation**

Consistent with NMIAC § 15-10-830, DCRM may revoke a Water Sports Permit in its entirety upon a determination by the Director following a hearing (if requested) that the infractions did occur.

**§ 15-20-630 Emergency Suspension**

If DCRM finds that public health, safety, or welfare imperatively requires emergency summary suspension of a Water Sports Permit, the Director may order summary suspension by delivering to the Permittee written notice of the suspension. The summary suspension shall be effective immediately upon receipt by the Permittee of the written notice and shall be effective for not more than thirty (30) days. DCRM shall issue a citation to the Permittee by no later than the fifth (5th) day of the suspension period, and shall hold a hearing by no later than the twenty-fifth (25th) day of the suspension period at which the Permittee shall be given the opportunity to show cause why DCRM should not take permanent action under § 15-20-625 with respect to the Water Sports Permit.

**§ 15-20-635 Safety and Enforcement**

The restrictions, prohibitions, and requirements of this chapter shall not apply in the event of an emergency, to law enforcement or rescue craft, or to Vessels operating under a valid ocean waters event permit issued by the U.S. Coast Guard.

**Part 700 -**
~~**All jet ski rental operators must carry liability insurance in such amount as required by the Coastal Resources Management Office.**~~

~~**§ 15-20-225 CRM Permit**~~

~~No person may conduct a jet ski rental operation without a coastal permit issued by the Coastal Resources Management program which may include requirements in addition to this chapter. The CRM Administrator may determine the number of permits and number of jet skis which will be allowed to operate at each area specified in § 15-20-205 of this chapter and how to best allocate such permits between existing and future operators.~~

~~**Part 300 Water Ski Operations**~~

~~**§ 15-20-301 Water Ski Operations**~~

~~No one may water ski in the Managaha exclusion area described in § 15-20-105(h).~~

~~**Part 400 -**~~ **Miscellaneous**

**§ 15-20-~~401~~701 Interpretation**

(a) If any section of these rules is inconsistent with any Commonwealth law, or any law of the

United States, or any rule or standard established pursuant to federal law, the Commonwealth law or federal law, rule, or standard shall govern. Nothing contained in these rules shall be construed to limit the powers of any Commonwealth department or agency.

(b) These rules shall be liberally construed, consistent with the purposes and scope as stated in § 15-20-010.

**§ 15-20-705 Severability**

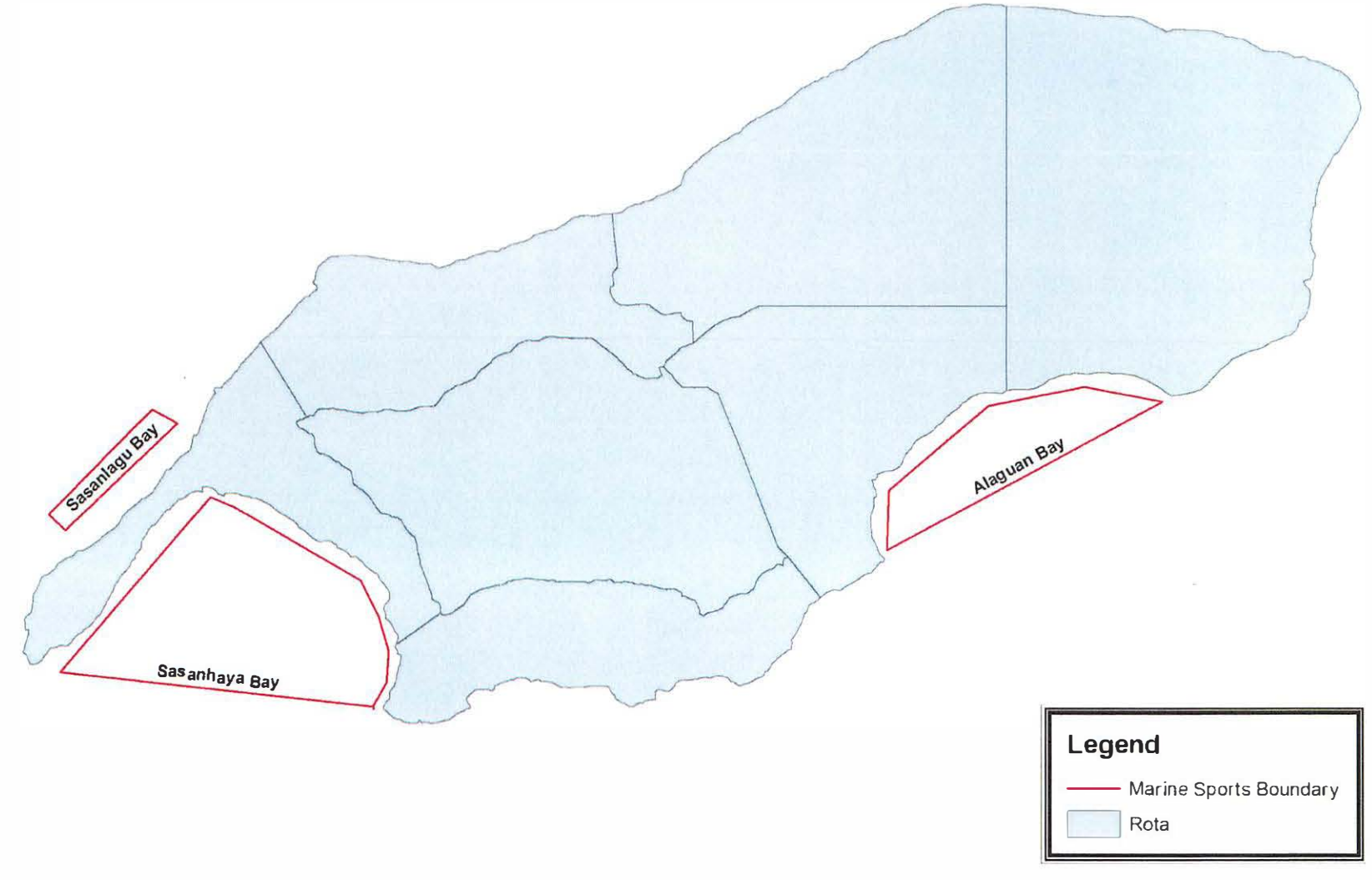
Should any section, paragraph, sentence, clause, phrase or application of this chapter be declared unconstitutional or invalid for any reason by competent authority, the remainder or any other application of this chapter shall not be affected in any way thereby.

~~**§ 15-20-405 Enforcement**~~

~~This chapter shall be enforceable by the Coastal Resources Management Office and Department of Public Safety, Division of Boating Safety.~~

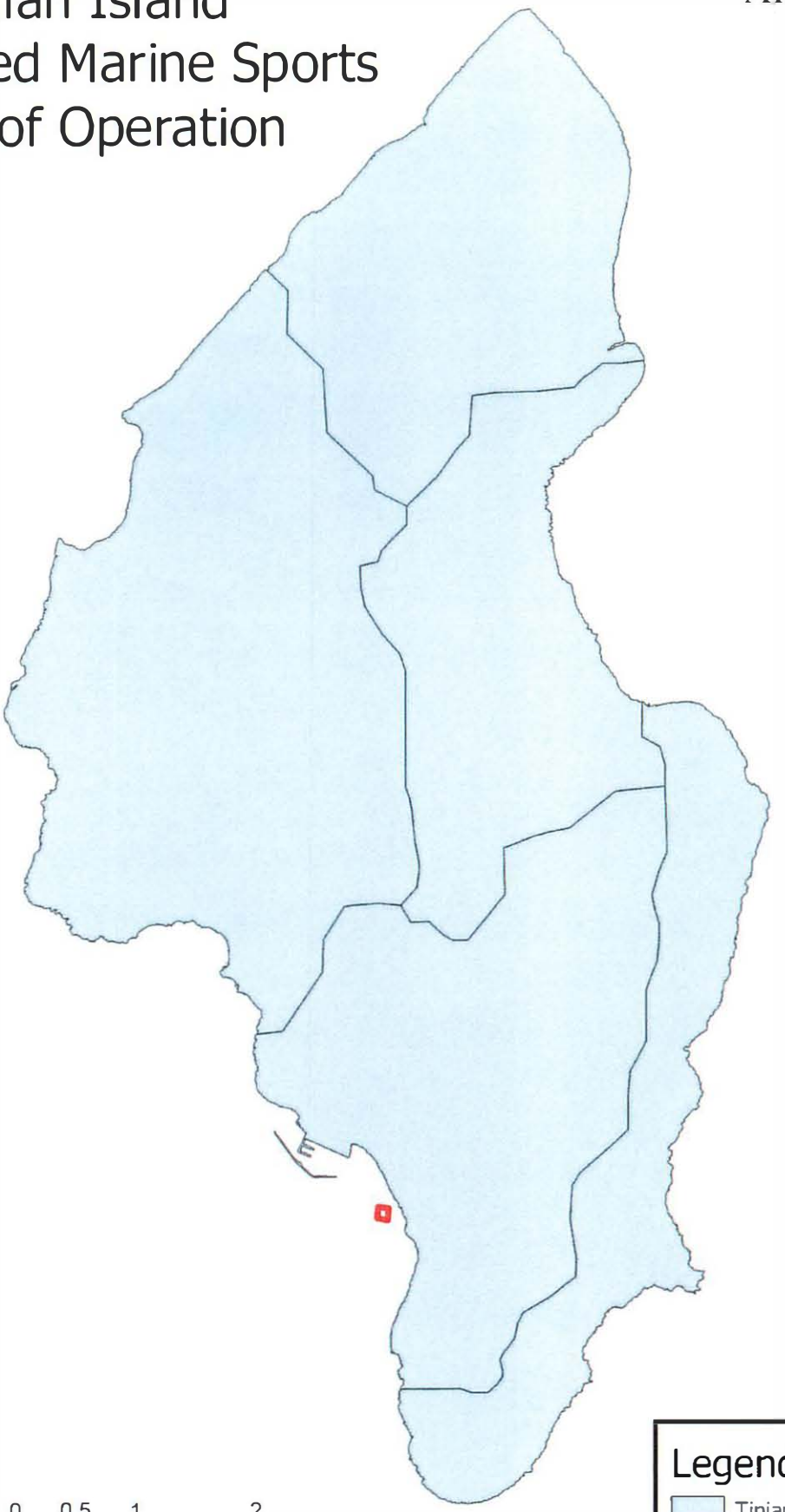
APPENDIX I

# Rota Island
# Designated Marine Sports
# Area of Operation



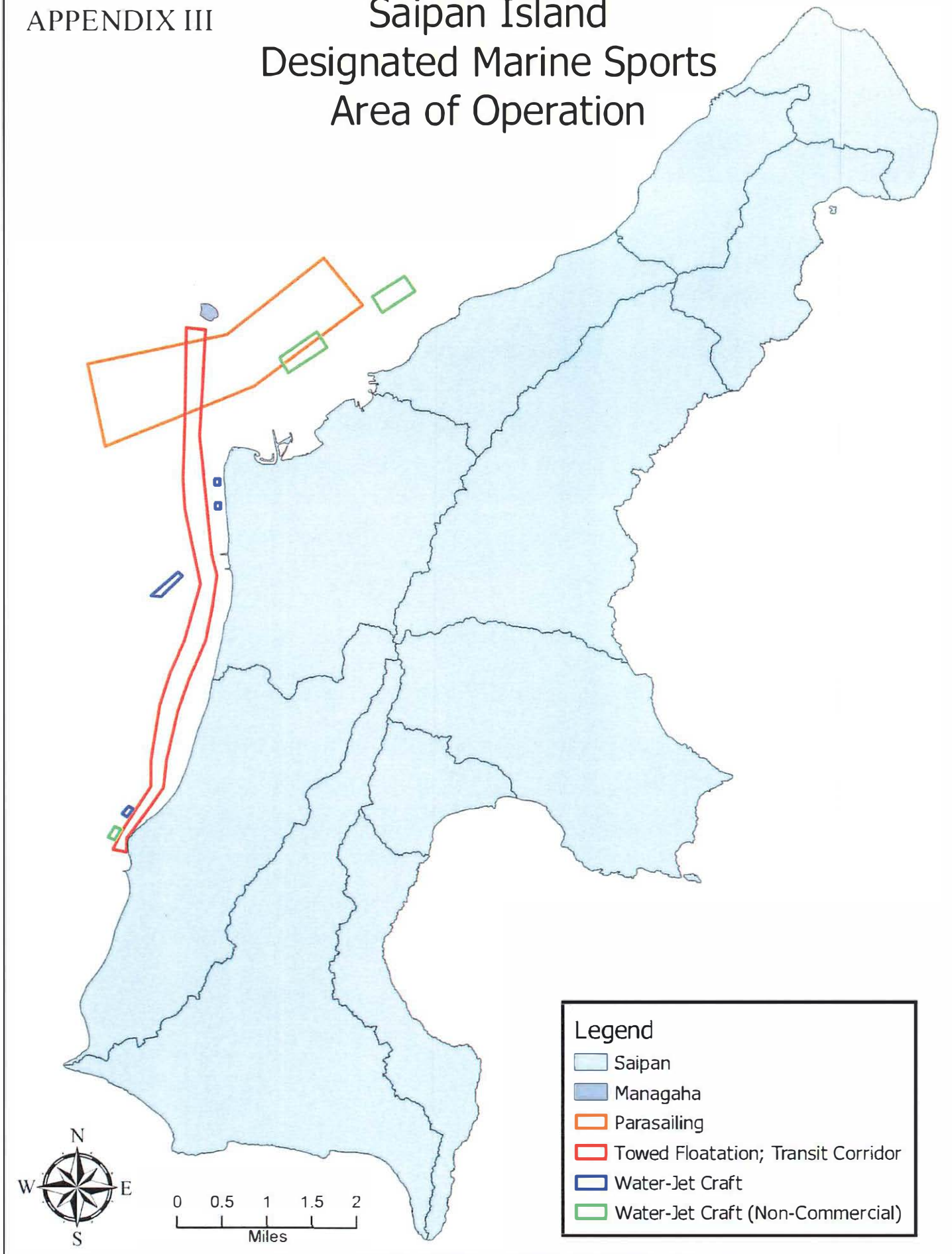
APPENDIX II

# Tinian Island Designated Marine Sports Area of Operation



APPENDIX III

# Saipan Island Designated Marine Sports Area of Operation



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Student Representative


## PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS WHICH ARE AMENDMENTS TO RULES AND REGULATIONS REGARDING CHAPTER 60-30 PUBLIC SCHOOL SYSTEM RULES AND REGULATIONS

**PROPOSED RULES AND REGULATIONS:** The Commonwealth of the Northern Mariana Islands Public School System (PSS) finds that:

**INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:** The Commonwealth of the Northern Mariana Islands Public School System intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective ten (10) days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

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

**THE TERMS AND SUBSTANCE:** The proposed amendment set forth to provide procedural guidelines for PSS §60-30.2-790 Pay Differentials increasing the amount for sections (a)-(c).

**THE SUBJECTS AND ISSUES INVOLVED:** The Proposed Regulation sets forth the regulations and procedures required for Pay Differentials increasing the amount for §§60-30.2-790 Pay Differentials, sections (a), (b), and (c).

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

**TO PROVIDE COMMENTS:** All interested persons may examine the proposed amendments and submit written comments, positions, or statements for or against the proposed amendments to the Chairperson, State Board of Education, via mail at P.O.

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Chairperson

Herman M. Atalig, SGM(Ret)
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Gregory P. Borja
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Box 501370 CK, Saipan, MP 96950, via phone at 670-664-3711 or via email to boe.admin@cnmipss.org within thirty (30) calendar days following the date of the publication in the Commonwealth Register of these amendments. (1 CMC § 9104(a)(2))

This regulation was approved at the State Board of Education Special Meeting on February 11, 2021.

Submitted by: _____ 5/17/21
Andrew L. Orsini — Date
Chairman, State Board of Education

Received by: _____ 05/25/21
Mathilda A. Rosario — Date
Special Assistant for Administration

Filed and Recorded by: _____ 05.25.21
Esther SN. Nesbitt — Date
Commonwealth Register ~~or~~ for

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

Dated this 25 day of May, 2021.

Edward E. Manibusan
Attorney General

Subpart D - Other Compensation

§ 60-30.2-790 Pay Differentials

(a) After-school differential, coaching differential, summer school differential and Saturday school differential may be paid to PSS personnel who meet all BOE teacher certification requirements, and have previously consulted and obtained approval from the COE. This differential shall be paid based on rates approved by the BOE, provided funds are available. Persons receiving an after-school differential, coaching differential, summer school differential and/or a Saturday school differential shall not be eligible to receive overtime compensation. Coaches may receive a waiver of the certification requirement from the Commissioner for up to four years.

(b) Proposed differentials:
(1) Coaches: $400/sports season
(2) After-school: $40/daily (not to exceed 2 hrs)
(3) Saturday: $75/half day session, $150 full day (6 hrs)
(4) Before school: $30/daily session (not to exceed 1 hr)
(5) Summer school: $150/full day (6 periods)
(6) $75/half day (up to 4 periods)
(7) Credit Recovery, $60
(8) Substitute Teachers, (BA or higher), $150/day
(9) Substitute Teachers, (AA degree), $100/day

(c) Professional development differential may be paid to PSS personnel exempt from the Fair Labors Standards Act who coordinate, facilitate or present at professional development seminars, workshops or trainings held on weekends or in the evening (after working hours) provided that the PSS staff coordinating, facilitating or presenting at the seminar, workshop or training have consulted and obtained the prior approval of the COE. This differential shall be paid based on rates approved by the BOE, provided funds are available. The PSS staff receiving this differential shall not be eligible to receive overtime compensation or extended day credits. This professional development differential shall be $150/day for Saturdays (four hours or longer seminar, workshop or training) and $40/evening (two hour or longer workshop or training after working hours).

**§ 60-30.2-790 Pay Differentials**

(a) After-school differential, coaching differential, summer school differential and Saturday school differential may be paid to PSS personnel who meet all BOE teacher certification requirements, and have previously consulted and obtained approval from the COE. This differential shall be paid based on rates approved by the BOE, provided funds are available. Persons receiving an after-school differential, coaching differential, summer school differential and/or a Saturday school differential shall not be eligible to receive overtime compensation.



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Coaches may receive a waiver of the certification requirement from the Commissioner for up to four years.

(b) Proposed differentials:

(1) Coaches: $300/sports season

(2) After-school: $30/daily (not to exceed 2 hrs)

(3) Saturday: $60/half day session

(4) Before school: $15/daily session (not to exceed 1 hr)

(5) Summer school: $100/full day (6 periods)

$60/half day (up to 4 periods)

(c) Professional development differential may be paid to PSS personnel exempt from the Fair Labors Standards Act who coordinate, facilitate or present at professional development seminars, workshops or trainings held on weekends or in the evening (after working hours) provided that the PSS staff coordinating, facilitating or presenting at the seminar, workshop or training have consulted and obtained the prior approval of the COE. This differential shall be paid based on rates approved by the BOE, provided funds are available. The PSS staff receiving this differential shall not be eligible to receive overtime compensation or extended day credits. This professional development differential shall be $100/day for Saturdays (four hours or longer seminar, workshop or training) and $30/evening (two hour or longer workshop or training after working hours).

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Rainalyn Reyes
Student Representative


## NUTISIAN PUPBLIKU NI MANMAPRONI NA AREKLAMENTU YAN REGULASION SIHA NI MA'AMENDA NA AREKLAMENTU YAN REGULASION PÅTTI 60-30 PARA I AREKLAMENTU YAN REGULASION I SISTEMAN ESKUELAN PUPBLIKU

**I MANMAPROPONI NA AREKLAMENTU YAN REGULASION:** I Commonwealth gi Sangkattan na Islas Mariånas Sisteman Eskuelan Publiku ("PSS") hu soda' na:

**I ASKSION NI MA INTENSIONA PARA U MA'ADÅPTA ESTI I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA:** I Commonwealth gi Sangkattan na Islas Mariånas Siha, i Sisteman Eskuelan Pupbliku ha intensiona para u ma'adåpta kumu petmanenti i regulasion siha ni mañechettun I Manmaproponi na Regulasion siha, sigun gi manera siha gi Åktun Administrative Procedures, 1 CMC § 9104(a). I Regulasion siha para u if'ektibu gi hålum dies (10) dihas dispues di adåptasion yan pupblikasion gi hålum i Rehistran Commonwealth (1 CMC § 9105(b))

**ÅTURIDÅT:** I manmaproponi na amendasion siha para i PSS na regulasion manmacho'gui sigun gi åturidåt i Kuetpu kumu mapribeniyi ginin i Attikulu XV gi Konsitusion CNMI, Lai Pupbliku 6-10 yan i Åktun i CNMI Administrative Procedures.

**I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA:** I manmaproponi na amendasion mapega mo'na para u pribeniyi procedural guidelines para PSS gi hålum §60-30.2-790 Pay Differentials ma håtsamientu i presiu para i seksion (a)-(c).

**I SUHETU NI MASUMÅRIA YAN ASUNTU NI TINEKKA SIHA:** I Maproponi na Regulasion pumega mo'na i regulåsion yan i procedure na nisisidåt para i Pay Differential uma hatsamientu i presiu para §§ 60-30.2-790 Pay Differential, seksion (a), (b), and (c).

**DIREKSION PARA U MAPO'LU YAN PUPBLIKASION:** Esti i Manmaproponi na Regulasioin siha debi na u mapupblika gi hålum I Rehistran Commonwealth gi seksiona ni manmaproponi yan nuebu na ma'adåpta na regulasion siha. (1 CMC § 9102 (a) (1) yan mapega gi hålum i kumbenienti na lugåt siha gi hålum i civic center yan hålum ufisinan gubietnamentu gi kada distritun senadot, parehu English yan i dos na lingguåhin natibu. (1 CMC § 9104(a)(1))

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Student Representative


**PARA U MAPRIBENIYU UPINON SIHA:** Todu maninterisåo na petsona siña ma'eksamina i manmaproponi na amendasion siha yan u na'hålum i tinigi' upiñon pat pusision, pat sinangan siha para pat kinentran i manmaproponi na amendasion siha guatu gi Kanbiseyu, State Board of Education, mail gi P.O. Box 501370 CK, Saipan, MP 96950, pat tilifon gi 670-664-3711 pat email para boe.admin@cnmipss.org hålum i trenta (30) dihas gi fetchan kalendåriu ni tinatititiyi ni pupblikasion esti siha na amendasion gi hålum i Rehistran Commonwealth. (1 CMC § 9104 (a) (2))

Esti na regulasion ma'aprueba gi Huntan i State Board of Education gi Fibreru 11, 2021.

Nina'hålum as: _____ 5/11/21
Andrew Orsini — Fetcha
Kabesiyu, State Board of Education

Rinisibi as: _____ 05/25/21
Mathilda A. Rosario — Fetcha
Espisiåt Na Ayudåntin I Administrasion

Pine'lu yan Ninota as: _____ 05.25.2021
Esther SN. Nesbitt — Fetcha
Rehistran Commonwealth

Sigun i 1 CMC § 2153(e)(Inaprueba i regulasion yan siha ni Abugådu Heneråt ni para u macho'gui kumu fotma) yan 1 CMC § 9104(a)(3) (hentan inaprueba Abugådu Heneråt) i man maproponi na regulasion siha ni mañechettun guini ni man maribisa yan man ma'aprueba kumu fotma yan sufisienti ligåt ginin i CNMI Abugådu Heneråt yan debi na u mapupblika, (1 CMC § 2153(f) pupblikasion i areklamentu yan regulasion siha).

Mafetcha guini gi diha 25 gi Mayu, 2021

_____
Edward E. Manibusan
Abugådu Heerat

Dibidi Pått D – Ottru siha na klåsin åpas.

§ 60-30.2-790 Inapåsin Differential

(a) Finakpu' Iskuela na differential, finana'guin huegu differential, bakasion iskuela na differential, yan iskuelan Sabalu na differential siempri ufan ma'apåsi i impli'ao PSS nai kumompli todu i BOE na setifikun ma'estra/tro na inafuetsao, yan gi ma'pus na inakunsutta yan ma risibi apruebasion ginin i COE. Esti na differential debi uma'apåsi gi dinanchi na kostå siha nui inapruebasion ginin i BOE, manmanå'i salåppi' nai umeteru'. i petsunåt nui para u rinisibi i finakpu' iskuela na differential siempri ti u kuålifikao para umarisibi inapåsin finakkpu' ora na kompensasion. I coaches siña ma risibi iniskåpan I setifikun afuetsao ginin I kumisina despues manå'i ha' maski kuåttru åñus.

(b) Prupositun Differential
   (1) Kochis: $400.00/durantin I huegu na såkkan.
   (2) Finakkpu' Iskuela: $40.00/gi dia (lao ti u upus 2 hrs)
   (3) Såbalu: $75.00/mediu gi dia session. $150.00 tudi dia (6 hrs)
   (4) Antis diu oran Iskuela: $30.00/todu dia na session (lao ti u upus 1 hr)
   (5) Bakasion Iskuela: $150.00/tudu dia (6 tetmenu)
   (6) $75/mediu gi dia (mas ki 4 tetmenu)
   (7) Kreditun Hinemlu': $60.00
   (8) Kentaguin Ma'estru/tra, (BA or pat mas takkilu' na degree): $150.00/gi dia
   (9) Kentaguin Ma'estru/tra: (AA digri): $100.00/gi dia

(c) I profisot finana'gui differential siña inpåsis nu i PSS na petsona ginin i Fair Labors Standards Act nui man kuordinet, uma alibia, pat man presenta gi profisot finana'gui konfiriensa, fina'na'gui or man makola gi durantin i simåna siha pat sino gi pupuengi (finakkpu' cho'chu' na ora) solamenti na i baston PSS coordinating, facilitating, or presentasion gi seminar, fina'na'gui or kola ha kunsutta yan ma henta antis di i aplasu ginin i COE. Esti i differential debi di uma' apåsi bes gi kosta nai inapreban i BOE, solamenti na ma apreba sa' guåha mutero' salåppi' siha. I petsonat i PSS nai manrisisibi nu esti i differential debi na ti kualifikao para uma risibi meggaiña na apas osino maekstendi kreditun i dia. Esti i profisot fina'na'gui differential debi di $150.00/gi dia para i Sabalu na dia (kuåttru oras or annaku' na konfiriensa, fina'na'gui osino chanachalani) yan $40.00/gi pupuengi (dos oras or annakku' na fina'na'gui osino chinachalani gi finakkpu' i che'chu na oras)

**§ 60-30.2-790 Pay Differentials**

(a) After-school differential, coaching differential, summer school differential and Saturday school differential may be paid to PSS personnel who meet all BOE teacher certification requirements, and have previously consulted and obtained approval from the COE. This differential shall be paid based on rates approved by the BOE, provided funds are available. Persons receiving an after-school differential, coaching differential, summer school differential and/or a Saturday school differential shall not be eligible to receive overtime compensation.



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Coaches may receive a waiver of the certification requirement from the Commissioner for up to four years.

(b) Proposed differentials:

(1) Coaches: $300/sports season

(2) After-school: $30/daily (not to exceed 2 hrs)

(3) Saturday: $60/half day session

(4) Before school: $15/daily session (not to exceed 1 hr)

(5) Summer school: $100/full day (6 periods)

$60/half day (up to 4 periods)

(c) Professional development differential may be paid to PSS personnel exempt from the Fair Labors Standards Act who coordinate, facilitate or present at professional development seminars, workshops or trainings held on weekends or in the evening (after working hours) provided that the PSS staff coordinating, facilitating or presenting at the seminar, workshop or training have consulted and obtained the prior approval of the COE. This differential shall be paid based on rates approved by the BOE, provided funds are available. The PSS staff receiving this differential shall not be eligible to receive overtime compensation or extended day credits. This professional development differential shall be $100/day for Saturdays (four hours or longer seminar, workshop or training) and $30/evening (two hour or longer workshop or training after working hours).

# STATE BOARD OF EDUCATION

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## ARONGORONGOR TOULAP REEL PWOMWOL ALLÉGH ME MWÓGHUT IKKA AA LLIWEL NGÁLI ALLÉGH ME MWÓGHUT IYE E SÚLLÚNGÁLI CHAPTER 60-30.2 ALLÉGH ME MWÓGHÚTÚGHÚTÚL PUBLIC SCHOOL SYSTEM

**PWOMWOL ALLÉGH ME MWÓGHÚTÚGHÚT**: Commonwealth Téél Falúw kka Efáng llól Marianas Public School System (PSS) re schuungi bwe:

**MÁNGÁMÁNGIL MWÓGHÚT REEL REBWE ADOPTÁÁLI PWOMWOL ALLÉGH ME MWÓGHÚT:** Commonwealth Téél Falúw kka Efáng llól Marianas Public School System re mángámángil rebwe adoptááli bwe ebwe llégháló allégh kka e appasch bwe Pwomwol Mwóghút, sángi mwóghútúghútúl Administrative Procedure Act, 1 CMC § 9104(a). Ebwe bwunguló Mwóghut kkal llól seigh (10) ráál mwiril yaar adoptaáli me akkatéwowul me llól Commonwealth Register. (1 CMC § 9105(b))

**BWÁNGIL**: Pwomwol lliwel ngáli mwóghútúghútúl PSS nge re arongawow sángi bwangiir Board iye e tooto merel Article XV reel CNMI Constitution, Alléghúl Toulap 6-10 me CNMI Administrative Procedures Act.

**KKAPASAL ME WEEWEL**: Aa ffééértiw pwomwol liiwel kkal nge ebwe tééló mmwal bwe ebwe ayoora ffél me PSS § 60-30.2-790 Pay Differentials bwe ebwe ssiwel nge aa téétá merel tálil (a)-(c)

**PWOMWOL MWÓGHÚT ME MEETA KKA E LO LLÓL**: Pwomwol Mwóghút kkal bwe ebwe amwetaló mmwál regulations me procedures iye reel Pay Differentials bwe ebwe téétá abwóssul reel § 60-30.2-790 Pay Differentials, sections (a), (b), and (c).

**AFAL REEL AMMWÁLÚL ME AKKATÉÉWOWUL:** Ebwe akkatééwow Pwomwol Mwóghút kkal llól Commonwealth Register tálil wóól pwomw me mwóghút ffé kka ara adóptááli. (1 CMC § 9102(a)(1) me ebwe appaschatá llól civic center llól bwulasiyool gobetnameento senatorial district, fengál llól Amerikkóónu me mwaliyaasch. (1 CMC § 9104(a)(1))

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Teacher Representative

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Non Public School Rep.

Rainalyn Reyes
Student Representative


**REEL ISISILONGOL KKAPAS:** Schoo kka re mwuschál amweri fischiiy pwomwol lliwel kkal rebwe isisilong ischil mángámang, positions, ngáre kkapasal aweewe ngáli ngáre ubwe fiyowágháli pwomwol lliwel ngáli Chairperson, State Board-il Education, via mail me P. O. Box 501370 CK, Saipan, MP 96950, via tilifon me 670-664-3711 ngáre via email ngáli boe.admin@cnmipss.org llól eliigh (30) ráál mwiril yaal akkatééwow arongorong yeel me llól Commonwealth Register reel lliwel kkal. (1 CMC § 9104(a) (2))

Aa átirow mwóghút kkal sángi State Board of Education Special Meeting wóól Mááischigh seigh me waluuw ruwangaras ruweigh (February 11, 2021).

Isáliyallong: _____ 5/27/21
Andrew Orsini — Ráál
Chairman, State Board of Education

Bwughiyal: _____ 05/25/21
Mathilda A. Rosario — Ráál
Special Assistant ngáli Administration

Ammwálúl: _____ 05.25.2021
Esther SN. Nesbitt — Ráál
Commonwealth Register

Sángi 1 CMC § 2153(e) (sángi yaal llégháló me átirow mwóghútúghút kkal merel AG bwe aa fil reel fférúl) me 1 CMC § 9104 (a) (3) (sángi átirowal AG) reel pwomwol mwóghút ikka e appasch me ara takkal amweri fischiiy bwe aa llégháló reel fférúl me legal sufficiency sángi Sów Lemelemil Allégh Lapalapal CNMI me ebwe akkatééwow (1 CMC 8 2153(f) (akkatééwowul allégh me mwóghútúghút).

Aghikkilatiw 25 rállil Ghúúw Ruwangaras ruweigh me eew ( May 2021)

_____
Edward E. Manibusan
Sów Lemelemil Allégh Lapalap

Táttálil D – Akkáw tappal abwóós

§ 60-30.2-790 Abwóssul Differential

(a) Mwutchulóól gakko differential, coaching differential, gakkol llól summer differential, me gakkol wóól Sóóbwal differential emmwál ebwe abwóssuw schóól angaangil PSS ikka re bwughi alongal meeta kka BOE eghal tingór me ara bwughi approval merel COE. Differential nge ebwe abwóós wóól meeta rate iye BOE e ira, me ngáre eyoor salapi. Schó kka rebwe bwughi mwutchulóól gakko differential, coaching differential, gakkol llól summer differential, me gakkol wóól Sóóbwal differential nge rese mmwálúl rebwe bwughi overtime compensation. Emmwál coaches rebwe bweibwogh waiver reel certification requirement merel Commissioner lóffóschotá llól faawu ráágh.

(b) Abwóssul Differential
  (1) Coaches: $400.00/sports season
  (2) Mwutchulóól gakko: $40.00/eew ráál (nge essóbw toori ruwoow oora)
  (3) Sóóbwal: $75.00/esóbw ráál. $150.00 eew ráál (oloow oora)
  (4) E sáál bwel gakko: $30.00/eew ráál (eew oora)
  (5) Gakkol llól Summer: $150.00/eew ráál (oloow periods)
  (6) $75.00/esóbw ráál (faawu periods)
  (7) Credit Recovery: $60.00
  (8) Substitute Teacher, (BA ngáre llangaló): $150.00/eew ráál
  (9) Substitute Teacher, (AA Degree) $100.00/eew ráál

(c)Professional development differential nge emmwál ebwe abwóssuw schóól angaangil PSS iye re exempt merel Fair Labors Standards Act iye re féérú mwóghútúghút reel professional development seminars, workshops, me ngáre training kka eyoor llól rállil angaang me leefáf (mwiril ótol angaang) nge schóól angaangil PSS ikka re coordinate-li merel seminar, workshop, me ngáre training ara bweibwogh approval merel BOE, me eyoor salapi. Schóól angaangil PSS ikka rebwe bwughi differential yeel nge rese mmwálúl rebwe bwughi overtime compensation me ngáre extended day credits. Professional development differential nge ebwe $150.00/eew ráál wóól Sóóbwal (faawu oora me ngáre seminar, workshop me training e lálláay ló) me $40.00/leefáf (ruwoow oora me ngáre workshop me training mwiril ótol angaang).

**§ 60-30.2-790 Pay Differentials**

(a) After-school differential, coaching differential, summer school differential and Saturday school differential may be paid to PSS personnel who meet all BOE teacher certification requirements, and have previously consulted and obtained approval from the COE. This differential shall be paid based on rates approved by the BOE, provided funds are available. Persons receiving an after-school differential, coaching differential, summer school differential and/or a Saturday school differential shall not be eligible to receive overtime compensation.



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Coaches may receive a waiver of the certification requirement from the Commissioner for up to four years.

(b) Proposed differentials:

(1) Coaches: $300/sports season

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## PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS WHICH ARE AMENDMENTS TO RULES AND REGULATIONS REGARDING CHAPTER 60-40 PUBLIC SCHOOL SYSTEM RULES AND REGULATIONS

**PROPOSED RULES AND REGULATIONS:** The Commonwealth of the Northern Mariana Islands Public School System (PSS) finds that:

**INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:** The Commonwealth of the Northern Mariana Islands Public School System intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective ten (10) days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

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

**THE TERMS AND SUBSTANCE:** The proposed amendment set forth to provide procedural guidelines for PSS §60-40-210 Small Purchases to increase the threshold limit from $250.00 to $500.00 with single quotation.

**THE SUBJECTS AND ISSUES INVOLVED:** The Proposed Regulation sets forth the regulations and procedures required for §60-40-210 Small Purchases.

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

**TO PROVIDE COMMENTS:** All interested persons may examine the proposed amendments and submit written comments, positions, or statements for or against the proposed amendments to the Chairperson, State Board of Education, via mail at P.O.

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Chairperson

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Box 501370 CK, Saipan, MP 96950, via phone at 670-664-3711 or via email to boe.admin@cnmipss.org within thirty (30) calendar days following the date of the publication in the Commonwealth Register of these amendments. (1 CMC § 9104(a)(2))

This regulation was approved at the State Board of Education Regular Meeting on November 18, 2020.

Submitted by: _____ 5/17/21
Andrew L. Orsini — Date
Chairman, State Board of Education

Received by: _____ 05/19/21
Mathilda A. Rosario — Date
Special Assistant for Administration

Filed and Recorded by: _____ 05.25.2021
Esther SN. Nesbitt — Date
Commonwealth Register

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

Dated this 20th day of May, 2021.

_____
Edward E. Manibusan
Attorney General

§ 60-40-210 Small Purchases

(a) Any procurement not exceeding the amounts established herein may be made in accordance with small purchase procedures. However, procurement requirements shall not be artificially divided so as to constitute a small purchase.

(b) Purchases not exceeding $500.00 may be made without securing bids or price quotations if the Chief of Procurement and Supply considers the price reasonable. Such determination shall be made in writing and shall indicate: (1) the reason why price quotations were not sought; (2) the utility of the purchase; (3) an explanation of why the price is reasonable under the circumstances.

(c) The Capital Improvements Projects office shall be permitted to make small purchases according to subsection (b), but a small purchase shall be considered $1,000.

(d) Bidding is not required but is encouraged for procurement under $10,000. Price quotations from at least three vendors must be obtained and the selection based on competitive price and quality for procurement valued at under $10,000. Any price quotations obtained must be written, documented, and submitted to the Chief for approval. However, if it is an emergency and three price quotations are not practicable, the purchase shall function as an emergency procurement and follow § 60-40-220.

(e) Purchase orders may be utilized for small purchases in subsections (b) and (c) only. Purchase orders may also be utilized instead of contracts for purchasing instructional materials, books, and publications. (f) This section shall not apply to lease or purchase of vehicles, machinery and equipment or to the purchase of professional services.

(g) Construction services may be procured by obtaining three price quotations from qualified contractors. Procurement under this subsection shall be limited to renovations of existing structures, repairs, maintenance, materials, and construction equipment. No new buildings or structures shall be built using this subsection. Contracts procured hereunder shall not exceed $30,000 and shall be accompanied by a justification, in writing, by the Capital Improvements Projects office and agreed to and signed by the Commissioner of Education.

**§ 60-40-210 Small Purchases**

(a) Any procurement not exceeding the amounts established herein may be made in accordance with small purchase procedures. However, procurement requirements shall not be artificially divided so as to constitute a small purchase.

(b) Purchases not exceeding $250.00 may be made without securing bids or price quotations if the Chief of Procurement and Supply considers the price reasonable. Such determination shall be made in writing and shall indicate:

(1) the reason why price quotations were not sought;

(2) the utility of the purchase;

(3) an explanation of why the price is reasonable under the circumstances.

(c) The Capital Improvements Projects office shall be permitted to make small purchases according to subsection (b), but a small purchase shall be considered $1,000.

(d) Bidding is not required but is encouraged for procurement under $10,000. Price quotations from at least three vendors must be obtained and the selection based on competitive price and quality for procurement valued at under $10,000. Any price quotations obtained must be written, documented, and submitted to the Chief for approval. However if it is an emergency and three price quotations are not practicable, the purchase shall function as an emergency procurement and follow § 60-40-220.

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## NUTISIAN PUPBLIKU NI MANMAPRONI NA AREKLAMENTU YAN REGULASIONSIHA NI MA'AMENDA NA AREKLAMENTU YAN REGULASION PÅTTI 60-30 PARA I AREKLAMENTU YAN REGULASION I SISTEMAN ISKUELAN PUPBLIKU

**I MANMAPROPONI NA AREKLAMENTU YAN REGULASION:** I Commonwealth gi Sangkattan na Islas Mariånas Sisteman Eskuelan Publiku ("PSS") hu sodda' na:

**I ASKSION NI MA INTENSIONA PARA U MA'ADÅPTA ESTI I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA:** I Commonwealth gi Sangkattan na Islas Mariånas Siha, i Sisteman Iskuelan Pupbliku ha intensiona para u ma'adåpta kumu petmanenti i regulasion siha ni mañechettun i Manmaproponi na Regulasion siha, sigun gi manera siha gi Åktun Administrative Procedures, 1 CMC § 9104(a). I Regulasion siha para u ifektibu gi hålum dies (10) dihas dispues di adåptasion yan pupblikasion gi hålum i Rehistran Commonwealth (1 CMC § 9105(b))

**ÅTURIDÅT:** I manmaproponi na amendasion siha para i PSS na regulasion manmacho'gui sigun gi åturidat i Kuetpu kumu mapribeniyi ginin i Attikulu XV gi Konsitusion CNMI, Lai Pupbliku 6-10 yan I Åktun i CNMI Administrative Procedures.

**I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA:** I manmaproponi na amendasion mapega mo'na parau pribeniyi i buebu na nisisdat para PSS § 60-40-210 Small Purchases na para uma hatsa i threshold rinibaha ginin i $250.00 esta i $500.00 gi sensiyu na quotation.

**I SUHETU NI MASUMÅRIA YAN ASUNTU NI TINEKKA SIHA:** I Maproponi na Regulasion pumega mon'na i nuebu na nisisidat para § 60-40-210 Small Purchases.

**DIREKSION PARA U MAPO'LU YAN PUPBLIKASION:** Esti i Manmaproponi na Regulasioin siha debi na u mapupblika gi hålum i Rehistran Commonwealth gi seksiona ni manmaproponi yan nuebu na ma'adåpta na regulasion siha. (1 CMC § 9102 (a)(1) yan mapega gi hålum i kumbenienti na lugåt siha gi hålum i civic center yan hålum ufisinan gubietnamentu gi kada distritun senadot, parehu English yan i dos na lingguahin natibu. (1 CMC § 9104(a)(1))

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Student Representative


**PARA U MAPRIBENIYU UPINON SIHA:** Todu maninterisåo na petsonå siña ma'eksamina i manmaproponi na amendasion siha yan u na'halum i tinigi' upiñon pat Sinangan siha para pat kinentran i manmaproponi na amendasion siha guatu gi Kanbiseyu, State Board of Education, mail gi P.O. Box 501370 CK, Saipan, MP 96950, pat tilifon gi 670-664-3711 pat email para boe.admin@cnmipss.org hålum i trenta(30) dihas gi fetchan kalendariu ni tinatititiyi ni pupblikasion esti siha na amendasion gi hålum i Rehistran Commonwelth. (1 CMC § 9104 (a)(2))

Esti na regulasion ma'aprueba gi Huntan i State Board of Education gi Nubembri 18, 2020.

Nina'hålum as: _____ 5/17/21
Andrew Orsini — Fetcha
Kabesiyu, State Board of Education

Rinisibi as: _____ 05/19/21
Mathilda A. Rosario — Fetcha
Espisiåt Na Ayudåntin I Administrasion

Pine'lu yan Ninota as: _____ 05.25.2021
Esther SN. Nesbitt — Fetcha
Rehistran Commonwealth

Sigun i 1 CMC § 2153(e)(Inaprueba i regulasion yan siha ni Abugådu Heneråt ni para u macho'gui kumu fotma) yan 1 CMC § 9104(a)(3) (hentan inaprueba Abugådu Heneråt) i man maproponi na regulasion siha ni mañechettun guini ni man maribisa yan man ma'aprueba kumu fotma yan sufisienti ligåt ginin i CNMI Abugådu Heneråt yan debi na u mapupblika, (1 CMC § 2153(f) pupblikasion i areklamentu yan regulasion siha).

Mafetcha guini gi diha 20th gi Mayu 2021

Edward E. Manibusan
Abugådu Heerat

§60-40-210 I Dokumentun Dididi' na Finahan

(a) Maseha hafa na finahan nai ti ha u'upus i presiu nai maestablisha guini halum siña ma cho'gui para fina'tinas gi minaolik yan areklamentun I dididi' na fiinahan. Uchumas, I finahan siha annai man afuetsao debi na ti uma dibidi i ginagagao nui didi' na finahan.

(b) I finahan siha nai ti ha upus $500.00 siña mafa'tinas sin ma gramaderu i bids or presiu nai mabalua yanggin I Manehantin I Finahan yan i Suplika ha konsidera i presiu ya mangontentu ha'. I resuttu siña mafa'tinas gi tinigi' yan siña indika: (1) I rason hafa na i presiun nai mabalua ti ma chuli'. (2) I materiat nui ma fahan; (3) eksplanision hafa na i presiu resonabbli gi papa' i sikumstansia.

(c) I Ofisinan Kapitat Inadilantun Planu debi di u ma petmimti para uma fa'tinas dididi' na finahan konsisti para i subsection (b), lao i dididi' na finhan debi di uma konsidera $1,000.00.

(d) I amoneda ti ma nisisita lao ma su'on para I finahan siha gi papa' i $10,000.00. I presiu mabalua ginin i tress na kumpania debi di uma henta i sileksion bes gi kompitensia na presiu para i finahan siha bali gi papa' i $10,000.00. Maseha estaimanu i presiu na mabalua para u machuli' debi guaha tinigi', madakumentu, yan mana' halum guatu para I Minahanti para uma abreba. Lao, yanggin sen imputtanti yan guaha tres presiun mabalua na ti dinanchi, i finahan debi umatitiyi tatkumu presisu na finahan siha yan matatiyi I §60-40-220.

(e) I Finahan na Dokumentu siña mohon ma usa gi dididi' na finahan gi subsections (b) yan (c) ha'. I Finahan na Dokumentu siña lokkui' ma usa alugatdi di uma i kumpania na para umafahan i materiat leksion, lepblu, yan publications. (f) Esti i gahu ti siña ma aplika para uma akitla pat uma fahan kareta, makineria, yan ramienta osino para ma apasi i profesiat na fina'che'chu'.

(f) I konstraksion na setbisiu siña ma usa para uma aligao tres na presiu mabalua ginin I mas kualifikao na kompania. I finahan siha gi papa' esti i subsection siña uma ribaha para I renofresko gi esta guaha estroktura, inarekla, che'chu' inarekla, materiat, yan materiat konstraksion. Taya' nuebu na guma' or estroktura debi di umahaksa nai para un usa esti i subsection. i kontrata nai ma fahan guni debi tiu upus $30,000.00 yan debi dihu inkampania nui i rason, tatkumo gi tinigi', ginin i Ofisinan Kapitat Inadilantun Plan yan ma aprueba na para ya unfinitma ginin i Kumisinan Idukasion.

**§ 60-40-210 Small Purchases**

(a) Any procurement not exceeding the amounts established herein may be made in accordance with small purchase procedures. However, procurement requirements shall not be artificially divided so as to constitute a small purchase.

(b) Purchases not exceeding $250.00 may be made without securing bids or price quotations if the Chief of Procurement and Supply considers the price reasonable. Such determination shall be made in writing and shall indicate:

(1) the reason why price quotations were not sought;

(2) the utility of the purchase;

(3) an explanation of why the price is reasonable under the circumstances.

(c) The Capital Improvements Projects office shall be permitted to make small purchases according to subsection (b), but a small purchase shall be considered $1,000.

(d) Bidding is not required but is encouraged for procurement under $10,000. Price quotations from at least three vendors must be obtained and the selection based on competitive price and quality for procurement valued at under $10,000. Any price quotations obtained must be written, documented, and submitted to the Chief for approval. However if it is an emergency and three price quotations are not practicable, the purchase shall function as an emergency procurement and follow § 60-40-220.

(e) Purchase orders may be utilized for small purchases in subsections (b) and (c) only. Purchase orders may also be utilized instead of contracts for purchasing instructional materials, books, and publications.

(f) This section shall not apply to lease or purchase of vehicles, machinery and equipment or to the purchase of professional services.

(g) Construction services may be procured by obtaining three price quotations from qualified contractors. Procurement under this subsection shall be limited to renovations of existing structures, repairs, maintenance, materials, and construction equipment. No new buildings or structures shall be built using this subsection. Contracts procured hereunder shall not exceed $30,000 and shall be accompanied by a justification, in writing, by the Capital Improvements Projects office and agreed to and signed by the Commissioner of Education.

# STATE BOARD OF EDUCATION

Commonwealth of the Northern Mariana Islands ---- ***Public School System***

PO Box 501370 Saipan, MP 96950 • Tel. 670 664-3711 • E-mail: boe.admin@cnmipss.org



Voting Members

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Member

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Phyllis Ain, J.D.
Teacher Representative

Ronald Snyder, EdD
Non Public School Rep.

Rainalyn Reyes
Student Representative


## ARONGORONGOR TOULAP REEL PWOMWOL ALLÉGH ME MWÓGHUT IKKA AA LLIWEL NGÁLI ALLÉGH ME MWÓGHUT IYE E SÚLLÚNGÁLI CHAPTER 60-30.2 ALLÉGH ME MWÓGHÚTÚGHÚTÚL PUBLIC SCHOOL SYSTEM

**PWOMWOL ALLÉGH ME MWÓGHÚTÚGHÚT**: Commonwealth Téél Falúw kka Efáng llól Marianas Public School System (PSS) re schuungi bwe:

**MÁNGÁMÁNGIL MWÓGHÚT REEL REBWE ADOPTÁÁLI PWOMWOL ALLÉGH ME MWÓGHÚT:** Commonwealth Téél Falúw kka Efáng llól Marianas Public School System re mángámángil rebwe adoptááli bwe ebwe llégháló allégh kka e appasch bwe Pwomwol Mwóghút, sángi mwóghútúghútúl Administrative Procedure Act, 1 CMC 8 9104(a). Ebwe bwunguló Mwóghut kkal llól seigh (10) ráál mwiril yaar adoptaáli me akkatéwowul me llól Commonwealth Register. (1 CMC § 9105(b))

**BWÁNGIL**: Pwomwol lliwel ngáli mwóghútúghútúl PSS nge re arongawow sángi bwangiir Board iye e tooto merel Article XV reel CNMI Constitution, Alléghúl Toulap 6-10 me CNMI Administrative Procedures Act.

**KKAPASAL ME WEEWEL**: Aa ffééértiw pwomwol liiwel kkal nge ebwe tééló mmwal bwe ebwe ayoora ffél me PSS § 60-40-210 Small Purchases bwe ebwe ssiwel nge a téétá merel $250.00 ngáli $500.00 reel eew quotation.

**PWOMWOL MWÓGHÚT ME MEETA KKA E LO LLÓL**: Pwomwol Mwóghút kkal bwe ebwe amwetaló mmwál regulations me procedures iye reel § 60-40-210 Small Purchases.

**AFAL REEL AMMWÁLÚL ME AKKATÉÉWOWUL:** Ebwe akkatééwow Pwomwol Mwóghút kkal llól Commonwealth Register tálil wóól pwomw me mwóghút ffé kka ara adóptááli. (1 CMC § 9102(a)(1) me ebwe appaschatá llól civic center llól bwulasiyool gobetnameento senatorial disctrict, fengál llól Amerikkóónu me mwaliyaasch. (1 CMC § 9104 (a)(1))

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Non Public School Rep.

Rainalyn Reyes
Student Representative


**REEL ISISILONGOL KKAPAS:** Schoo kka re mwuschál amweri fischiiy pwomwol lliwel kkal rebwe isisilong ischil mángámang, positions, ngáre kkapasal aweewe ngáli ngáre ubwe fiyowágháli pwomwol lliwel ngáli Chairperson, State Board-il Education, via mail me P. O. Box 501370 CK, Saipan, MP 96950, via tilifon me 670-664-3711 ngáre via email ngáli boe.admin@cnmipss.org llól eliigh (30) ráál mwiril yaal akkatééwow arongorong yeel me llól Commonwealth Register reel lliwel kkal. (1 CMC § 9104(a) (2)).

Aa átirow mwóghút kkal sángi State Board of Education Special Meeting wóól Aremwoy seigh me waluuw ruwangaras ruweigh (November 18, 2020).

Isáliyallong: _____ 5/17/21
Andrew Orsini — Ráál
Chairman, State Board of Education

Bwughiyal: _____ 05/19/21
Mathilda A. Rosario — Ráál
Special Assistant ngáli Administration

Ammwálúl: _____ 05.25.21
Esther SN. Nesbitt — Ráál
Commonwealth Register

Sángi 1 CMC § 2153(e) (sángi yaal lléghélló me átirow mwóghútútúghút kkal merel AG bwe aa fil reel fférúl) me 1 CMC § 9104 (a) (3) (sángi átirowal AG) reel pwomwol mwóghút ikka e appasch me ara takkal amweri fischiiy bwe aa lléghélló reel fférúl me legal sufficiency sángi Sów Lemelemil Allégh Lapalapal CNMI me ebwe akkatééwow (1 CMC § 2153(f) (akkatééwowul allégh me mwóghútútúghút).

Aghikkilatiw 20th rállil Ghúúw Ruwangaras ruweigh me eew ( May, 2021)

_____
Edward E. Manibusan
Sów Lemelemil Allégh Lapalap

§60-40-210 Small Purchase Order

(a) Inamwo meeta tappal peiráágh nge ngáre ese tootá méél nge ebwe isisilong llól small purchase procedures. Iwe, peiráágh nge essóbw aghikkittitiw bwelle ebwe ffér ló bwe small purchase.

(b) Milikka e amééméé nge ese toori $250.00 nge ese tettengágh bwe rebwe ghutt price quotation ngáre Samwoolul Procurement and Supply e mángi bwe eghatch méél. Ebwe iisch schagh bwe me ira: 1) meeta rese ghutt price quotation reel; 2) meeta rebwe amééw reel; 3) meeta e ghatch méél reel.

(c) Bwulasiyool Capital Improvement Projects emmwál ebwe akkamé milkka e ghikkit ngáre e fil ngáli subsection b) nge méé ghikkit ebwe lo faal $1,000.

(d) Ese bwal tettengágh bidding nge reghi mwuschál reel peiráágh kka faal $10,000. Bweibwogh price quotations merel eluuw vendors me afili ifa peiráágh iye e ppál me e ghatch faal $10,000. Alongal price quotation nge ebwe iisch, documented, me isisilong reel bwulasiyool Chief bwe ebwe approve-li. Nge ngáre e emergency nge ese yoor eluuw price quotes, peiráágh ebwe ischitiw bwe emergency me ebwe attabwey § 60-40-220.

(e) Purchase orders nge ebwe yááyá reel akkamé ghikkit llól subsections b) me c) schagh. Purchase orders nge emmwál bwe ebwe yááyá saabw reel schagh akkaméél peiráághil gakko, tiliighi, me publications.

(f) Millel nge essóbw yááyá ngáli akkaméél ghareeta, peiráághil akkayúl iimw me ngáre akkaméél professional services.

(g) Emmwál bwe ebwe bweibwogh construction service nge e tettengágh ebwe yoor eluuw price quotations merel contractors kka re qualify. Peiráágh kka faal subsection yeel nge fférúl building iye aa fasúl lo, aghatchúló, peiráághil fférúl iimw, maintenance me construction equipment. Essóbw yoor iimw ffé ebwe yoor faal subsection yeel. Contracts essóbw llang sángi $30,000 me ebwe yoor ischil jurisdiction iye a tooto merel bwulasiyool Capital Improvement Project me Commissioner of Education ebwe sign-li.

**§ 60-40-210 Small Purchases**

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(b) Purchases not exceeding $250.00 may be made without securing bids or price quotations if the Chief of Procurement and Supply considers the price reasonable. Such determination shall be made in writing and shall indicate:

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Commonwealth of the Northern Mariana Islands
**HEALTH CARE PROFESSIONS LICENSING BOARD**
P.O. Box 502078, Bldg., 1242 Pohnpei Court
Capitol Hill, Saipan, MP 96950
Tel No: (670) 664-4809 Fax: (670) 664-4814
Email: cnmi@cnmibpl-hcplb.net
Website: cnmibpl-hcplb.net

# NOTICE OF PROPOSED AMENDMENTS TO THE HEALTH CARE PROFESSIONS LICENSING BOARD FOR PSYCHOLOGIST

**INTENDED ACTION TO ADOPT THIS PROPOSED REGULATION:** The Health Care Professions Licensing Board (HCPLB) intends to adopt as permanent regulation the attached Proposed Amendment, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The regulation would become effective 10 days after compliance with 1 CMC §§ 9102 and 9104(a) or (b) (1 CMC § 9105(b)).

**AUTHORITY:** The Health Care Professions Licensing Board has statutory power to promulgate and effect regulations pursuant to 3 CMC § 2206(b), as amended.

**THE TERMS AND SUBSTANCE:** Regulation History: Public Law No. 15-105 was signed into law by Governor Benigno R. Fitial and became effective on November 7, 2007 and became the "Health Care Professions Act of 2007," 3 CMC §§2201-36. The Act created a Health Care Professions Licensing Board, as an independent regulatory agency, without placing it in a Department. The Board is authorized to license health care professionals in the Commonwealth, establish standards for educational programs, administer exams, and to discipline licensees for violations of the Act. Public Law No. 15-105 3 CMC § 2206(b), empowers the Board to adopt rules and regulations consistent with the Act and necessary to carry out the Act's provisions, including define and describe the regulated professions and their practice. The Psychologist is to be included in the health care professions, under the power, jurisdiction and authority of the HCPLB. § of Public Law No. 15-105.

**THE SUBJECTS AND ISSUES INVOLVED:** These rules and regulations shall supersede the prior regulations for psychologist, Part 1100, § 140-50.1-1101-1125 (published at Vol. 11 (09/15/1989) and adopted at Vol. 11 (12/15/1989) of the Commonwealth Register) and Part 4700, NMIAC Title 140.

**DIRECTIONS FOR FILING AND PUBLICATION:** The Board is soliciting comments regarding this proposed amendment which must be received by the Board within thirty (30) days of first publication of this notice in the Commonwealth Register. Interested persons may request copies of the proposed amendment by contacting us at 664-4809 or by email at cnmi@cnmibpl-hcplb.net or come by our office located at Bldg. 1242, Pohnpei Ct., Capitol Hill, Saipan. Written comments on these amendments should be dropped off at our office or sent to the BPL, P.O. Box 502078, Saipan, MP, 96950.

Submitted By: _____
Esther S. Fleming
Executive Director

4/27/21
Date

Received By: _____ 05/25/21
Matilda A. Rosario — Date
Special Assistant for Administration

Filed and Recorded By: _____ 05.28.2021
Esther SN Nesbitt — Date
Commonwealth Registrar

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

_____ 5/27/2021
EDWARD MANIBUSAN — Date
Attorney General

Commonwealth gi Sangkattan na Islas Marianas Siha
**HEALTH CARE PROFESSIONS LICENSING BOARD**
P.O. Box 502078, Bldg., 1242 Pohnpei Court
Capitol Hill, Saipan, MP 96950
Tel. No.: (670) 664-4809 Fax: (670) 664-4814
Email: cnmi@cnmibpl-hcplb.net
Website: cnmibpl-hcplb.net

# NUTISIA PUT I MANMAPROPONI NA AMENDA PARA PSYCHOLOGIST GI HEALTH CARE PROFESSIONS LICENSING BOARD

**I AKSION NI MA'INTENSIONA NI PARA U MA'ADÅPTA ESTI I MANMAPROPONI NA REGULASION SIHA:** I Health Care Professions Licensing Board (HCPLB) ha intensiona para u adåpta komu petmanienti na regulasion siha ni mañechettun i Manmaproponi na Amenda, sigun para i manera siha gi Åktun Administrative Procedure, 1 CMC § 9104 (a). I regulasion siha para u ifektibu gi dies (10) dihas dispues di compliance yan i 1 CMC §§ 9102 yan 9104 (a) pat (b) (1 CMC § 9105 (b)).

**ÅTURIDÅT:** I Health Care Professions Licensing Board gai fuetsåo ni para u macho'gui yan inafektibu i regulasion siha sigun para 3 CMC § 2206(b), kumu ma'amenda.

**I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA:** Historia i Regulasion: Lai Pupbliku No. 15-105 mafitma hålum gi lai ni as Magalåhi Benigno R. Fitial yan umifektibu gi Nubembri 7, 2007 ya mafa'na'an "Åkto Health Care Professional nu 2007," 3 CMC §§2201-36. I Åkto fuma'tinas i Health Care Professional Licensing Board, komu indipendienti i regulatori na ahensia, sin mapega gi halum i Dipåttamentu. I Kuetpu ma'aturisa para u lisensia i "health care professional" gi halum i Commonwealth, istapblesi "standards" para prugråman edukasion siha, dirihi "exams", yan para u disiplina i "licensees" ni kumuntradikta i Åkto. I Lai Pupbliku No. 15-105 3 CMC § 2206(b), fumuetsåo i Kuetpu para u adåpta i areklamentu yan i regulasion siha ni pumarehu yan i Åkto yan nisisåriu para u kåtga huyung i prubension i Åkto siha, kuntodu difina yan diskribi i magubietna na "professions" yan i prinaktikan-iniha. I "Psychologist" para u ma'ingklusu hålum gi health care professions, påpa' i fuetsa, aturidåt yan aturidåt nu i HCPLB. § nu Lai Pupbliku No. 15-105.

**I SUHETU NI MASUMÅRIA YAN ASUNTU NI TINEKKA:** Esti siha na areklamentu yan regulasion siha siempri ha tulaika i ma'pus na regulasion siha para "psychologist," Pått 1100, § 140-50.1-1101-1125 (mapupblika gi Vol. 11 (09/15/1989) yan ma'adåpta gi Vol. 11 (12/15/1989) gi Rehistran Commonwealth) yan Pått 4700, NMIAC Titulu 140.

**DIREKSION PARA U MAPO'LU YAN PUPBLIKASION:** I Kuetpu manmamamaisin upiñon put esti i manmaproponi na amenda siha ni debi u marisibi ni Kuetpu gi halum i trenta (30) dihas nu i fine'na na pupblikasion esti na nutisia gi halum i Rehistran Commonwealth. I intires na petsona siha siña manrikuesta kopia nu i manmaproponi na amenda yanggin en ågang hami gi 664-4809 pat email gi cnmi@cnmibpl-hcplb.net pat fåttu gi ufisinan-måmi ni gaigi gi Bldg. 1242, Pohnpei Ct., Capitol Hill, Saipan. I tinigin upiñon put esti na amenda siha debi na u machuli' guatu gi ufisinan-mårni pat na'hanåo para i BPL, P.O. Box 502078, Saipan, MP 96950.

Nina'hålum as: _____ 05/27/21
Esther S. Fleming
Eksakatibu Direktot
Fetcha

Rinisibi as: _____ 05/25/21
Matilda A. Rosario
Ispisiåt Na Ayudånti Para I Atministrasion
Fetcha

Pine'lu Yan Ninota as: _____ 05.28.2021
Esther SN. Nesbitt
Rehistran Commonwealth
Fetcha

Sigun i 1 CMC § 2153 (e), (Inaprueban Abugådu Heneråt i regulasion siha ni para u macho'gui kumu fotma) yan i 1 CMC § 9104 (a) (3) (inahentan inaprueban Abugådu Heneråt) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisient I ligåt ginin i CNMI Abugådu Heneråt yan debi na u mapupblika, 1 CMC § 2153 (f) (pupblikasion areklamentu yan regulasion siha).

_____ 5/28/2021
Edward E. Manibusan
Abugådu Heneråt
Fetcha

Commonwealth Téél Falúw kka Efáng llól Marianas
**HEALTH CARE PROFESSIONS LICENSING BOARD**
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Website: cnmibpl-hcplb.net

# ARONGORONGOL POMMWOL LIIWEL REEL HEALTH CARE PROFESSION LICENSING BOARD NGÁLI PSYCHOLOGIST

**MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL MWÓGHUTUGHUT:** Health Care Professions Licensing Board (HCPLB) re mángemángil rebwe adóptáali bwe ebwe llégh1ó mwóhutughut iye e appasch bwe Pommwol Liiwel, sángi mwóghutughutúl Administrative Procedure Act, 1 CMC § 1 CMC 9104(a). Ebwe bwunguló mwóghutughut kkal llól seigh (10) ráál mwiril aal angúúngú fengál me 1 CMC §§ 9102(a) me 9104(a) ngáre (b) (1 CMC § 9105(b)).

**BWÁNGIL:** Eyoor bwángil Health Care Professions Licensing Board rebwe aronga me ayoorai mwóghutughut sángi 3 CMC § 2206(b), igha re liiweli.

**KKAPASAL ME ÓUTOL:** Uruwowul Mwóghutughut: Alléghúl Toulap No. 15-105 e ghikkil long llól allégh sángi Samwool Benigno R. Fitial me e bwunguló wóól Aremwoy 7, 2007 me e toowow bwe "Health Care Profession Act of 2007", 3 CMC §§2201-36. Act yeel e ayoor eew Health Care Professions Licensing Board, iye e lo bwe "independent regulatory agency", nge rese isáli llól eew Bwulasiyo. Eyoor bwángil Board reel rebwe "license health care professionals" llól Commonwealth, itittiw "standards" ngáli "educational programs", "administer exams", me "discipline licensees for violation of the Act". Alléghúl Toulap No. 15-105 3 CMC § 2206(b), e ayoorai bwángil Board reel rebwe adóptáali allégh me mwóghutughut iye e weewe fengál me Act me e ffil ebwe isiisiwow "Act provisions", e schuulong faal me weewel "regulated professions and their practice". "Pharmacist", "Pharmacy Intern". "Certified Pharmacy Technician", "Psychologist" ebwe bwal schuulong llól health care professions, faal bwángil, bwángil lemelemil HCPLB. § reel Alléghúl Toulap No. 15-105.

**KKAPASAL ME ÓUTOL:** Pommwol allégh me mwóghutughut e siiweli mwóghutughut iwe e ghommwal lo ngáli psychologist, Part 1100, § 140-50.1-1101-1125 (akkatééwowul me Vol. 11 (09/15/1989) me adóptáali me Vol. 11 (12/15/1989) me Commonwealth Register) me Part 4700, NMIAC Title 140.

**AFAL REEL AMMWELIL ME AKKAÉÉWOWUL:** Board re tingór kkapas iye e ssúl ngáli pommwol liiwel iye rebwe bwughi sángi Board llól eliigh (30) ráál mwiril aal ghommwal akkatééwowul arongorong yeel me llól Commonwealth Register. Schóó kka re mwuschel pappidil pommwol liiwel faingiló 664-4809 ngáre email-li cnmi@cnmibpl-hcplb.net ngáre mweteti bwulasiyo me Bldg. 1242, Pohnpei Ct., Capitol Hill, Seipél. Ischil kkapas wóól liiwel kkal ebwe bweibwoghló bwulasiyo ngáre afangaló BPL, P.O. Box 502078, Saipan, MP, 96950.

Isáliyalong: _____ 05/25/21
Esther S. Fleming
Executive Director
Ráál

Bwughiyal: _____ 05/25/21
Matilda A. Rosario
Special Assistant ngáli Administration
Ráál

Ammwelil: _____ 05.28.2021
Esther SN Nesbitt
Commonwealth Registrar
Ráál

Sángi 1 CMC § 2153(e) (átirowal AG reel mwóghutughut bwe aa lléghló reel ffééról) me 1 CMC § 9104(a)(3) (sángi átirowal AG) reel pommwol mwóghutughut bwe ra takkal amwuri fischiiy me aa lléghló me aa átirow igha aa ffééról me legal sufficiency sángi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (akkatééwowul allégh me mwóghutughut).

_____ 5/28/2021
EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap
Ráál

## SUBCHAPTER 185-10
## COMMONWEALTH HEALTH CARE PROFESSIONS LICENSING BOARD REGULATIONS

**Part 4900 - ~~Respiratory Therapist [Reserved]~~ Psychology**


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**§ 185-10-~~4701~~ 4901 Definitions**

(1) **"Board"** means the Health Care Professions Licensing Board.

(2) **"EPPP"** means the Examination for Professional Practice in Psychology.

(3) **"Practice of Clinical Psychology"** means:

(a) a person who represents himself/herself to be a clinical psychologist when he/she holds himself out to the public by any title or description of services incorporating the words "clinical psychology," "clinical psychologist," or offers to render or renders services as defined below to individuals, groups, organizations or the public;

(b) the rendering to individuals, groups, organizations or the public any psychological service involving the application of principles, methods and procedures of understanding, predicting and influencing behavior, such as the principles pertaining to learning, perception, motivation, thinking, emotions and interpersonal relationships; the methods and procedures of interviewing, counseling and psychotherapy; constructing, administering and interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotion and motivation, and of assessing public opinion;

(c) the application of said principles and methods, including, but not limited to, diagnosis, prevention and amelioration of adjustment problems, and emotional and mental disorders of individuals and groups, substance use disorders, disorders of habit or conduct, as well as of the psychological aspects of physical illness, accident, injury, or disability, hypnosis, educational and vocational counseling, personnel selection and management, the evaluation and planning for effective work and learning situations, advertising and market research and the resolution of interpersonal and social conflicts; or

(d) psychotherapy by the use of learning, conditioning methods and emotional reactions, in a professional relationship, to assist a person or persons to modify feelings, attitudes and behavior which are intellectually, socially or emotionally maladjustive or ineffectual.

(e) Consultation with other psychologists, physicians, other health care professionals and clients regarding all available treatment options, including medication, integrated care with respect to provision of care for a specific client;

(f) Provision of direct services to individuals and/or groups for the purpose of enhancing individual and thereby organizational effectiveness, using psychological principles, methods and/or procedures to assess and evaluate individuals on personal characteristics for individual development and/or behavior change or for making decisions about the individual, such as selection;

(g) The supervision of any of the above.

**§ 185-10-4905 Scope of Practice**

"to practice psychology" means to render or offer to render for a fee to individuals, groups, organizations, or the public for the diagnosis, prevention, treatment, or amelioration of psychological problems and emotional and mental disorders of individuals or groups or for conducting research on human behavior, a psychological service involving the application of psychological principles, methods, and procedures of understanding, predicting, and influencing behavior, including:

(1) the principles pertaining to learning, perception, motivation, emotions, and interpersonal relationships;

(2) the methods and procedures for interviewing, counseling, psychotherapy, biofeedback, behavior modification, and hypnosis;

(3) constructing, administering and interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotions, and motivations

**§ 185-10-~~4705~~ 4910 Education and experience requirements for licensure.**

(1) To obtain a license, applicants must complete:

(a) A doctoral degree program as described in NMIAC § 185-10-~~47~~ 4915

(b) A practicum of at least 300 hours as described in NMIAC § 185-10-~~47~~ 4920; and

(c) An experience requirement consisting of no fewer than two years supervised experience totaling 3000 hours that includes:

(i) A minimum of 1500 hours of supervised experience that must be completed as an internship experience as outlined in NMIAC § 185-10-~~47~~ 4930.

(ii) The remaining 1500 supervised hours may be obtained through:

(A) A preinternship as described in NMIAC § 185-10-~~47~~ 4925;

(B) A postdoctoral experience as described in NMIAC § 185-10-~~47~~ 4935; or

(C) A combination of preinternship and postdoctoral experience.

(2) The order of supervised experience must be graduated from more intensive to less intensive supervision.

**§ 185-10-~~4710~~ 4915 Doctoral Degree Program.**

An applicant must possess a doctoral degree from a regionally accredited institution. Regional accreditation is awarded to an institution by one of the regional accrediting agencies, each of which covers a specified portion of the United States and its territories, or equivalent accreditation in another country,

upon approval by the board.

(1) The doctoral degree program must include:

(a) At least forty semester credits, or sixty quarter credits, of graduate courses in curriculum areas described in subsection (3) of this section.

(i) Courses must be clearly identified by title and course content as being part of an integrated psychology program.

~~(ii) Courses taken before the doctoral degree program may be accepted if the doctoral degree program accepted the course(s).~~

(b) One year in residency as described in subsection (4) of this section;

(c) Completion of an original dissertation which is psychological in nature and endorsed by the program; and

(d) An organized, sequential and coordinated practicum and internship experience as described in NMIAC § 185-10-~~47~~ 4920 and § 185-10-~~47~~ 4930.

(2) The curriculum requirements: The doctoral degree program must encompass a minimum of three academic years of full-time graduate study or the equivalent.

(3) The applicant must complete three or more semester credits, or five or more quarter credits, of core study in each of the following content areas:

(a) Biological bases of behavior. For example: Physiological psychology, comparative psychology, neural bases of behavior, sensation and perception, and biological bases of development;

(b) Cognitive-affective bases of behavior. For example: Learning, thinking, motivation, emotion, and cognitive development;

(c) Social bases of behavior. For example: Social psychology, organizational theory, community psychology, and social development;

(d) Individual differences. For example: Personality theory and psychopathology;

(e) Scientific and professional ethics;

(f) History and systems of psychology;

(g) Statistics and psychometrics;

(h) Research design and methodology;

(i) Techniques of data analysis;

(j) Human development. For example: Developmental psychology, child development, adult development and aging;

(k) Cultural and individual differences and diversity;

(l) Psychopathology and dysfunctional behaviors;

(m) Theories and methods of assessment and diagnosis-minimum of two courses;

(n) Effective psychological intervention and evaluation of the efficacy of interventions-minimum of three courses; and

(o) Psychopharmacology.

(4) Doctoral degree programs accredited by the American Psychological Association or the Canadian Psychological Association are recognized as having met the minimum education requirements.

(5) Residency/~~Internsip~~ requirement:

(a) The doctoral degree program must involve at least one continuous year of full-time residency (~~internship)~~ at the institution which grants the degree or a minimum of seven hundred fifty hours of student-faculty contact involving face-to-face individual or group educational meetings.

(b) Educational meetings:

(i) Must include both faculty-student and student-student interaction;

(ii) Be conducted by the psychology faculty of the institution at least seventy-five percent of the time;

(iii) Be fully documented by the institution and the applicant; and

(iv) Relate substantially to the program components specified.

**§ 185-10-~~4715~~ 4920 Practicum**

Applied experience: The doctoral degree program required in NMIAC § 185-10-~~4710~~ 4915 must include a practicum of at least two semesters or three quarters and at least 300 hours of direct experience, 100 hours of which must be in supervision. Supervision must include the following:

(1) Discussion of services provided by the student;

(2) Selection of service plan for and review of each case or work unit of the student;

(3) Discussion of and instruction in theoretical concepts underlying the work;

(4) Discussion of the management of professional practice and other administrative or business issues;

(5) Evaluation of the supervisory process by the student and the supervisor;

(6) Discussion of coordination of services among the professionals involved in the particular cases or work units;

(7) Discussion of relevant state laws and rules;

(8) Discussion of ethical principles including principles applicable to the work;

(9) Review of standards for providers of psychological services; and

(10) Discussion of reading materials relevant to cases, ethical issues and the supervisory process.

**§ 185-10-~~4720~~ 4925 Preinternship**

A preinternship experience occurs between the practicum required by NMIAC § 185-10-~~4715~~ 4925 and internship required by NMIAC § 185-10-~~4725~~ 4930. A preinternship can include up to 1500 hours of supervised experience, but is not required. If preinternship experience is used to satisfy the experience requirement of NMIAC § 185-10-~~4705~~ 4910(1)(c), it must meet the following requirements:

(1) Before beginning the program, the student, the doctoral program, and the preinternship program must agree on and document the goals, the student's expectations, and the methods of the preinternship experience. The goals must meet the requirements of this section.

(2) Every 20 hours of preinternship experience must include the following:

(a) At least 2 hours of regularly scheduled, formal, face-to-face individual supervision that addresses the direct psychological services provided by the student; and

(b) At least 2 hours of other learning activities such as case conferences, seminars on applied issues, conducting cotherapy with a staff person including discussion of the case, and group supervision.

(3) At least sixty percent of the preinternship experience must be direct client contact providing assessment and intervention services.

(4) The preinternship experience must be supervised by ~~the person(s)~~ a licensed psychologist with two years post-license experience who is primarily responsible for the assigned casework.

(a) The primary supervisor should be on site as well as a (w-9) employee or in contract status with the agency. The board could grant an exception or waiver of this requirement provided that the supervisee and the post doctoral supervisor petition the board prior to the start of the pre-internship with their reasoning for why the supervisor could not be on site and an employee of the agency and suggest an alternative procedure to insure the supervisee is getting appropriate supervision and the public is protected. If a waiver is granted, the supervisor still will routinely, on a fixed schedule, visit the site and conduct face-to-face supervision. Also, the supervisee will travel to the supervisor and have face-to-face supervision at that site.

(b) At least seventy-five percent of the supervision must be by a licensed psychologist with two years post-license experience and is primarily responsible for the supervision and has the ability to delegate the other 25% of time to the other professional noted below in (b). The primary supervisor and delegated supervisor must coordinate and discuss the application.

(c) Up to twenty-five percent of the supervision may be completed by the following:

(i) A psychiatrist(s) with three years experience beyond residency;

(ii) A licensed mental health counselor(s) with five years post-license experience;

(iii) A licensed marriage and family therapist(s) with at least five years post-license experience;

(iv) A licensed advanced social worker(s) or licensed independent clinical social worker(s) with five years post-license experience; or

(v) A doctoral level psychologist(s) with ~~three~~ six years post-doctoral experience.

(d) Supervision of the preinternship experience must include the following:

(i) Discussion of services provided by the student;

(ii) Selection of service plan for and review of each case or work unit of the student;

(iii) Discussion of and instruction in theoretical concepts underlying the work;

(iv) Discussion of the management of professional practice and other administrative or business issues;

(v) Evaluation of the supervisory process by the student and the supervisor;

(vi) Discussion of coordination of services among the professionals involved in the particular cases or work units;

(vii) Discussion of relevant state laws and rules;

(viii) Discussion of ethical principles including principles applicable to the work;

(ix) Review of standards for providers of psychological services; and

(x) Discussion of reading materials relevant to cases, ethical issues and the supervisory process.

**§ 185-10-~~4725~~ 4930 Internship**

Applicants must successfully complete an organized internship as part of the doctoral degree program described in NMIAC § 185-10-~~4710~~ 4915.

(1) The internship must include at least 1500 hours of supervised experience and be completed within twenty-four months.

(2) The internship program must:

(a) Be accredited by the American Psychological Association; or

(b) Be a member program of the Association of Psychology Postdoctoral and Internship Centers; or

(c) Meet the following requirements:

(i) Organization of the internship program.

(A) The internship must have a written statement or brochure describing the goals and content of the internship, stating clear expectations and quality of student work, and made available to prospective interns.

(B) A psychologist licensed by the appropriate state or provincial licensing authority must be clearly designated as responsible for the integrity and quality of the internship program.

(C) Interns must use titles indicating their training status.

(ii) Content of the internship program.

(A) The internship must be designed to provide a planned sequence of training experiences focusing on breadth and quality of training. Supervision and training related to ethics must be ongoing.

(B) At least twenty-five percent of the internship experience must be in direct client contact providing assessment and intervention services.

(C) For every 40 hours of internship experience, the student must receive:

(I) At least 2 hours of regularly scheduled, formal, face-to-face individual supervision that addresses the direct psychological services provided by the intern; and

(II) At least 2 hours of other learning activities such as case conferences, seminars on applied issues, conducting cotherapy with a staff person including discussion of the case, and group supervision.

(iii) Supervision of the internship experience.

(A) The internship setting must have two or more ~~psychologists available as supervisors,~~ clinical supervisors trained in psychology, at least one of whom is licensed as a psychologist.

(B) The internship experience must be supervised by a licensed psychologist who is primarily responsible ~~the person(s) responsible~~ for the assigned casework.

(I) At least seventy-five percent of the supervision must be by a licensed psychologist with two years post-license experience.

(II) Up to twenty-five percent of the supervision may be completed by the following:

1. A psychiatrist(s) with three years experience beyond residency;

2. A licensed mental health counselor(s) with five years post-license experience.

3. A licensed marriage and family therapist(s) with at least five years post-license experience;

4. A licensed advanced social worker(s) or licensed independent clinical social worker(s) with five years post-license experience; or

**§ 185-10-~~4730~~ 4935 Post-doctoral supervised experience.**

If 3000 hours of supervised experience has not been completed at the end of the doctoral degree program, then up to 1500 hours of supervised post-doctoral experience can be used to satisfy the total requirement. Post-doctoral supervised experience must be completed only if an applicant does not already have 3000 hours of supervised experience obtained in the pre-internship or internship.

(1) Hours of Supervised Experience.

(a) Two (2) years of supervised experience, at least one (1) of which shall have been completed after receipt of the doctoral degree, for a minimum of 3,000 total hours;

(b) Each year (or equivalent) shall be comprised of no less than 10 months, but no more than 24 months, and at least 1,500 hours of professional service including direct client contact, supervision and didactic training;

(c) One (1) year may be a doctoral internship which consists of a minimum of 1,500 hours of actual work experience (exclusive of holidays, sick leave, vacations or other such absences);

(d) At least 50% of the supervised experience must be in service-related activities such as treatment/intervention, assessment, interviews, report writing, case presentations, or consultations;

(e) At least 50% of service-related activities shall be direct client contact; a maximum of 45 hours per week, including supervision time, may be credited toward meeting the supervised experience requirement;

(f) Supervision shall be provided 10% of the total time worked per week;

(g) A minimum of two (2) hours per week of supervision, one (1) hour of which is individual face-to-face, in-person supervision by a licensed psychologist.

(2) Organization of the post-doctoral supervised experience.

(a) The supervisor is ethically and legally responsible for all supervisee work covered by the supervision agreement. Therefore, the supervisor has authority to alter service plans and direct the course of psychological work.

(b) Supervisees must use titles indicating their training status, such as "psychological resident," "psychology intern," or "psychology supervisee."

(c) Clients must be informed of the identity and responsibilities of the supervisor and how they can speak directly to the supervisor.

(d) Services rendered by the supervisee must not be represented to third parties as having been rendered by the supervisor. Insurance forms must be filled out indicating the nature of the supervisory relationship.

(3) The supervisor and supervisee must have a written agreement for supervision, including:

(a) The area(s) of professional activity in which supervision will occur;

(b) Hours of supervision and/or ratio of supervision to professional activity;

(c) Fees for supervision, if any;

(d) Processes for supervision including mode(s) of supervision, expectations for recordkeeping, evaluation, and feedback;

(e) Relevant business arrangements;

(f) How the supervisee will represent himself or herself; and

(g) How disagreements will be handled.

(4) Mode of supervision.

(a) The preferred mode of supervision is face-to-face discussion between the supervisor and the supervisee.

(b) The nature of the supervision may depend on the following:

(i) The theoretical orientation of the supervisor;

(ii) The training and experience of the supervisee; and

(iii) The duration of the supervisory relationship.

(5) Some direct observation of the supervisee's work is required and the supervisor may use the following:

(a) Detailed process notes and progress reports;

(b) Audio and/or videotapes;

(c) Client supplied information such as behavioral ratings; and

(d) One-way mirror observation.

(6) Supervised experience must be appropriate to the area(s) of professional activity the person intends to practice.

(7) There must be at least one hour of individual supervision for every twenty hours of psychological work.

(8) The supervisor and the supervisee must keep records of experience and supervision hours.

(9) At the end of the supervision period, the supervisor must prepare and forward to the board a written evaluation, including the number of successfully completed supervised hours of psychological work and any hours not successfully completed.

If any hours were not successfully completed, the board may require additional hours of supervision.

(10) Supervision of the post-doctoral supervised experience.

(a) At least fifty percent of the post-doctoral supervision must be provided by a licensed psychologist <u>with two years post-license experience who is the primary supervisor and is responsible for the supervision and could then delegate up to 50% to another professional in (10) (b) (i-iii).</u>

(b) Up to fifty percent of the supervision may be provided by the following:

(i) A licensed psychologist with two years post-license experience;

(ii) A psychiatrist with three years of experience beyond residency;

(iii) A licensed mental health counselor, a licensed marriage and family therapist, a licensed advanced social worker, or a licensed independent clinical social worker, if the supervisor has five years post-license experience.

(c) The primary post-doctoral supervisor must be on site as well as a (w-9) employee or in contract status with the agency. The board could grant an exception or waiver of this requirement provided that the supervisee and the post doctoral supervisor petition the board prior to the start of the pre-internship with their reasoning for why the supervisor could not be on site and an employee of the agency and suggest an alternative procedure to insure the supervisee is getting appropriate supervision. If a waiver is granted, the supervisor still will routinely, on a fixed schedule, visit the site and conduct face-to-face supervision. Also, the supervisee may travel to the supervisor and have face-to-face supervision at that site.

(11) Supervision must include the following:

(a) Discussion of services provided by the student;

(b) Selection, service plan, and review of each case or work unit of the student;

(c) Discussion of and instruction in theoretical concepts underlying the work;

(d) Discussion of the management of professional practice and other administrative or business issues;

(e) Evaluation of the supervisory process by the student and the supervisor;

(f) Discussion of coordination of services among the professionals involved in the particular cases or work units;

(g) Discussion of relevant ~~Washington~~ State laws and rules;

(h) Discussion of ethical principles including principles applicable to the work;

(i) Review of standards for providers of psychological services; and

(j) Discussion of reading materials relevant to cases, ethical issues and the supervisory process.

(12) Telesupervision and Supervisory contact.

(a) In-person supervision must account for at least fifty percent of any postdoctoral supervision used toward the required 3,000 hours of supervised experience for licensure.

(b) Telesupervison or telephonic supervision may account for no more than fifty percent of postdoctoral supervision hours.

(c) The supervisor must have a formal policy addressing the utilization of Telesupervison or telephonic supervision.

(d) Telesupervison or telephonic supervision does not account for more than fifty percent of the total supervision at the site.

(e) The doctoral training program shall have a formal policy addressing its utilization of Telesupervison or telephonic supervision that includes:

(i) an explicit rationale for using Telesupervison or telephonic supervision;

(ii) how and when Telesupervison or telephonic supervision is utilized in clinical training;

(iii) how it is determined which trainees can participate in Telesupervison or telephonic supervision;

(iv) how an off-site supervisor maintains full professional responsibility of clinical cases;

(v) how non-scheduled consultation and crisis coverage are managed; and

(vi) how privacy and confidentiality of the client and trainees are assured.

(vii) Licensed supervisor overseeing trainees must be licensed in the CNMI

**§ 185-10-~~4735~~ 4940 Written Exam**

The written or computer examination the Commonwealth of the Northern Marianas Islands uses is the ~~national~~ Examination of Professional Practice ~~of~~ in Psychology (EPPP).

(1) The Association of State and Provincial Psychology is responsible for the development and administration of the national exam.

(2) To be considered for licensure applicants must meet the ASPPB pass point. ~~receive a score of at least 70% or the national mean, whichever is lowest.~~

**§ 185-10-~~4740~~ 4945 Failure of written examinations.**

An applicant who fails either examination required under NMIAC§ 185-10-~~4735~~ 4940 may sit for reexamination up to four times a year as follows:

(1) First reexamination: At any following examination administration date;

(2) Second or subsequent reexamination: A minimum of two months after the failure of the previous examination.

**§ 185-10-~~4745~~ 4950 Qualifications for granting of license by endorsement.**

(1) Applicants applying for licensure by endorsement shall:

(a) Submit official transcripts documenting the completion of a doctoral degree with a primary emphasis on psychology from a regionally accredited institution, or equivalent accreditation from another country.

(b) Document that he or she has been ~~credentialed~~ licensed as a psychologist in another state or country for at least two years, or is a current member of a professional organization identified in subsection (3) of this section.

(c) Document that he or she has an active ~~credential~~ license as a psychologist in another state or country deemed by the board as essentially equivalent, or is a current member of a professional organization identified in subsection (3) of this section.

(d) All application documents submitted in a foreign language shall be accompanied by an accurate translation of those documents into English. Translated documents shall bear a notarized affidavit certifying that the translator is competent in both the language of the document and the English language and that the translation is a true and complete translation of the foreign language original. Costs of all documents shall be at the expense of the applicant.

(e) Successfully pass the jurisprudence examination required by NMIAC § 185-10-~~4735~~ 4940.

(2) If the board determines that the applicant's other state or country's ~~credentialing~~ licensing requirements are not essentially equivalent, the applicant must:

(a) Provide documentation of meeting Commonwealth of the Northern Marianas Islands ~~credentialing~~ licensing requirements in the area(s) the board has determined a state or country of endorsement's requirements are not essentially equivalent.

(b) Ensure documents submitted in a foreign language meet the requirements of subsection (1)(d) of this section.

(c) If the board determines that the applicant's state or country of endorsement's ~~credentialing~~ licensing requirements are not essentially equivalent, the applicant will be provided with a hearing under the Administrative Procedure Act (1 CMC §§ 9101–9115).

(3) The board shall recognize psychologists as having met the requirements of this chapter who, at the time of application, provide documentation of current membership in any of the following professional organizations:

(a) Health service psychologist credentialed by the National Register of Health Service Psychologists;

(b) Diplomate from the American Board of Examiners in Professional Psychology;

(c) Certificate of Professional Qualification in Psychology from the Association of State and Provincial Psychology Boards; or

(d) Diplomate of the American Board of Professional Neuropsychology.

(e) The board may recognize additional professional organizations deemed to meet the essential standards of this chapter.

**§ 185-10-~~4750~~ 4955 Continuing Education Requirements.**

(1) A total of thirty (40) credit hours of continuing education within each two (2) year licensure period is required of each licensee to qualify for a renewal. At least twenty (20) of these credit hours must be in the licensee's specific area of practice. Psychologists are required to take 6 hours in suicide assessment, treatment, and management every 4 years.

The Board shall prorate the continuing education credit hours requirement for licenses issued less than two (2) years prior to the renewal period.

(2) Continuing education hours may include:

(a) membership in national associations;

(i) membership in a national association of the licensee's practice area will provide four (4) credit hours within the renewal period; and

(ii) other appropriate national professional association membership will provide two (2) credit hours for each, a maximum of four (4) credit hours within the renewal period;

(b) subscription to appropriate professional journals will provide two (2) credit hours per subscription, limited to five (5) subscriptions;

(c) attendance of a conference will provide one (1) credit hour for each hour of conference attended (The conference must be within the renewal period.);

(d) teaching, workshops and in-service will provide one (1) credit per hour of teaching, workshop or in-service (This is limited to ten (10) credit hours.);

(e) speeches or presentation of papers will provide five (5) credit hours each for non-professional audience; ten (10) credit hours each for professional audience;

(f) publication in a professional journal, any publication within the field, will provide ten (10) credit hours;

(g) attendance at local association meetings will provide one (1) point per meeting, up to twelve (12) credit hours;

(h) videotapes, or other audio-visual materials prepared by a professional association or educational institution and approved by the Board, will provide one (1) credit hour for every hour viewed, limited to ten (10) credit hours; or

(i) others, as required by discipline.

(3) The Board, in its sole discretion, may require the licensee to provide receipts, attendance certification or other evidence of participation for credit hours claimed.

Commonwealth of the Northern Mariana Islands
**HEALTH CARE PROFESSIONS LICENSING BOARI**
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# NOTICE OF PROPOSED AMENDMENTS TO THE HEALTH CARE PROFESSIONS LICENSING BOARD FOR ADDICTION PROFESSIONAL

**INTENDED ACTION TO ADOPT THIS PROPOSED REGULATION:** The Health Care Professions Licensing Board (HCPLB) intends to adopt as permanent regulation the attached Proposed Amendment, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The regulation would become effective 10 days after compliance with 1 CMC §§ 9102 and 9104(a) or (b) (1 CMC § 9105(b)).

**AUTHORITY:** The Health Care Professions Licensing Board has statutory power to promulgate and effect regulations pursuant to P.L. 15-105, Section 3 CMC § 2206(b), as amended.

**THE TERMS AND SUBSTANCE:** Regulation History: PL 15-105 (effective when approved by Governor Benigno R. Fitial, November 7, 2007), the "Health Care Professions Act of 2007," 3 CMC §§ 2201-36. The Act created a Health Care Professions Licensing Board, as an independent regulatory agency, without placing it in a Department. The Board is authorized to license health care professionals in the Commonwealth, establish standards for educational programs, administer exams, and to discipline licensees for violations of the act. See PL 15-105. 3 CMC § 2206(b), which empowers the Board to adopt rules and regulations consistent with the Act and necessary to carry out the Act's provisions, including define and describe the regulated professions and their practice. The Addiction Professional are to be included in the health care professions, under the power, jurisdiction and authority of the HCPLB. § of PL 15-105. (This is a new regulation and is not included in §2212)

**THE SUBJECTS AND ISSUES INVOLVED:** These are the proposed regulations for the practice of Addiction Professional.

**DIRECTIONS FOR FILING AND PUBLICATION:** The Board is soliciting comments regarding this proposed amendment which must be received by the Board within thirty (30) days of first publication of this notice in the Commonwealth Register. Interested persons may request copies of the proposed amendment by contacting us at 664-4809 or by email at cnmi@cnmibpl-hcplb.net or come by our office located at Bldg. 1242, Pohnpei Ct., Capitol Hill, Saipan. Written comments on these amendments should be dropped off at our office or sent to the BPL, P.O. Box 502078, Saipan, MP, 96950.

Submitted By: _____
Esther S. Fleming
Executive Director

4/27/21
Date

Received By: _____ 05/25/21
Matilda A. Rosario — Date
Special Assistant for Administration

Filed and Recorded By: _____ 05.28.2021
Esther SN Nesbitt — Date
Commonwealth Registrar

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

_____ 5/27/2021
EDWARD MANIBUSAN — Date
Attorney General

Commonwealth gi Sangkattan na Islas Marianas Siha
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Website: cnmibpl-hcplb.net

# NUTISIA PUT I MANMAPROPONI NA AMENDA PARA "ADDICTION PROFESSIONAL" GI HEALTH CARE PROFESSIONS LICENSING BOARD

**I AKSION NI MA'INTENSIONA NI PARA U MA'ADÅPTA ESTI I MANMAPROPONI NA REGULASION SIHA:** I Health Care Professions Licensing Board (HCPLB) ha intensiona para u adåpta komu petmanienti na regulasion siha ni maiñechettun i Manmaproponi na Amenda, sigun para i manera siha gi Åktun Administrative Procedure, 1 CMC § 9104 (a). I regulasion siha para u ifektibu gi dies (10) dihas dispues di compliance yan i 1 CMC §§ 9102 yan 9104 (a) pat (b) (1 CMC § 9105 (b)).

**ÅTURIDÅT:** I Health Care Professions Licensing Board gai fuetsåo ni para u macho'gui yan inafektibu i regulasion siha sigun para 3 CMC § 2206(b), kumu ma'amenda.

**I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA:** Historia i Regulasion: Lai Pupbliku No. 15-105 (umifektibu annai inaprueba ni as Magalåhi Benigno R. Fitial gi Nubembri 7, 2007), i "Åkto Health Care Professional nu 2007," 3 CMC §§2201-36. I Åkto fuma'tinas i Health Care Professional Licensing Board, komu indipendienti i regulatori na ahensia, sin mapega gi halum i Dipåttamentu. I Kuetpu ma'aturisa para u lisensia i "health care professional" gi halum i Commonwealth, istapblesi "standards" para prugråman edukasion siha, dirihi "exams", yan para u disiplina i "licensees" ni kumuntradikta i Åkto. Taitai I PL 15-105 3 CMC § 2206(b), ni fumuetsåo i Kuetpu para u adåpta i areklamentu yan i regulasion siha ni pumarehu yan i Åkto yan nisisåriu para u kåtga huyung i prubension i Åkto siha, kuntodu difina yan diskribi i magubietna na "professions" yan i prinaktikan-ñiha. I "Addiction Professional" para u ma'ingklusu hålum gi health care professions, påpa' i fuetsa, aturidåt yan aturidåt nu i HCPLB. § nu PL 15-105.

**I SUHETU NI MASUMÅRIA YAN ASUNTU NI TINEKKA:** Estagui' siha i manmaproponi na regulasion para i prinaktikan nu "Addiction Professional."

**DIREKSION PARA U MAPO'LU YAN PUPBLIKASION:** I Kuetpu manmamamaisin upiñon put esti i manmaproponi na amenda siha ni debi u marisibi ni Kuetpu gi halum i trenta (30) dihas nu i fine'na na pupblikasion esti na nutisia gi halum i Rehistran Commonwealth. I intires na petsona siha siña manrikuesta kopia nu i manmaproponi na amenda yanggin en ågang hami gi 664-4809 pat email gi cnmi@cnmibpl-hcplb.net pat fåttu gi ufisinan-måmi ni gaigi gi Bldg. 1242, Pohnpei Ct., Capitol Hill, Saipan. I tinigin upiñon put esti na amenda siha debi na u machuli' guatu gi ufisinan-måmi pat na'hanåo para i BPL, P.O. Box 502078, Saipan, MP 96950.

Nina'hålum as: _____ 05/25/21
Esther S. Fleming
Eksakatibu Direktot
Fetcha

Rinisibi as: _____ 05/25/21
Matilda A. Rosario
Ispisiåt Na Ayudånti Para I Atministrasion
Fetcha

Pine'lu Yan Ninota as: _____ 05.28.2021
Esther SN. Nesbitt
Rehistran Commonwealth
Fetcha

Sigun i 1 CMC § 2153 (e), (Inaprueban Abugådu Heneråt i regulasion siha ni para u macho'gui kumu fotma) yan i 1 CMC § 9104 (a) (3) (inahentan inaprueban Abugådu Heneråt) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisient I ligåt ginin i CNMI Abugådu Heneråt yan debi na u mapupblika, 1 CMC § 2153 (f) (pupblikasion areklamentu yan regulasion siha).

_____ 5/28/2021
Edward E. Manibusan
Abugådu Heneråt
Fetcha

Commonwealth Téél Falúw kka Efáng Ilól Marianas
**HEALTH CARE PROFESSIONS LICENSING BOARD**
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**ARONGORONGOL POMMWOL LIIWEL REEL**
**HEALTH CARE PROFESSIONS LICENSING BOARD NGÁLI**
**ADDICTION PROFESSIONAL**

**MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL MWÓGHUTUGHUT:** Health Care Professions Licensing Board (HCPLB) re mángemángil rebwe adóptááli bwe ebwe llégh1ó mwóhutughut iye e appasch bwe Pommwol Liiwel, sángi mwóghutughutúl Administrative Procedure Act, 1 CMC § 1 CMC 9104(a). Ebwe bwunguló mwóghutughut kkal llól seigh (10) ráál mwiril aal angúúngú fengál me 1 CMC §§ 9102(a) me 9104(a) ngáre (b) (1 CMC § 9105(b)).

**BWÁNGIL:** Eyoor bwángil Health Care Professions Licensing Board rebwe aronga me ayoorai mwóghutughut sángi 3 CMC § 2206(b), igha re liiweli.

**KKAPASAL ME WEEWEL:** Uruwowul Mwóghutughut: Alléghúl Toulap No. 15-105 (e ghikkil long llól allégh sángi Samwool Benigno R. Fitial me e bwunguló wóól Aremwoy 7, 2007) "Health Care Profession Act of 2007", 3 CMC §§2201-36. Act yeel e ayoor eew Health Care Professions Licensing Board, iye e lo bwe "independent regulatory agency", nge rese isáli llól eew Bwulasiyo. Eyoor bwángil Board reel rebwe "license health care professionals" llól Commonwealth, itittiw "standards" ngáli "educational programs", "administer exams", me "discipline licensees for violation of the Act". Alléghúl Toulap No. 15-105 3 CMC § 2206(b), e ayoorai bwángil Board reel rebwe adóptááli allégh me mwóghutughut iye e weewe fengál me Act me e ffil ebwe isiisiwow "Act provisions", e schuulong faal me weewel "regulated professions and their practice". "Addiction Profession" ebwe bwal schuulong llól health care professions, faal bwángil, bwángil lemelemil HCPLB. § reel Alléghúl Toulap No. 15-105. (E ffé mwóghutughut yeel me ese schuu llól §2212).

**KKAPASAL ME ÓUTOL:** Pommwol mwóghutughut kkal nge ngáli mwóghutughutúl "Addiction Professional".

**AFAL REEL AMMWELIL ME AKKAÉÉWOWUL:** Board re tingór kkapas iye e ssúl ngáli pommwol liiwel iye rebwe bwughi sángi Board llól eliigh (30) ráál mwiril aal ghommwal akkatééwowul arongorong yeel me llól Commonwealth Register. Schóó kka re mwuschel pappidil pommwol liiwel faingiló 664-4809 ngáre email-li cnmi@cnmibpl-hcplb.net ngáre mweteti bwulasiyo me Bldg. 1242, Pohnpei Ct., Capitol Hill, Seipél. Ischil kkapas wóól liiwel kkal ebwe bweibwoghló bwulasiyo ngáre afangaló BPL, P.O. Box 502078, Saipan, MP, 96950.

Isáliyalong: _____ 05/25/21
Esther S. Fleming
Executive Director
Ráál

Bwughiyal: _____ 05/25/21
Matilda A. Rosario
Special Assistant ngáli Administration
Ráál

Ammwelil: _____ 05.28.2021
Esther SN Nesbitt
Commonwealth Registrar
Ráál

Sángi 1 CMC § 2153(e) (átirowal AG reel mwóghutughut bwe aa lléghló reel ffééról) me 1 CMC § 9104(a)(3) (sángi átirowal AG) reel pommwol mwóghutughut bwe ra takkal amwuri fischiiy me aa lléghló me aa átirow igha aa ffééról me legal sufficiency sángi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (akkatééwowul allégh me mwóghutughut).

_____ 5/28/2021
EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap
Ráál

## SUBCHAPTER 185-10
## COMMONWEALTH HEALTH CARE PROFESSIONS LICENSING BOARD REGULATIONS

**Part 4800- ~~Radiologic Technologist~~ Addiction Professionals**


**§ 185-10-4801. Definitions.**
**§ 185-10-4805. Licensing.**
**§ 185-10-4810. Requirements.**
**§ 185-10-4815. Scope of Work**
**§ 185-10-4820. Exemptions.**
**§ 185-10-4825. Examination.**
**§ 185-10-4830. Fees.**
**§ 185-10-4835. Continuing Education.**
**§ 185-10-4840. Restrictions.**
**§ 185-10-4845. Privileged Communication.**
**§ 185-10-4850. Disciplinary Action**

**§ 185-10-4801. Definitions.**

(1) **"Act"** refers to the Board's enabling legislation, codified at 3 CMC §§ 2201–2236.

(2) **"Addiction counseling"** means a process involving a therapeutic relationship between a client who is experiencing addiction, dependence or abuse of alcohol or other drugs and a counselor or therapist trained to provide that assistance to address addiction, dependence or abuse. Addiction counseling includes understanding and application of the limits of the counselor's own qualifications and scope of practice, including, but not limited to, screening and, as indicated, referral to or consultation with an appropriately licensed healthcare practitioner consistent with the client's needs. Addiction counseling includes all of the following:

(a) Clinical intake, assessment, and evaluation

(b) Treatment planning

(c) Referral

(d) Service coordination/case management

(e) Counseling, including individual, group, family, and couples counseling

(f) Client, family, and community education

(g) Documentation

(h) Professional and ethical responsibilities

(3) **"Advertise"** includes, but is not limited to, the issuance of any card, sign or device to any person, or the causing, permitting or allowing of any sign or marking on or in any building or structure, or in any newspaper or magazine or in any directory, or any printed matter, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting, the Internet or any other electronic medium.

(4) **"Board"** refers to the Healthcare Professions Licensing Board.

(5) **"Clinical supervision"** means the ongoing process in which the supervisor participates with one or more supervisees to ensure high quality service delivery across domains of counselor development, professional and ethical standards, program development, quality assurance, performance evaluation and administration, as described in "Competencies for Substance Abuse Treatment Clinical Supervisors," Technical Assistance Publication Series No. 21-A, published by the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration Center for Substance Abuse Treatment, or other sources as the Board may specify by regulation.

(6) **"Continuing education"** means an orderly process of instruction that is approved by an organization or the Board for addiction professionals and designed to directly enhance the practitioner's knowledge, competence, and skill in providing services relevant to his or her occupation.

(7) **"Counseling"** means techniques and methods used to help individuals learn how to solve problems and make decisions related to personal growth, vocational, environmental, family, social, financial, and other interpersonal concerns.

(8) **"Independent practice of addiction counseling"** means a person who renders for compensation, addiction counseling-related services to an individual, group, organization, corporation, institution or the general public, and who is licensed, trained or experienced in addiction counseling, and who holds a license issued under this chapter to engage in such services.

(9) **"Master addiction counselor"** means an individual who meets the requirements of these regulations and is licensed as a master addiction counselor by the Board.

(10) **"Certified Addiction Counselor"** means an individual who meets the requirements of these regulations and is licensed as a certified addiction counselor by the Board.

(11) **"Practice of addiction counseling"** means the providing of professional services that are delivered by a licensed addiction professional, that are designed to change substance use or addictive behavior, and that involve specialized knowledge, competence, and skill related to addictions and addictive behaviors, including understanding addiction, knowledge of the treatment process, application to practice and professional readiness. The term includes:

(a) gathering information through structured interview screens using routine protocols;

(b) reviewing assessment findings to assist in the development of a plan individualized for treatment services and to coordinate services;

(c) referring for assessment, diagnosis, evaluation and mental health therapy;

(d) providing client and family education related to addictions;

(e) providing information on social networks and community systems for referrals and discharge planning;

(f) participating in multidisciplinary treatment team meetings or consulting with clinical addiction professionals;

(g) counseling, through individual and group counseling, as well as group and family education, to treat addiction and substance use disorders in a variety of settings, including but not limited to:

(i) mental and physical health facilities; and

(ii) child and family service agencies; and

(h) maintaining the highest level of professionalism and ethical responsibility.

(12) **"Practitioner"** means an individual who holds an unlimited license, certificate or registration; a limited or probationary license, certificate or registration; a temporary license, certificate, registration or permit; an intern permit; or a provisional license.

(13) **"Professional Addiction Counselor"** means a person who renders for compensation, addiction counseling-related services to an individual, group, organization, corporation, institution or the general public, and who is licensed, trained or experienced in addiction counseling, and who holds a license issued under this Part to engage in the professional practice of addiction counseling.

(14) **"Registrant"** means an uncertified or unlicensed person who is in the course of completing the requirements for certification or licensure under these regulations, who has completed no less than 12 semester units or 18 quarter units of the education required under these regulations and who is registered with the Board.

(15) **"Supervised work experience"** refers to a time during which an applicant provides addiction counseling services directly to clients diagnosed with a substance use disorder, including treatment of clients, and at least fifty percent (50%) of the time consists of providing addiction counseling services directly to clients diagnosed with a substance use disorder. The supervisor(s) must be approved by the Board in advance of applicant providing any addiction counseling services.

(16) **"Supervisee"** means a registrant or certified or licensed addiction counselor under these regulations who is seeking to meet the supervised experience requirements of these regulations.

**§ 185-10-4805. Licensing.**

An individual may not engage in the practice of professional addiction counseling unless the person is licensed as a Certified Addiction Technician, Certified Addiction Counselor (Level I/NCAC I), Certified Addiction Counselor (Level II/NCAC II), or Master Addiction Counselor under these Regulations.

**§ 185-10-4810. Requirements.**

(1) The Board shall certify or license, at the appropriate level, as applicable, each individual who the Board determines to meet the criteria outlined below.

(2) Certified Addiction Counselor (Level I/NCAC I) licensing requirements. An individual who applies for licensure as an Addiction Counselor Level I must meet the following requirements:

(a) Furnish satisfactory evidence to the Board that the individual has:

(i) GED, high school diploma or higher with a clinical application, including at least 270 clock hours of substance use disorder related topics, 6 hours of which must be related to ethics education and training within the last 6 years and 6 hours related to HIV/AIDS/Other pathogens education and training within the last 6 years. If not received with degree, these hours can be obtained as advanced coursework outside of the school setting.

(ii) Completed 6,000 hours of supervised work experience or 3 years full time work in substance use disorders training, with 600 hours being direct client work, prior to taking the examination for this credential.

(b) Furnish satisfactory evidence to the Board via a state and federal level criminal offender record information search that the individual does not have:

(i) convictions of five or more criminal offenses within a 30-month period ending two years or less prior to the date of the Board's determination.

(ii) a conviction of a violent felony within three years prior to the date of the Board's determination.

(iii) a conviction related to a controlled substance within three years prior to the date of the Board's determination.

(c) Furnish satisfactory evidence to the Board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice without endangering the public.

(d) A passing score on one of the following exams:

(i) NCAC Level One exam through National Certification Commission for Addiction Professionals (NCC AP).

(ii) ADC exam through the International Certification & Reciprocity Consortium (IC & RC).

(e) Submit a completed application to the Board for review.

(f) Pay the fee established by the Board.

(3) Certified Addiction Counselor (Level II/NCAC II) licensing requirements. An individual who applies for licensure as an Addiction Disorder Counselor Level II must meet the following requirements:

(a) Furnish satisfactory evidence to the Board that the individual has:

(i) Received a bachelor's degree or higher in addiction counseling or other allied mental health profession (social work, mental health counseling, psychology), including at least 450 clock hours of substance use disorder related topics, 6 hours of which must be related to ethics education and training within the last 6 years and 6 hours related to HIV/AIDS/Other pathogens education and training within the last 6 years. If not received with degree, these hours can be obtained as advanced coursework outside of the school setting.

(ii) completed 6,000 hours of supervised work experience or 3 years full time work in substance use disorders training, with 600 hours being direct client work, prior to taking the examination for this credential.

(b) Furnish satisfactory evidence to the Board via a state and federal level criminal offender record information search that the individual does not have:

(i) convictions of five or more criminal offenses within a 30-month period ending two years or less prior to the date of the Board's determination.

(ii) a conviction of a violent felony within three years prior to the date of the Board's determination.

(iii) a conviction related to a controlled substance within three years prior to the date of the Board's determination.

(c) Furnish satisfactory evidence to the Board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice without endangering the public.

(d) A passing score on one of the following exams:

(i) National Certified Addiction Counselor Level Two exam through National Certification Commission for Addiction Professionals (NCC AP).

(ii) eMAC exam through the National Board of Certified Counselors (NBCC).

(iii) AADC exam through the International Certification & Reciprocity Consortium (IC & RC).

(e) Submit a completed application to the Board for review.

(f) Pay the fee established by the Board.

(4) Master Addiction Counselor (Level III) licensing requirements. An individual who applies for a license as a Master Addiction Disorder Counselor Level III must meet the following requirements:

(a) Furnish satisfactory evidence to the Board that the individual has:

(i) Received a master's degree or higher in addiction counseling or other allied mental health profession (social work, mental health counseling, marriage and family counseling, psychology), including at least 500 hours of substance use disorder related topics, 6 hours of which must be related to ethics education and training within the last 6 years and 6 hours related to HIV/AIDS/Other pathogens education and training within the last 6 years. If not received with degree, these hours can be obtained as advanced coursework outside of the school setting.

(ii) completed 6,000 hours of supervised work experience in substance use disorders, with 2, 000 hours being direct client work, prior to taking the examination for this credential but after obtaining the master's (or higher) degree.

(b) Furnish satisfactory evidence to the Board via a state and federal level criminal offender record information search that the individual does not have:

(i) convictions of five or more criminal offenses within a 30-month period ending two years or less prior to the date of the Board's determination.

(ii) a conviction of a violent felony within three years prior to the date of the Board's determination.

(iii) a conviction related to a controlled substance within three years prior to the date of the Board's determination.

(c) Furnish satisfactory evidence to the Board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice without endangering the public.

(d) A passing score on one of the following exams:

(i) Master Addiction Counselor (MAC) exam through National Certification Commission for Addiction Professionals (NCC AP).

(ii) eMAC exam through the National Board of Certified Counselors (NBCC).

(iii) AADC exam through the International Certification & Reciprocity Consortium (IC & RC).

(e) Submit a completed application to the Board for review.

(f) Pay the fee established by the Board.

(5) Licensure education requirements

(a) All substance use disorders related education accepted for purposes of licensure must be from one of the "Addiction Counseling Competencies" outlined in the Technical Assistance Publication Series No. 21, published by the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment.

(b) All clinical supervisor related education accepted for purposes of licensure must be from one of the "Competencies for Substance Abuse Treatment Clinical Supervisors" outlined in the Technical Assistance Publication Series No. 21A, published by the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment.

(c) All degrees accepted for purposes of licensure must be from one of the following:

(i) a higher learning institution located in the United States or a territory of the United States that was accredited on the date of graduation by a regional or national accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation or the U.S. Department of Education.

(ii) a higher learning institution located in Canada that was in good standing on the date of graduation with the Association of Universities and Colleges of Canada.

(iii) a foreign higher learning institution that on the date of graduation was recognized by the government of the country where the school was located as a program to train in the practice of addiction counseling and has maintained a standard of training substantially equivalent to the standards of institutions accredited by a

regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation or the U.S. Department of Education.

(d) Applicants with a master's degree (or higher) that did not emphasize substance use disorders or mental health counseling may complete the course work requirement from an institution that is:

(i) accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP);

(ii) recognized by NAADAC, the Association of Addiction Professionals (NAADAC) – National Certification Commission for Addiction Professionals (NCC AP);

(iii) recognized by the International Certification and Reciprocity Consortium (IC & RC);

(iv) accredited by the Commission on Accreditation of Marriage and Family Therapy Education (CAMFTE);

(v) accredited by the American Psychological Association's Commission on Accreditation (APA); or

(vi) accredited by the Council on Social Work; or

(vii) accredited by the National Addiction Studies Accreditation Commission (NASAC).

(e) Education and supervised work experience gained outside of the state may be accepted toward the licensure or certification requirements.

(6) Licensure supervised work experience requirements

(a) The supervised work experience required must be provided by a qualified and licensed supervisor, as determined by the Board. Prior to the commencement of clinical supervision, a supervisor must comply with all requirements for supervisors as established by the Board by regulation.

(b) A doctoral internship may be applied toward the supervised work experience requirement.

(c) The supervised work experience requirement may be met by work performed at or away from the premises of the qualified supervisor. However, the supervised work experience requirement may not be performed away from the qualified supervisor's premises if:

(i) the work is the independent private practice of addiction counseling; or

(ii) the work is not performed at a place that has the supervision of a qualified supervisor.

(d) Experience shall be gained only in a setting that meets all of the following:

(i) Lawfully and regularly provides alcohol and other drug counseling.

(ii) Provides oversight to ensure that the supervisee's work at the setting meets the experience and clinical supervision requirements set forth in these regulations and is within the scope of practice for the profession.

(iii) Work experience shall not be gained as an independent contractor.

(e) The required hours of supervised experience shall be obtained over a period of not less than two years and shall have been gained within the six years immediately preceding the date on which the application for certification or licensure was filed.

(f) Experience shall not be credited for more than 40 hours in any week.

(g) The supervisor and the supervisee shall develop a supervisory plan that describes the goals and objectives of clinical supervision. These goals shall include the ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and regulations. The supervisee shall submit to the Board the initial original supervisory plan upon application for licensure or certification.

(h) A supervisee must receive an average of at least one hour of direct supervisor contact for every week in which more than 10 hours of face-to-face or group counseling is performed in each setting where experience is gained. (No more than five hours of clinical supervision, whether individual or group, shall be credited during any single week.) For purposes of this section, "direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group, of not more than eight persons receiving clinical supervision, addressing the substance of the supervisory plan. The face-to-face contact may also be conducted using a telehealth service provider.

(i) A supervisee may be either a paid employee or a volunteer. Employers are encouraged to provide fair remuneration to supervisees.

(j) A supervisee shall not receive any remuneration from patients or clients, and shall be paid only by his or her employer. A supervisee shall not have any proprietary interest in the employer's business.

(k) A supervisee may receive clinical supervision from a person not employed by the supervisee's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the supervisee's substance use disorder counseling and hours of clinical supervision are formally recorded.

(l) The Board may limit, by regulation, the number of registrants that any one supervisor may supervise, the number of registrants that may be supervised in any given program or setting, and the proportion of the workforce in any given program or setting, which may be comprised of registrants, or any of these.

(m) A supervisor must be licensed in the CNMI to oversee the work of a supervisee.

**§ 185-10-4815. Scope of Work**

(1) Certified Addiction Technician

The Scope of Practice for the category of those with a high school diploma or a GED include the following activities with clinical supervision from a Master Addiction Disorder Counselor/Supervisor (Level 3 or higher), licensed psychiatrist, license clinical psychologist, licensed social worker, other qualified provider approved by the board or the administrative oversight of a Certified Addiction Counselor is limited to administrative oversight. The Addiction Technician cannot provide clinical or administrative supervision of staff but can supervise community and social activities.

The Addiction Technician is able to implement the following services independently:

(a) Screening of SUD, Referral to Treatment (SBIRT)

(b) Monitor treatment plan/compliance

The Addiction Technician is able to implement the following under Supervision:

(a) Service Coordination

(b) Psycho-educational counseling of individuals and groups

(c) Treatment Planning

(d) Documentation

(e) Professional and Ethical Responsibilities

(2) Certified Addiction Counselor (Level I/NCAC I)

The Scope of Practice for the category of those with a GED, high school diploma or higher degree include the following activities with clinical supervision from a Master Addiction Counselor/Supervisor (Level 3 or higher), licensed psychiatrist, clinical psychologist, licensed social worker, or other qualified provider approved by the board. The Certified Addiction Counselor I cannot provide clinical or administrative supervision of staff but can supervise community and social activities.

(a) Diagnostic impression and Screening, Brief Intervention, Referral to Treatment of SUD (SBIRT).

(b) Monitor treatment plan/compliance

(c) Referral

(d) Service Coordination and case management for SUD

(e) Psycho-educational counseling of individuals and groups

(f) Client, Family, and Community Education

(g) Documentation

(h) Professional and Ethical Responsibilities

(3) Certified Addiction Disorder Counselor (Level II/NCAC II)

The Scope of Practice for the category of those with a Bachelor degree includes the following activities with clinical supervision of a Master Addiction Counselor/Supervisor (Level 3 or higher), licensed psychiatrist, licensed clinical psychologist, licensed social worker or other qualified licensed provider approved by the board. The Certified Addiction Counselor (Level II/NCAC II) may provide supervision of the Level I Addiction Counselor.

(a) Screening, Brief Intervention, and Referral to Treatment Referral (SBIRT), Clinical evaluation, including diagnostic impression, screening, and assessment of SUD.

(b) Treatment Planning for Substance Use Disorders (SUDs and Co-Occurring Disorders (COD), including initial, ongoing, continuity of care, discharge, and planning for relapse prevention

(c) Referral

(d) Service Coordination and case management for SUDs and CODs

(e) Counseling, therapy, trauma informed care, and psycho-education with individuals, families, and groups

(f) Client, Family, and Community Education

(g) Documentation

(h) Professional and Ethical Responsibilities

(i) Clinical supervisory responsibilities for all categories of SUD Counselors

(4) Master Addiction Counselor (Level III)

The Master Addiction Counselor typically has a Master or other post graduate degree. The following activities of an unlicensed Master Addiction Counselor will require clinical supervision under a licensed Master Addiction Counselor (Level III or higher), licensed psychiatrist, licensed clinical psychologist, licensed social worker, or other qualified licensed provider approved by the board. The Master Addiction Counselor may have clinical supervisory responsibilities for Level I and II SUD Counselors.

(a) Clinical evaluation, including screening, assessment, and diagnosis of Substance Use Disorders (SUDs) and Co-Occurring Disorders (CODs)

(b) Treatment Planning for SUDs and CODs, including initial, ongoing, continuity of care, discharge, and planning for relapse prevention

(c) Referral

(d) Service Coordination and case management in the areas of SUDs and CODs

(e) Counseling, therapy, trauma informed care, and psycho-education with individuals, families and groups in the areas of SUDs and CODs

(f) Client, Family, and Community Education

(g) Documentation

(h) Professional and Ethical Responsibilities

(i) Clinical supervisory responsibilities for all categories SUD counselors.

**§ 185-10-4820. Exemptions.**

(1) A person is exempt from these regulations if the person does not represent to the public, or healthcare financing agencies, directly or indirectly, that the person is licensed under these regulations and does not use any name, title or designation indicating that the person is licensed under these regulations.

(2) The Board shall exempt an individual from the requirements set forth in these regulations and grant the individual an applicable license if the individual meets the following requirements:

(a) Holds a valid certification/licensure as an addiction counselor or addiction therapist from a credentialing agency that is approved by the Board. (eg. NAADAC or IC & RC).

(b) Has substantial experience within the addiction profession.

(c) Furnishes satisfactory evidence to the Board via a state and federal level criminal offender record information search that the individual does not have:

(i) convictions of five or more criminal offenses within a 30-month period ending two years or less prior to the date of the Board's determination.

(ii) a conviction of a violent felony within three years prior to the date of the Board's determination.

(iii) a conviction related to a controlled substance within three years prior to the date of the Board's determination.

(d) Submit a completed application to the Board for review.

(e) Pay the fee established by the Board.

(3) These regulations do not apply to the activities or services of a licensed psychiatrist, a licensed clinical psychologist, or religious leader providing pastoral counseling trained in addictions counseling provided that such counseling is within the scope of their duties. These regulations do not apply to school counselors certified by the state education agency providing school counseling within the scope of school counselors.

(4) The criteria for licensed clinical social workers, marriage & family therapists, or licensed professional counselors require 180 clock hours of substance abuse specific education to include any course with a specific substance abuse/chemical dependence focus. No more than 90 of these hours may be counseling courses without a substance abuse focus. Also required are 6 hours in confidentiality for substance abuse programs and 6 hours of substance abuse ethics.

(5) Nothing in these regulations shall be construed to limit the activities and services of a student, intern, or resident in professional addiction counseling seeking to fulfill educational requirements in order to qualify for a license under these regulations, or an individual seeking to fulfill the post-degree experience requirements in order to qualify for a license under these regulations, if the activities or services are supervised as specified in these regulations, and that the student, intern, or resident is designated by the term "intern" or "resident" or other designation of trainee status. Nothing in this section shall be construed to permit students, interns or residents to offer their services as professional addiction counselors to any person and to accept remuneration for such professional addiction counseling services other than as specifically exempted in this section, unless they have been licensed under these regulations.

(6) Nothing in these regulations shall prohibit individuals not licensed under the provisions of these regulations who work in self-help or mutual support groups or programs or not-for profit organizations from providing services in those groups, programs, organizations or healthcare financing agencies, as long as those persons are not in any manner held out to the public as practicing professional addiction counseling, or do not hold themselves out to the public by any title or designation stating or implying that they are professional addiction counselors.

**§ 185-10-4825. Examination.**

(1) The written examinations the Commonwealth of the Northern Marianas Islands recognizes are sponsored by the National Association of Alcohol and Drug Abuse Counselors (NAADAC) and the International Certification and Reciprocity Consortium (IC&RC). The board recognized National and Regional certification boards; National Certification Commission for Addiction Professionals (NCC AP) and the National Boards for Certified Counselors (NBCC).

(2) An individual who wishes to apply for licensure as an addiction professional must take the corresponding examination.

(3) An applicant's identity will be kept confidential and test scores are held by the testing board.

(4) An applicant who fails the examination may take a subsequent examination on payment of the required examination fee. However, an applicant may only take two subsequent examinations within a one-year period for a total of three exam in a one-year period.

(5) An individual who applies for an addiction counselor license under this article may be exempted by the Board from the examination requirement if the individual has met all the following:

(a) is licensed or certified as an addiction counselor in another state and has passed a licensing or certifying examination substantially equivalent to the licensing examination required under these regulations;

(b) has engaged in the practice of addiction counseling and/or supervision for at least three of the previous five (5) years;

(c) has not committed a crime of moral turpitude and has not had any adverse actions taken against them by any licensing board of any jurisdiction and is not under investigation for any act that constitutes a violation of these regulations.

**§ 185-10-4830. Fees.**

The Board shall assess application, examination, license renewal and other fees in amounts sufficient to cover the costs of administering these regulations.

**§ 185-10-4835. Continuing Education.**

The Board shall prepare or approve the preparation and administration of continuing education programs for licensed addiction counselors under this Act. The Board shall provide by rule for the administration of the continuing education requirements for license renewal under these regulations.

(1) A person licensed under these regulations must complete at least 45 hours of continuing education (or your state's requirement) in each two-year period in which the person holds a license as a requirement for the renewal of the license.

(2) The practitioner shall provide the Board with a sworn statement executed by the practitioner that the practitioner has fulfilled the continuing education requirements required by the Board.

(3) The practitioner shall retain copies of certificates of completion for continuing education courses for three (3) years from the end of the licensing period for which the continuing education applied. The practitioner shall provide the Board with copies of the certificates of completion upon the Board's request for a compliance audit.

(4) Following every license renewal period, the Board shall randomly audit for compliance more than one percent (1%) but less than ten percent (10%) of the practitioners required to take continuing education courses.

**§ 185-10-4840. Restrictions.**

(1) An individual licensed, registered, or certified under these regulations may engage in the practice of addiction counseling.

(2) A person who has received a certificate, registration or license under these regulations may use the title "Licensed Addiction Counselor", or "Licensed Master Addiction Counselor" in accordance with the type of certificate, registration of license possessed.

(3) Unlicensed individuals may not:

(a) profess to be a licensed addiction professional;

(b) use the title(s):

(i) "licensed addiction counselor";

(ii) "licensed clinical addiction counselor";

(iii) "licensed clinical addiction therapist";

(iv) "licensed addiction therapist";

(v) "addiction counselor";

(vi) "addiction therapist";

(vii) "clinical addiction counselor";

(viii) "clinical addiction therapist";

(ix) "substance abuse counselor";

(x) "substance abuse therapist";

(xi) "clinical substance abuse counselor";

(xii) "clinical substance abuse therapist"; or

(xiii) Any other title containing the words mentioned in (A) – (L).

(c) use any other:

(i) words;

(ii) letters;

(iii) abbreviations; or

(iv) insignia; indicating or implying that the individual is a licensed addiction counselor or licensed clinical addiction counselor; or

(v) practice as an addiction counselor or clinical addiction counselor for compensation, unless the individual is licensed under this article.

**§ 185-10-4845. Privileged Communication.**

Breach of a privileged communication, except as provided for in this Article is considered unprofessional conduct and grounds for revocation or suspension of a license.

**§ 185-10-4850. Disciplinary Action**

The Board shall have the power to impose administrative penalties and/or reprimands; revoke or suspend; refuse to issue, restore, or renew, the license of any person who is found to have violated one or more of the provisions enumerated in § 2224 of P.L. 15-105 and sections 185-10-901 through 185-10-1301.

Commonwealth of the Northern Mariana Islands
**HEALTH CARE PROFESSIONS LICENSING BOARD**
P.O. Box 502078, Bldg., 1242 Pohnpei Court
Capitol Hill, Saipan, MP 96950
Tel No: (670) 664-4809 Fax: (670) 664-4814
Email: cnmi@cnmibpl-hcplb.net
Website: cnmibpl-hcplb.net

# NOTICE OF PROPOSED AMENDMENTS TO THE HEALTH CARE PROFESSIONS LICENSING BOARD FOR PROFESSIONAL COUNSELOR – LICENSED MARRIAGE AND FAMILY THERAPIST

**INTENDED ACTION TO ADOPT THIS PROPOSED REGULATION:** The Health Care Professions Licensing Board (HCPLB) intends to adopt as permanent regulation the attached Proposed Amendment, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The regulation would become effective 10 days after compliance with 1 CMC §§ 9102 and 9104(a) or (b) (1 CMC § 9105(b)).

**AUTHORITY:** The Health Care Professions Licensing Board has statutory power to promulgate and effect regulations pursuant to 3 CMC § 2206(b), as amended.

**THE TERMS AND SUBSTANCE:** Regulation History: Public Law No. 15-105 was signed into law by Governor Benigno R. Fitial and became effective on November 7, 2007 and became the "Health Care Professions Act of 2007," 3 CMC §§2201-36. The Act created a Health Care Professions Licensing Board, as an independent regulatory agency, without placing it in a Department. The Board is authorized to license health care professionals in the Commonwealth, establish standards for educational programs, administer exams, and to discipline licensees for violations of the Act. Public Law No. 15-105 3 CMC § 2206(b), empowers the Board to adopt rules and regulations consistent with the Act and necessary to carry out the Act's provisions, including define and describe the regulated professions and their practice. The Professional Counselor – Licensed Marriage and Family Therapist is to be included in the health care professions, under the power, jurisdiction and authority of the HCPLB. § of Public Law No. 15-105. (This is a new regulation and is not included in §2212)

**THE SUBJECTS AND ISSUES INVOLVED:** These are the proposed regulations for the practice of Professional Counselor – Licensed Marriage and Family Therapist.

**DIRECTIONS FOR FILING AND PUBLICATION:** The Board is soliciting comments regarding this proposed amendment which must be received by the Board within thirty (30) days of first publication of this notice in the Commonwealth Register. Interested persons may request copies of the proposed amendment by contacting us at 664-4809 or by email at cnmi@cnmibpl-hcplb.net or come by our office located at Bldg. 1242, Pohnpei Ct., Capitol Hill, Saipan. Written comments on these amendments should be dropped off at our office or sent to the BPL, P.O. Box 502078, Saipan, MP, 96950.

Submitted By: _____
Esther S. Fleming
Executive Director

4/27/21
Date

Received By: _____ 05/25/21
Matilda A. Rosario
Special Assistant for Administration
Date

Filed and Recorded By: _____ 05.28.2021
Esther SN Nesbitt
Commonwealth Registrar
Date

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

_____ 5/27/2021
EDWARD MANIBUSAN
Attorney General
Date

Commonwealth of the Northern Mariana Islands
HEALTH CARE PROFESSIONS LICENSING BOARD
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# NUTISIA PUT I MANMAPROPONI NA AMENDA SIHA PARA I MANMA'ATURISA CHO'CHU INADAHIN HINEMLU KUMITE'HI PARA I MAN EKSPIRIÅNSIA MA'MAŃAGUE- MA ATURISA AYUDÅNTIN KASAMIENTU YAN FAMILIA

**MA INTENSIONA NA AKSION PARA U'MA ADÅPTA ESTI I MANMAPROPONI NA REGULASION SIHA:** I kumite'hin manma'aturisa cho'chu inadahin hinemlu (HCPLB) ma intensiona para u'ma adåpta petmanienti i regulasion ni man dadaña na Amendasion ayu i maproponi, sigun nu i plånu siha nu i Åktun Administrative Procedure, 1 CMC §9104(a). I regulasion siempre mu'ifektibu dies dihas(10) dispues di mankonfotmi yan i 1 CMC §§9102 yan 9104(a) pat (b) (1 CMC § 9105(b)).

**ATURIDÅT:** I kumitehin manma'aturisa cho'chu inadahin hinemlu guaha ligåt na atturidåt ni para u'ma anunsio yan ifektibu na regulasion siha sigun para i 3 CMC § 2206(b) ayu i ma amenda.

**I TEMA YAN SUHETU SIHA:** Regulasion åntis: Lai Publiku numiru. 15-105 ma fitma hålum i lai ginnen as Gubietno Benigno R. Fitial yan mu ifektibu gi Nubriembre 7, 2007 yan humuyong i Åktun cho'chu inadahin hinemlu gi 2007," 3 CMC §§ 2201-36. I Åktu fumatinas i kumitehi manma'aturisa cho'chu inadahin hinemlu, ayu kumu libitåt na ahensia areklamentu, ya ti prisisu na u'ma po'lu gi hålum Dipåttamentu. I kumitehi ma atturisa para hu fan lisensia ekspiriånsia pruteksion hinemlu giya i Commonwealth, establisa kuålidåt na prugråman edukasion siha, ma aplika praktikåt siha, yan para u'ma disiplina ayu i manmalisensia siha ayu i kumontra i Åktu publiku lai numiru 15-105 3 CMC § 2206(b), ma atturisa i kumitehi ni para u'ma adåpta i areklamentu yan regulasion siha ayu i ma'añgoku yan i Åktu yan nisisidåt para ma kåtga huyong i probision Åktu siha, duma'dańa i disision yan u'ma sångan i arunsia i che'chu ni ma regulåt yan i prinaktika. I ekspiriånsia mama'ñague-ma aturisa na ayudåntin kasamientu yan familia ni para u'mana hålum gi che'chu inadahin hinemlu siha, gi papa I kapasidåt, atturidåt yan administrasion nu i HCPLB § nu i lai publiku numiru. 15-105 (Guiya esti i nuebu na regulasion ni ti dumadaña gi hålum § 2212).

**I SUHETU YAN MANERA SIHA NI MANSASAONAO:** Estagui' siha i manmaproponi na regulasion para i prinaktika nu i man ekspiriånsia mamañague- ma atturisa na ayudåntin kasamientu yan familia.

**DIREKSION PARA MUNA'HALUM YAN PUBLIKASION:** I kumitehi manmangagaogao upiñon pot esti i manmaproponi na amendasion ayu i debi na u'ma risibi nu i kumitehi gi håalum trenta dihas (30) ni i primet publikasion nu esti na nutisia giya I Rehistran Commonwealth. I man intitirsao siha, siña manmangagao kopia nu esti i maproponi na amendasion yangin un ågan ham gi 664-4809 pat email guatu gi cnmi@cnmibpl-hcplb.net pat sinao fåttu guatu gi ufisinan mami giya i Bldg. 1242, Pohnpei Ct, Capitol Hill, Saipan. Tinigi na upiñon nu esti na amendasion debi u'ma chu'li guatu gi ufisina pat na hånao para BPL, P.O. Box 5020708, Saipan MP 96950.

Nina hålum as: _____ 05/25/21
**Esther S. Fleming** Fetcha
Eksakatibun Direktot

Rinisibi as: _____ 05/25/21
Matilda A. Rosario Fetcha
Espisiat na Ayudåntin Administrasion

Pinelo yan Ninota as: _____ 05.28.2021
Esther SN. Nesbitt Fetcha
Rehistran i Commonwealth

Sigun i 1 CMC § 2153(e) (I Abugådu Hineråt ma'aprueba i regulasion siha na para u macho'gui kumu fotma) yan i 1 CMC § 9104(a)(3) (hentan inaprueban Abugådu Hineråt) i mammaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligåt ginin i CNMI Abugådu Hineråt yan debi na u mapupblika, 2 CMC § 2153(f) (pupblikasion areklamentu yan regulasion siha).

_____ 5/28/2021
EDWARD MANIBUSAN Fetcha
Abugådu Heneråt

Commonwealth Téél Falúw kka Efáng Ilól Marianas
**HEALTH CARE PROFESSIONS LICENSING BOARD**
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# ARONGORONGOL POMMWOL LIIWEL REEL HEALTH CARE PROFESSIONS LICENSING BOARD NGÁLI PROFESSIONAL COUNSELOR – LICENSED MARRIAGE AND FAMILY THERAPY

**MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL MWÓGHUTUGHUT:** Health Care Professions Licensing Board (HCPLB) re mángemángil rebwe adóptááli bwe ebwe llégh1ó mwóhutughut iye e appasch bwe Pommwol Liiwel, sángi mwóghutughutúl Administrative Procedure Act, 1 CMC § 1 CMC 9104(a). Ebwe bwunguló mwóghutughut kkal llól seigh (10) ráál mwiril aal angúúngú fengál me 1 CMC §§ 9102(a) me 9104(a) ngáre (b) (1 CMC § 9105(b)).

**BWÁNGIL:** Eyoor bwángil Health Care Professions Licensing Board rebwe aronga me ayoorai mwóghutughut sángi 3 CMC § 2206(b), igha re liiweli.

**KKAPASAL ME WEEWEL:** Uruwowul Mwóghutughut: Alléghúl Toulap No. 15-105 e ghikkil long llól allégh sángi Samwool Benigno R. Fitial me e bwunguló wóól Aremwoy 7, 2007 e toowow bwe "Health Care Profession Act of 2007", 3 CMC §§2201-36. Act yeel e ayoora eew Health Care Professions Licensing Board, iye e lo bwe "independent regulatory agency", nge rese isáli llól eew Bwulasiyo. Eyoor bwángil Board reel rebwe "license health care professionals" llól Commonwealth, itittiw "standards" ngáli "educational programs", "administer exams", me "discipline licensees for violation of the Act". Alléghúl Toulap No. 15-105 3 CMC § 2206(b), e ayoorai bwángil Board reel rebwe adóptááli allégh me mwóghutughut iye e weewe fengál me Act me e ffil ebwe isiisiwow "Act provisions", e schuulong faal me weewel "regulated professions and their practice". "The Professional Counselor – Licensed Marriage and Family Therapist" ebwe bwal schuulong llól health care professions, faal bwángil, bwángil lemelemil HCPLB. § reel Alléghúl Toulap No. 15-105. (E ffé mwóghutughut yeel me ese schuu llól §2212).

**KKAPASAL ME ÓUTOL:** Pommwol mwóghutughut kkal nge ngáli mwóghutughutúl "Professional Counselor – Licensed Marriage and Family Therapist.

**AFAL REEL AMMWELIL ME AKKAÉÉWOWUL:** Board re tingór kkapas iye e ssúl ngáli pommwol liiwel iye rebwe bwughi sángi Board llól eliigh (30) ráál mwiril aal ghommwal akkatééwowul arongorong yeel me llól Commonwealth Register. Schóó kka re mwuschel pappidil pommwol liiwel faingiló 664-4809 ngáre email-li cnmi@cnmibpl-hcplb.net ngáre mweteti bwulasiyo me Bldg. 1242, Pohnpei Ct., Capitol Hill, Seipél. Ischil kkapas wóól liiwel kkal ebwe bweibwoghló bwulasiyo ngáre afangaló BPL, P.O. Box 502078, Saipan, MP, 96950.

Isáliyalong: _____ 05/25/21
Esther S. Fleming
Executive Director
Ráál

Bwughiyal: _____ 05/28/21
Matilda A. Rosario
Special Assistant ngáli Administration
Ráál

Ammwelil: _____ 05.28.2021
Esther SN Nesbitt
Commonwealth Registrar
Ráál

Sángi 1 CMC § 2153(e) (átirowal AG reel mwóghutughut bwe aa lléghló reel ffééról) me 1 CMC § 9104(a)(3) (sángi átirowal AG) reel pommwol mwóghutughut bwe ra takkal amwuri fischiiy me aa lléghló me aa átirow igha aa ffééról me legal sufficiency sángi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (akkatééwowul allégh me mwóghutughut).

_____ 5/28/2021
EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap
Ráál

## SUBCHAPTER 185-10
## COMMONWEALTH HEALTH CARE PROFESSIONS LICENSING BOARD REGULATIONS


| | |
|---|---|
| **Part 4700-** | **~~Psychologist [Reserved]~~ Professional Counselor - Licensed Marriage and Family Therapist** |
| **§ 185-10-4701** | **Definitions** |
| **§ 185-10-4705** | **Licensing** |
| **§ 185-10-4710** | **Exemptions from License Requirements** |
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| **§ 185-10-4780** | **Privileged Communication.** |
| **§ 185-10-4785** | **Disciplinary Action** |

**§ 185-10-4701 Definitions**

For purposes of this Article, the following words and phrases have been defined to mean:

(1) Accredited or approved school means a college or the university that has met the standards as established by the Middle States Association of Colleges and Secondary Schools, the New England Association of Colleges and Secondary Schools, the North Central Association of Schools and Colleges, the Western Association of Schools and Colleges, or by another accrediting or recognized approval agency, including state or Federal approving agencies.

(2) Family means all forms of households that consist of members with emotional bonds and mutual obligations that define themselves as families. "Family" as used here includes, but is not limited to, nuclear families (i.e. once married couples with children), single parent families, non-married couples with children, reconstituted families (remarried couples), and couples without children.

(3) Family therapy means the systematic intervention enabling family members to understand the behavior of individuals in relation to the ongoing operations of the family group. This approach enables family members to generate a wider range of options for coping with problems, and to learn problem solving skills.

(a) Individual therapy means planned intervention to assist a client in coping more effectively with problems of living.

(b) Marriage means a socially sanctioned relationship between two (2) adults. Marriage determines specific roles, involving reciprocal obligations and duties, as well as legal rights.

(c) Marriage therapy means the therapeutic intervention with married couples, non-married couples or alternative couples to resolve immediate problems and conflicts in their relationship.

(d) Therapist means a person licensed in the Commonwealth of the Northern Marianas to practice therapy, as defined in these rules and regulations.

(e) Therapy means planned intervention to help the client enlarge competencies and increase problem solving skills and coping abilities. Therapy can be used interchangeably with counseling and psychotherapy.

(f) Psychotherapy means a specialized, formal interaction between an Individual, Marriage and Family Therapist or other Mental Health Professionals, and a client (an individual, couple, family or group) in which a therapeutic relationship is established to help resolve symptoms of mental disorder, psychosocial stress, relationship problems, and enhance problem solving skills and coping abilities.

**§ 185-10-4705 Licensing**

No person who does not hold a current license shall practice or offer to professional or mental health counseling or use in connection with the person's name, or otherwise assume, use, or advertise, any title, initials, or description tending to convey the impression that the person is a professional counselor, mental

health counselor, marriage and family therapist, or mental health counselor associate. No partnership, association, or corporation shall advertise or otherwise offer to provide or convey the impression that it is providing professional or mental health counseling unless an individual holding a current license is or will at the appropriate time be rendering professional or mental health counseling to which reference is made.

**§ 185-10-4710 Exemptions from License Requirements**

(1) These regulations shall apply to all licensed marriage and family therapists in the CNMI except:

(a) Students whose activities are conducted within a course of marriage and family therapy counseling;

(b) Any person who is a duly recognized member of the clergy; provided that the person functions only within the person's capacity as a member of the clergy; and provided further that the person does not represent himself/herself to be a licensed mental health or professional counselor or mental health counselor associate;

(2) Any person who is obtaining supervised clinical experience for licensure as a Marriage and Family Therapist, psychologist or social worker; provided that the person does not represent himself/herself to be a licensed mental health or professional counselor or associate;

(3) Any qualified members of other professions, including but not limited to nurses, psychologists, social workers, physicians, physician assistants, or attorneys at law, from providing the services of mental health or professional counseling nature consistent with the accepted standards of their respective professions; and provided further that the person does not represent himself/herself to be a licensed marriage and family therapist; and

(4) The provision of mental health services through the department of human services or juvenile court; provided that the person does not represent him/herself to be a licensed mental health or professional counselor or associate.

**§ 185-10-4715 Requirements for Licensure**

An applicant to practice as a licensed marriage and family therapist must be at least twenty-one years of age is a U.S. citizen or a foreign national lawfully entitled to remain and work in the Commonwealth, and meets the following requirements:

(1) Have completed a master's or doctoral program in marriage and family therapy from a program accredited by the American Association for Marriage and Family Therapy, Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) or earned a master's graduate degree in another mental health field (psychiatry, psychology, clinical social work, psychiatric nursing, etc.) from an accredited counseling program from a college or university accredited by an agency recognized by the U.S. Department of Education in counseling and completed a COAMFTE accredited post-graduate degree clinical training program in marriage and family therapy. An applicant may substitute equivalent post-degree courses to meet the course of study requirements. The coursework must be verified by the official graduate school transcripts, which specify number of quarter or semester hours. Applicants who have obtained the American Association for Marriage and Family Therapy (AAMFT) clinical membership status are

considered to have met the educational requirements for licensure. If applying through the AAMFT clinical status, verification must be from the AAMFT directly to the department.

Of the graduate credit hours required above, at least 45 credit hours shall be in the following areas:

(a) Three courses in the analysis of family systems, with one course in each of the following:

(i) A supervised clinical practice that includes at least 60 hours of approved supervision and 300 hours of direct client contact with couples, families, and individuals, at least 100 hours of which are relational therapy;

(ii) Normal and abnormal personality development which includes individual development across the life span and the family life cycle; and

(iii) Psychopathology with emphasis on standard diagnostic manuals, as well as family systems models;

(b) Courses in couples therapy theory and techniques as follows:

(i) One course in diagnosis and treatment of mental and emotional disorders in family systems

(ii) A comprehensive survey course with substantive overview of the extant major models of family therapy; and

(iii) Two additional courses which focus on one or several marriage and family therapy models, or three separate courses, each of which focuses on one or several marriage and family therapy models;

(c) Courses in couples therapy theory and techniques as follows:

(i) A comprehensive survey of extant, major models of couples therapy;

(ii) An intensive study of at least three different models; or

(iii) Three separate courses, each of which addresses a separate couples model;

(d) One course covering gender and ethnicity as they relate to marriage and family theory and practice, or two separate courses with one focusing on gender issues and the other one on ethnicity;

(e) One course covering sexual issues in marriage and family therapy, including sexual normality, sexual dysfunction, and sexual orientation; and

(f) One course in ethical, legal and professional issues in marriage and family therapy.

**§ 185-10-4720 Supervision: Practicum Experience**

Applicant must complete the supervised counseling work experience required of this section; There must be at least 6 semester hours of practicum, including at least 150 face-to-face counseling hours. The practicum may include 75 hours of client-centered advocacy; if not, there must be an additional 75 hours of face-to-face counseling. Some students will complete more than the minimum supervised hours. The

practicum experience shall be completed under the on-site clinical supervision of a person who is a licensed mental health counselor, licensed psychologist, licensed clinical social worker, licensed marriage and family therapist, licensed physician with a specialty in psychiatry or other licensed provider approved by the board.

**§ 185-10-4725 Supervision: Post Graduate**

Applicants must complete the following supervised, clinical or counseling work experience after the award of the master's degree, doctoral degree, or its substantial equivalent as determined by the board, of which shall:

(1) Be a minimum of 2 years or the equivalent of fulltime, postgraduate supervised clinical or counseling work experience in professional/mental health counseling; and

(2) Be completed following the practicum, internship, and all graduate coursework, with the exception of the thesis; and

(3) Be a minimum of 3,000 total hours, including at least 1,000 client contact clock hours of supervised clinical experience at a setting acceptable to the board; and

(4) Have direct clinical contact with couples and families and must have been supervised a minimum of 200 hours including 100 individual and 100 group hours; and

(5) The supervisee must meet with the supervisor for a minimum of 4 hours per month and provide documentation of supervised hours; and

(6) Have only supervised clinical contact credited for this requirement; and

(7) Compute part-time employment on a prorated basis for the supervised work experience; and

(8) Have the background, training, and experience that is appropriate to the functions performed; and

(9) The documented hours of client service, or post-graduate experience, must be under the on-site supervision of a licensed marriage and family therapist, licensed psychologist, licensed psychiatrist or licensed social worker within the U.S or other qualified licensed provider approved by the Health Care Professions Licensing Board of the Commonwealth of the Northern Marianas. Licensed and qualified supervisors providing telepsychology clinical supervision must be board approved and licensed in the CNMI.

**§ 185-10-4730 Written Exam**

The applicant must pass the Marital and Family Therapy National Examination sponsored by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) or the California LMFT Exam sponsored by the California Board of Behavioral Sciences (BBS). To be considered for licensure the applicant must achieve at least the minimum passing score set by the respective exam developer.

**§ 185-10-4735 Licensure by Endorsement**

(1) The Board may grant a license to a person to practice professional or mental health counseling without examination if:

(a) The person holds a valid, active license to practice as a professional or mental health counselor or mental health counselor associate in another jurisdiction; and

(b) The person substantially complies with the requirements for licensure in section 185-10-4715; and

(c) The requirements in the jurisdiction of licensure are at least as stringent as those under these regulations.

(2) The Board may deny a license by endorsement to a person to practice as a professional or mental health counselor or mental health counselor associate, if the person has been the subject of an adverse action in which his/her license was suspended, revoked, placed on probation, conditioned, or renewal denied.

**§ 185-10-4740 Application for a licensure**

(1) An application for a license to practice as a marriage and family therapist shall be made on a form to be provided by the Board accompanied with the following information and documentations as are necessary to establish that the applicant possesses the qualifications as required in these regulations.

(2) Applicant must also provide:

(a) The applicant's full name and all aliases or other names ever used, current address, date and place of birth, and Social Security number; and

(b) Applicant's 2x2 photograph taken within six months from date of application; and

(c) The appropriate fees, including the application fee which shall not be refunded; and

(d) Originals of all documents and credentials, or notarized or certified copies acceptable to the Board of such documents and credentials, including but not limited to:

(i) Diploma or certificate showing successful completion of the appropriate degree in professional counseling or mental health counseling from the required educational school or program;

(ii) Documents showing proof that applicant has satisfactorily completed all the appropriate required training under § 185-10-4715;

(iii) Documents showing proof that applicant has taken and passed the appropriate required examination; or

(iv) Documents showing proof that applicant is licensed to practice as a marriage and family therapist in another jurisdiction and meets the licensing requirements in § 185-10-4715, when applicable; and

(e) A detailed educational history, including places, institutions, dates, and program descriptions of all his or her education beginning with secondary schooling and including all college, pre-professional, professional, and professional postgraduate training;

(f) A list of all jurisdictions, U.S. or foreign, in which the applicant is licensed or has ever applied for a license to practice as a marriage and family therapist

(g) A list of all jurisdictions, U.S. or foreign, in which the applicant has been denied licensure or voluntarily surrendered a license to practice as marriage and family therapist;

(h) A list of all jurisdictions, U.S. or foreign, of all sanctions, judgments, awards, settlements, or convictions against the applicant that would constitute grounds for disciplinary action under the Act or these regulations.

(3) All documents submitted in a foreign language shall be accompanied by a certified and accurate translation in English.

**§ 185-10-4745 Continuing Education (CE)**

(1) For first renewal, Marriage and Family Therapists are required to take HIV/AIDS (7) CE hours and at every renewal, he/she is required to take Law and Ethics (6) CE hours.

(2) Each Marriage and Family Therapist licensed to practice in the CNMI is required to complete forty (40) CE hours or four (4) CEU during the 24 months prior to the expiration of his or her license as a prerequisite to the renewal of his or her biennial license.

(3) One hour of credit will be allowed for each clock or contact hour of CE participation. One CEU equals to 10 clock, credit, or contact CE hours. One academic semester hour equals to 15 CE credit or contact hours. One academic quarter hour equals to 10 CE credit or contact hours.

(4) Approved continuing education activities include, but are not limited to the American Association of Marriage and Family Therapy (AAMFT), American Mental Health Counselors Association, the American Association of State Counseling Boards, American Psychological Association, the Canadian Counseling and Psychotherapy Association, and the National Board for Certified Counselors.

(a) A licensed Marriage and Family Therapist shall take CE/CEU including, but not limited from the following content areas:

(i) Counseling Theory/Practice and the Helping Relationship;

(ii) Human Growth and Development;

(iii) Social and Cultural Foundations;

(iv) Group Dynamics, Processing and Counseling;

(v) Career Development and Counseling;

(vi) Research and Program Evaluation;

(vii) Counselor Professional Identity and Practice Issues;

(viii) Ethics; and

(ix) Multiple Sessions/Conferences.

(4) If a licensee fails to meet the CE requirements for renewal of license because of illness, military service, or other extenuating circumstances, the Board, upon appropriate written explanation, may grant an extension of time to complete same, on an individual basis.

(5) It shall be the responsibility of the licensee to obtain documentation, satisfactory to the Board, from the organization or institution of his or her participation in the continuing education, and the number of credits earned.

(6) Licensure renewal shall be denied to any licensee who fails to provide satisfactory evidence of completion of CE requirements or who falsely certifies attendance at or completion of the CE as required herein.

**§ 185-10-4750 Renewal**

(1) All licenses, except temporary or limited licenses issued by the Board, expire every two years following issuance or renewal and become invalid after that date.

(2) Each licensee shall be responsible for submitting a completed renewal application at least sixty days before the expiration date. The Board shall send, by mail or email, a notice to every person licensed hereunder giving the date of expiration, the fee, and any additional requirement for the renewal thereof.

(3) All licensees must submit satisfactory evidence of completion of CE/CEU requirements, as required under section 185-10-4745.

(4) A late fee of $25.00 will be charged every 1st of the month after the expiration date.

(5) Licenses which have expired for failure to renew on or before the date required may be reinstated within one year of the expiration date upon payment of the renewal and late fees for each calendar month until the renewal fee is paid. Each licensee whose license has expired and lapsed for more

than one year by failure to renew must file a new application, meet current requirements for licensure, and receive Board approval.

(6) A licensee whose license has been revoked, suspended, or placed on probation by the licensing authority of another U.S. or foreign jurisdiction, or who has voluntarily or involuntarily surrendered his or her license in consideration of the dismissal or discontinuance of pending or threatened administrative or criminal charges, following the expiration date of his or her license, may be deemed ineligible for renewal of his or her license to practice as a marriage and family therapist in the CNMI. This will not, however, prevent the Board from considering a new application.

**§ 185-10-4755 Grounds for imposition of disciplinary sanctions.**

(1) After a hearing, the board may impose a disciplinary sanction under § 185-10-1210 on a person licensed under this chapter when the board finds that the person (1) secured a license through deceit, fraud, or intentional misrepresentation; (2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing professional services or engaging in professional activities; (3) advertised professional services in a false or misleading manner; (4) has been

convicted of a felony or of another crime that affects the person's ability to practice competently and safely; (5) failed to comply with a provision of this chapter or a regulation adopted under this chapter, or an order of the board; (6) continued to practice after becoming unfit due to (A) professional incompetence; (B) addiction or severe dependency on alcohol or another drug that impairs the person's ability to practice safely; (7) engaged in unethical conduct in connection with the delivery of professional services to clients; (8) engaged in sexual misconduct with a client during the course of therapy, either within or outside the treatment setting, or within two years after therapy or counseling with the client has terminated; in this paragraph, "sexual misconduct" includes sexual contact, as defined in regulations adopted under this chapter, or attempted sexual contact, regardless of the client's or former client's consent or lack of consent.

**§ 185-10-4760 License required if designation used.**

A person who is not licensed under this chapter or whose license is suspended or revoked, or whose license has lapsed, who knowingly uses in connection with the person's name the words or letters "L.M.F.T.," "L.M.F.C.," "Licensed Marital and Family Therapist," "Licensed Marriage and Family Counselor," or other letters, words, or insignia indicating or implying that the person is licensed as a marital and family therapist by this state or who in any way, orally or in writing, directly or by implication, knowingly holds out as being licensed by the state as a marital and family therapist in this state is guilty of a class B misdemeanor.

**§ 185-10-4765 Limitation of practice.**

Notwithstanding that a specific act is within the definition of the "practice of marital and family therapy," a person licensed under this chapter may not perform the act if the person lacks the appropriate education, training, and experience related to the act.

**§ 185-10-4770 [Reserved]**

**§ 185-10-4775 Code of Ethics**

The Board recognizes the NBCC's Code of Ethics and licensed counselors are responsible for ensuring that their behavior adheres to the standards identified in the Code of Ethics.

**§ 185-10-4780 Privileged Communication.**

Breach of a privileged communication, except as provided for in this Article is considered unprofessional conduct and grounds for revocation or suspension of a license.

**§ 185-10-4785 Disciplinary Action**

The Board shall have the power to impose administrative penalties and/or reprimands; revoke or suspend; refuse to issue, restore or renew, the license of any person who is found guilty of one or more of the violations enumerated in § 2224 of P. L. 15-105 and sections 185-10-901 through 185-10-1301.

Commonwealth of the Northern Mariana Islands
**HEALTH CARE PROFESSIONS LICENSING BOARD**
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Capitol Hill, Saipan, MP 96950
Tel No: (670) 664-4809 Fax: (670) 664-4814
Email: cnmi@cnmibpl-hcplb.net
Website: cnmibpl-hcplb.net

**NOTICE OF PROPOSED AMENDMENTS TO THE HEALTH CARE PROFESSIONS LICENSING BOARD FOR PHARMACIST, PHARMACY INTERN, CERTIFIED PHARMACY TECHNICIAN, PHARMACY TECHNICIAN**

**INTENDED ACTION TO ADOPT THIS PROPOSED REGULATION:** The Health Care Professions Licensing Board (HCPLB) intends to adopt as permanent regulation the attached Proposed Amendment, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The regulation would become effective 10 days after compliance with 1 CMC §§ 9102 and 9104(a) or (b) (1 CMC § 9105(b)).

**AUTHORITY:** The Health Care Professions Licensing Board has statutory power to promulgate and effect regulations pursuant to 3 CMC § 2206(b), as amended.

**THE TERMS AND SUBSTANCE:** Regulation History: Public Law No. 15-105 was signed into law by Governor Benigno R. Fitial and became effective on November 7, 2007 and became the "Health Care Professions Act of 2007," 3 CMC §§2201-36. The Act created a Health Care Professions Licensing Board, as an independent regulatory agency, without placing it in a Department. The Board is authorized to license health care professionals in the Commonwealth, establish standards for educational programs, administer exams, and to discipline licensees for violations of the Act. Public Law No. 15-105 3 CMC § 2206(b), empowers the Board to adopt rules and regulations consistent with the Act and necessary to carry out the Act's provisions, including define and describe the regulated professions and their practice. The Pharmacist, Pharmacy Intern, Certified Pharmacy Technician, Pharmacy Technician is to be included in the health care professions, under the power, jurisdiction and authority of the HCPLB. § of Public Law No. 15-105.

**THE SUBJECTS AND ISSUES INVOLVED:** Amend regulation §185-10-3500

**DIRECTIONS FOR FILING AND PUBLICATION:** The Board is soliciting comments regarding this proposed amendment which must be received by the Board within thirty (30) days of first publication of this notice in the Commonwealth Register. Interested persons may request copies of the proposed amendment by contacting us at 664-4809 or by email at cnmi@cnmibpl-hcplb.net or come by our office located at Bldg. 1242, Pohnpei Ct., Capitol Hill, Saipan. Written comments on these amendments should be dropped off at our office or sent to the BPL, P.O. Box 502078, Saipan, MP, 96950.

Submitted By: _____
Esther S. Fleming
Executive Director

04/27/21
Date

Received By: _____ 05/25/21
Matilda A. Rosario Date
Special Assistant for Administration

Filed and Recorded By: _____ 05.28.2021
Esther SN Nesbitt Date
Commonwealth Registrar

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

_____ 5/27/2021
EDWARD MANIBUSAN Date
Attorney General

Commonwealth gi Sangkattan na Islas Marianas Siha
**HEALTH CARE PROFESSIONS LICENSING BOARD**
P.O. Box 502078, Bldg., 1242 Pohnpei Court
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Website: cnmibpl-hcplb.net

# NUTISIA PUT I MANMAPROPONI NA AMENDA PARA PHARMACIST, PHARMACY INTERN, CERTIFIED PHARMACY TECHNICIAN, PHARMACY TECHNICIAN GI HEALTH CARE PROFESSIONS LICENSING BOARD

**I AKSION NI MA'INTENSIONA NI PARA U MA'ADÅPTA ESTI I MANMAPROPONI NA REGULASION SIHA:** I Health Care Professions Licensing Board (HCPLB) ha intensiona para u adåpta komu petmanienti na regulasion siha ni mañechettun i Manmaproponi na Amenda, sigun para i manera siha gi Åktun Administrative Procedure, 1 CMC § 9104 (a). I regulasion siha para u ifektibu gi dies (10) dihas dispues di compliance yan i 1 CMC §§ 9102 yan 9104 (a) pat (b) (1 CMC § 9105 (b)).

**ÅTURIDÅT:** I Health Care Professions Licensing Board gai fuetsåo ni para u macho'gui yan inafektibu i regulasion siha sigun para 3 CMC § 2206(b), kumu ma'amenda.

**I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA:** Historia i Regulasion: Lai Pupbliku No. 15-105 mafitma hålum gi lai ni as Magalåhi Benigno R. Fitial yan umifektibu gi Nubembri 7, 2007 ya mafa'na'an "Åkto Health Care Professional nu 2007," 3 CMC §§2201-36. I Åkto fuma'tinas i Health Care Professional Licensing Board, komu indipendienti i regulatori na ahensia, sin mapega gi halum i Dipåttamentu. I Kuetpu ma'aturisa para u lisensia i "health care professional" gi halum i Commonwealth, istapblesi "standards" para prugråman edukasion siha, dirihi "exams", yan para u disiplina i "licensees" ni kumuntradikta i Åkto. I Lai Pupbliku No. 15-105 3 CMC § 2206(b), fumuetsåo i Kuetpu para u adåpta i areklamentu yan i regulasion siha ni pumarehu yan i Åkto yan nisisåriu para u kåtga huyung i prubension i Åkto siha, kuntodu difina yan diskribi i magubietna na "professions" yan i prinaktikan-ñiha. I "Pharmacist, Pharmacy Intern, Certified Pharmacy Technician, Pharmacy Technician" para u ma'ingklusu hålum gi health care professions, påpa' i fuetsa, aturidåt yan aturidåt nu i HCPLB. § nu Lai Pupbliku No. 15-105.

**I SUHETU NI MASUMÅRIA YAN ASUNTU NI TINEKKA:** Amenda regulasion §185-10-3500

**DIREKSION PARA U MAPO'LU YAN PUPBLIKASION:** I Kuetpu manmamamaisin upiñon put esti i manmaproponi na amenda siha ni debi u marisibi ni Kuetpu gi halum i trenta (30) dihas nu i fine'na na pupblikasion esti na nutisia gi halum i Rehistran Commonwealth. I intires na petsona siha siña manrikuesta kopia nu i manmaproponi na amenda yanggin en ågang hami gi 664-4809 pat email gi cnmi@cnmibpl-hcplb.net pat fåttu gi ufisinan-måmi ni gaigi gi Bldg. 1242, Pohnpei Ct., Capitol Hill, Saipan. I tinigin upiñon put esti na amenda siha debi na u machuli' guatu gi ufisinan-måmi pat na'hanåo para i BPL, P.O. Box 502078, Saipan, MP 96950.

Nina'hålum as: _____ 05/25/21
Esther S. Fleming
Eksakatibu Direktot
Fetcha

Rinisibi as: _____ 05/25/21
Matilda A. Rosario
Ispisiåt Na Ayudånti Para I Atministrasion
Fetcha

Pine'lu Yan Ninota as: _____ 05 · 28 · 2021
Esther SN. Nesbitt
Rehistran Commonwealth
Fetcha

Sigun i 1 CMC § 2153 (e), (Inaprueban Abugådu Heneråt i regulasion siha ni para u macho'gui kumu fotma) yan i 1 CMC § 9104 (a) (3) (inahentan inaprueban Abugådu Heneråt) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisient I ligåt ginin i CNMI Abugådu Heneråt yan debi na u mapupblika, 1 CMC § 2153 (f) (pupblikasion areklamentu yan regulasion siha).

_____ 5/28/2021
Edward E. Manibusan
Abugådu Heneråt
Fetcha

Commonwealth Téél Falúw kka Efáng Ilól Marianas
**HEALTH CARE PROFESSIONS LICENSING BOARD**
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**ARONGORONGOL POMMWOL LIIWEL REEL HEALTHCARE PROFESSIONS LICENSING BOARD NGÁLI PHARMACISTS, PHARMACY INTERN, CERTIFIED PHARMACY TECHNICIAN, PHARMACY TECHNICIAN**

**MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL MWÓGHUTUGHUT:** Health Care Professions Licensing Board (HCPLB) re mángemángil rebwe adóptáali bwe ebwe llégh1ó mwóhutughut iye e appasch bwe Pommwol Liiwel, sángi mwóghutughutúl Administrative Procedure Act, 1 CMC § 1 CMC 9104(a). Ebwe bwunguló mwóghutughut kkal llól seigh (10) ráál mwiril aal angúúmgú fengál me 1 CMC §§ 9102(a) me 9104(a) ngáre (b) (1 CMC § 9105(b)).

**BWÁNGIL:** Eyoor bwángil Health Care Professions Licensing Board rebwe aronga me ayoorai mwóghutughut sángi 3 CMC § 2206(b), igha re liiweli.

**KKAPASAL ME ÓUTOL:** Uruwowul Mwóghutughut: Alléghúl Toulap No. 15-105 e ghikkil long llól allégh sángi Samwool Benigno R. Fitial me e bwunguló wóól Aremwoy 7, 2007 me e toowow bwe "Health Care Profession Act of 2007", 3 CMC §§2201-36. Act yeel e ayoor eew Health Care Professions Licensing Board, iye e lo bwe "independent regulatory agency", nge rese isáli llól eew Bwulasiyo. Eyoor bwángil Board reel rebwe "license health care professionals" llól Commonwealth, itittiw "standards" ngáli "educational programs", "administer exams", me "discipline licensees for violation of the Act". Alléghúl Toulap No. 15-105 3 CMC § 2206(b), e ayoorai bwángil Board reel rebwe adóptáali allégh me mwóghutughut iye e weewe fengál me Act me e ffil ebwe isiisiwow "Act provisions", e schuulong faal me weewel "regulated professions and their practice". "Pharmacist", "Pharmacy Intern". "Certified Pharmacy Technician", "Pharmacy Technician" ebwe bwal schuulong llól health care professions, faal bwángil, bwángil lemelemil HCPLB. § reel Alléghúl Toulap No. 15-105.

**KKAPASAL ME ÓUTOL:** Liiweli mwóghut §184-10-3500

**AFAL REEL AMMWELIL ME AKKAÉÉWOWUL:** Board re tingór kkapas iye e ssúl ngáli pommwol liiwel iye rebwe bwughi sángi Board llól eliigh (30) ráál mwiril aal ghommwal akkatééwowul arongorong yeel me llól Commonwealth Register. Schóó kka re mwuschel pappidil pommwol liiwel faingiló 664-4809 ngáre email-li cnmi@cnmibpl-hcplb.net ngáre mweteti bwulasiyo me Bldg. 1242, Pohnpei Ct., Capitol Hill, Seipél. Ischil kkapas wóól liiwel kkal ebwe bweibwoghló bwulasiyo ngáre afangaló BPL, P.O. Box 502078, Saipan, MP, 96950.

Isáliyalong: _____
Esther S. Fleming
Executive Director

05/25/21
Ráál

Bwughiyal: _____ 05/25/21
Matilda A. Rosario Ráál
Special Assistant ngáli Administration

Ammwelil: _____ 05.28.2021
Esther SN Nesbitt Ráál
Commonwealth Registrar

Sángi 1 CMC § 2153(e) (átirowal AG reel mwóghutughut bwe aa lléghló reel ffééról) me 1 CMC § 9104(a) (3) (sángi átirowal AG) reel pommwol mwóghutughut bwe ra takkal amwuri fischiiy me aa lléghló me aa átirow igha aa ffééról me legal sufficiency sángi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (akkatééwowul allégh me mwóghutughut).

_____ 5/26/2021
EDWARD MANIBUSAN Ráál
Soulemelemil Allégh Lapalap

**Part 3500 - Pharmacist, Pharmacy Intern, Certified Pharmacy Technician, Pharmacy Technician.**

**§ 185-10-3501 Definitions**

(eee) **"Wholesale Distribution"** means the Distribution of Prescription Drugs or Devices by Wholesale Distributors to Persons other than consumers or patients, and includes the transfer of Prescription Drugs by a Pharmacy to another Pharmacy ~~if the value of the goods transferred exceeds five percent (5%) of total Prescription Drug sales revenue of either the transferor or transferee Pharmacy during any consecutive 12-month period~~. Wholesale Distribution does not include:

(a) the sale, purchase, or trade of a Prescription Drug or Device, an offer to sell, purchase, or trade a Prescription Drug or Device, or the Dispensing of a Prescription Drug or Device pursuant to a Prescription;

(b) the sale, purchase, or trade of a Prescription Drug or Device, or an offer to sell, purchase, or trade a Prescription Drug or Device for Emergency Medical Reasons;

(c) Intracompany Transactions, unless in violation of own use provisions;

(d) the sale, purchase, or trade of a Prescription Drug or Device, or an offer to sell, purchase, or trade a Prescription Drug or Device, among hospitals, Chain Pharmacy Warehouses, Pharmacies, or other health care entities that are under common control;

(e) the sale, purchase, or trade of a Prescription Drug or Device, or the offer to sell, purchase, or trade a Prescription Drug or Device, by a charitable organization described in 503(c)(3) of the Internal Revenue Code of 1954 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(f) the purchase or other acquisition by a hospital, or other similar health care entity that is a member of a group purchasing organization, of a Prescription Drug or Device for its own use from the group purchasing organization, or from other hospitals or similar health care entities that are members of these organizations;

(g) the transfer of Prescription Drugs or Devices between Pharmacies pursuant to a Centralized Prescription Processing agreement;

(h) the sale, purchase, or trade of blood and blood components intended for transfusion;

(i) the return of recalled, expired, damaged, or otherwise non-salable Prescription Drugs, when conducted by a hospital, health care entity, Pharmacy, or charitable institution in accordance with the Board's regulations; or

(j) the sale, transfer, merger, or consolidation of all or part of the business of a retail Pharmacy or Pharmacies, from or with another retail Pharmacy or Pharmacies, whether accomplished as a purchase and sale of stock or business assets, in accordance with the Board's regulations.

**§ 185-10-3584 Pharmacy Practice – Licensing.**

(a) The following Persons located within the Commonwealth, and the following Persons located outside the Commonwealth that provide services ~~to patients~~ within the Commonwealth, shall be licensed by the Board and shall Bi-annually renew their license with the Board:

(1) persons engaged in the Practice of Pharmacy;

(2) persons engaged in the Manufacture, production, sale, or Distribution or Wholesale Distribution of Drugs or Devices;

(3) pharmacies where Drugs or Devices are Dispensed, or Pharmacist Care is provided; and

(4) pharmacies that provide medications through the mail or other courier.

(1) Where operations are conducted at more than one location, each such location shall be licensed by the Board.

(2) Each Pharmacy shall have a Pharmacist-in-Charge. Whenever an applicable rule requires or prohibits action by a Pharmacy, responsibility shall be that of the owner and/or pharmacy permit holder and the Pharmacist-in-Charge of the Pharmacy, whether the owner and/or pharmacy permit holder is a sole proprietor, partnership, association, corporation, or otherwise.

(3) Each licensed Person, Pharmacy, or Wholesale Distributor located outside of the Commonwealth who ships, mails, Distributes, Wholesale Distributes, or Delivers Drugs or Devices in the Commonwealth, or a Pharmacy located outside of the Commonwealth who ships, mails, Distributes, or Delivers Drugs or Devices in the Commonwealth, shall designate a registered agent in the Commonwealth for service of process. Any such licensed Person or Pharmacy or Wholesale Distributor who does not so designate a registered agent shall be deemed to have violated these rules and will be issued a cease-and-desist order until a registered agent has been designated.

(4) The Board may enter into agreements with other states or with third parties for the purpose of exchanging information concerning the licensure and inspection of entities located in this jurisdiction and those located outside the Commonwealth.

(5) The Board may deny or refuse to renew a license if it determines that the granting or renewing of such license would not be in the public interest.

(6) The Board shall establish the standards that a Person must meet for initial and continued licensure under Article V and shall require initial inspections and periodic inspections thereafter for purposes of licensure or licensure renewal.

(7) The Board may enter into an agreement with a third party to undertake inspections of facilities of a Person seeking initial or continued licensure where such third party maintains a program which has standards acceptable to the Board that must be met for any such Person to be accredited or certified by such third party. The Board may rely on such accreditation or certification in determining eligibility for initial licensure or licensure renewal.

# NORTHERN MARIANAS HOUSING CORPORATION

P.O. BOX 500514, Saipan, MP 96950-0514
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Website: http://www.nmhcgov.net

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234-6866
234-7670
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## PUBLIC NOTICE
## OF PROPOSED POLICIES AND PROCEDURES – WORKFORCE DEVELOPMENT TRAINING SCHOLARSHIP PROGRAM- UNDER THE CDBG-DR ECONOMIC REVITALIZATION PROGRAM OF THE NORTHERN MARIANAS HOUSING CORPORATION

**Notice of Intended Action:** The Board of Directors of the Northern Marianas Housing Corporation proposes the following policies and procedures – Workforce Development Training Scholarship Program – under the CDBG-DR Economic Revitalization Program pursuant to the Administrative Procedure Act, 1 CMC § 9104(a). If adopted, these regulations will become effective ten (10) calendar days after publication of a Notice of Adoption in the Commonwealth Register after compliance with 1 CMC §§ 9102, 9104(a), and 9105(b).

**Authority:** This proposal for policies and procedures is promulgated under the authority of the Board of Directors, through its Chairperson, to promulgate rules and regulations pursuant to 2 CMC § 4433(i), which lists the responsibilities of the Board of the NMHC.

**Terms and Substance:** These proposed regulations seek to assist and guide CDBG-DR program staff and Implementing Partner(s) in administering and managing disaster recovery grants through the Workforce Development Training Scholarship Program and requirements of this workforce scholarship program are also described in the regulations.

**Citation of Related and/or Affected Statutes, Rules and Regulations.** The proposed regulations are in line with CDBG-DR eligible activities such as an eligible activity under HCDA Section 105(a)(8), provision of public services. The allocation for the Workforce Development Training Scholarship Program is within the total allocation for Super Typhoon Yutu funding and complies with requirements that not more than 15 percent of the amount of assistance may be used for activities provided under the public services' eligible activity.

**Directions for Filing and Publication:** These proposed regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular (1 CMC § 9104(a)(1)).

**Comments:** Interested parties may submit written comments on the proposed amendments to Jesse S. Palacios, Corporate Director, NMHC, to the following address, fax or email address, with the subject line "Proposed Workforce Development Training Scholarship Program Policies and Procedures."

NORTHERN MARIANAS HOUSING CORPORATION
PO Box 500514
Saipan, MP 96950
Fax: 234-9021
Email address: jspalacios@nmhcgov.net

Comments, data, views, or arguments are due within thirty (30) calendar days from the date of publication of this notice. 1 CMC § 9104(a)(2). If you have any questions, you may reach NMHC at telephone nos. 234-6866/234-9447, 234-7689.

Submitted by:

Date: 05/25/21

Merced "Marcie M. Tomokane
Chairperson

Received by:

Date: 05/28/21

Matilda A. Rosario
Special Assistant for Administration

Filed and Recorded by:

Date: 05.28.2021

Ms. Esther SN. Nesbitt
Commonwealth Register

I certify, pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3), that I have reviewed and approved these regulations as to form and legal sufficiency.

Date: 5/28/2021

Mr. Edward Manibusan
Attorney General

# NORTHERN MARIANAS HOUSING CORPORATION

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# NORTHERN MARIANAS HOUSING CORPORATION

P.0. BOX 500514, Saipan, MP 96950-0514


**NUTISIAN PUPBLIKU**

## PUT I MANMAPROPONI NA POLICIES YAN PROCEDURES – WORKFORCE DEVELOPMENT TRAINING SCHOLARSHIP PROGRAM POLICIES AND PROCEDURES - UNDER THE CDBG-DR ECONOMIC REVITALIZATION PROGRAM GI NORTHERN MARIANAS HOUSING CORPORATION

**NOTISIAN INTENSIONA NA AKSION:** I Kuetpun Direktot siha gi Northern Marianas Housing Corporation maproponi i tinattiyi na policies yan procedures – Workforce Development Training Scholarship Program sigun para i Åktun Administrative Procedure, 1 CMC § 9104(a). Kumu ma'adåpta, esti na regulasion siha para u ifektibu gi hålum dies (10) dihas ni mafetcha dispues di pupblikasion i Nutisian i Adåptasion gi hålum i Rehistran Commonwealth dispues di compliance yan i CMC §§ 9102 yan 9104 (a), yan 9105(b).

**ÅTURIDÅT:** Esti na mapropoponi na policies yan procedures manmacho'gui gi påpa' i aturidåt i Kuepun Direktot siha, ginin iyon-ñiha Chairperson, para u macho'gui i areklamentu yan regulasion siha sigun para i 2 CMC § 4433 (i), ni malista i risponsibilidåt i Kuepu siha gi NMHC.

**I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA:** Esti i maproponi na regulasion siha ma'aligao para hu extendi yan na'i mas infomasion esti na programa gi papa i Workforce Development Training Scholarship Program. I rason esti na regulasion para uma infotma i publiku na guaha programan scholarship para apas construction training ya i fundon ña ginen i U.S. Department of Housing and Urban Development's Community Development Block Grant Disaster Recovery. Kuantu na salapi yan hafa manasisita para i programa ma eksplikasi gi halom i regulasion.

**SITASION I ASOSIÅT YAN/PAT I MANINA'FEKTA NA STATUTES, AREKLAMENTU YAN REGULASION SIHA:** I maproponi na regulasion siha ha tatitiye i CDBG-DR kualifikao na aktibidat pot sino i programan scholarship para apas construction training yan i fundun ña ha representa kinsi pot sentus ni interimenti salape CDBG-DR ni na posibli ni Super Typhoon Yutu. HCDA Section 105(a)(8).

**DIREKSION SIHA PARA U MAPO'LU YAN PUPBLIKASION:** Esti i maproponi na regulasion debi na u mapupblika gi hålum i Rehistran Commonwealth gi hålum seksion i maproponi yan nuebu na ma'adåpta na regulasion siha (1 CMC § 9102(a)(1) yan u mapega gi hålum i mangkumbinienti na lugåt gi hålum i Civic Center yan i hålum ufisinan gubietnamentu siha gi kada distritun senadot, parehu English yan i dos na lingguåhi Chamorro yan Refaluwasch. (1 CMC § 9104(a)(1)).

**PARA U MAPRIBENIYI UPIÑON SIHA:** I intirisao na petsona siha siña muna'hålum tinigi' upiñon siha put i manmaproponi na amendasion siha guatu gi as Jesse S. Palacios, Corporate Director, NMHC gi sigienti na address, fax, pat email address, yan i råyan suhetu "Proposed Rental Rehabilitation, Reconstruction and New Construction Program Policies and Procedures."

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Saipan, MP 96950
Fax 234-9021
Email address: jspalacios@nmhcgov.net

I upiñon, infotmasion yan kuntestasion siha debi na u fanhålum gi hålum trenta (30) dihas ginin i fetchan pupblikasion esti na nutisia. Kumu guaha maseha håfa na kuestion-mu, siña un hågan i NMHC gi numerun tilifon gi 234-6866/234-9447, 234-7689.

Nina'halum as: _____ Fetcha: 05/25/21
Merced "Marcie" M. Tomokane
Chairperson

Rinisibi as: _____ Fetcha: 05/28/21
Matila A. Rosario
Ispisiåt Na Ayudånti Para I Atministrasion

Pine'lu yan Ninota as: _____ Fetcha: 05.28.2021
Esther SN. Nesbitt
Rehistran Commonwealth

Hu sitifikåo, sigun para i 1 CMC § 2153(e) yan 1 CMC § 9104(a)(3), na hu ribisa yan aprueba esti siha na regulasion kumu para u fotma yan ligåt na sufisienti.

_____ Fetcha: 5/28/2021
EDWARD MANIBUSAN
Abugådu Heneråt

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**ARONORONGOL TOULAP**

**REEL IKKEEY POMWOL ALLÈGHÙL ME AFAL REEL IYEEL WORKFORCE DEVELOPMENT TRAINING SCHOLARSCHIP PROGRAM IYE E LO FAAL CDBG-DR ECONOMIC REVITALIZATION REEL BWULASIYOL NORTHERN MARIANAS HOUSING CORPORATION**

**Arongorong reel Màngemàngil Mwòghùt:** Board of Directors mellòl Northern Marianas Housing Corporation re pomwoli liiwel reel allèghùl me afal kkaal reel Workforce Development Training Scholarship Program faal CDBG-DR Economic Revitalization Program sàngi bwangil Administrative Procedure Act, 1 CMC § 9104(a). Ngare a adopt-lò iwe ebwele bwungulò mwòghùt kkaal loll seigh(10) ràl takkalòòl arongorongol Notice of Adoption mellòl Commonwealth Register mwiril bwungulòòl 1 CMC § § 9102, 9104(a) bwal 9105(b).

**Bwangil:** Pomwol liiwel yeel reel Allègh me Afal kkaal a akkatèèlò faal bwàngil Board of Directors, me layùr Chairperson, ebwe akkatèèlò allègh me mwòghut sàngi 2 CMC § 4433(i), iye e ischitiw bwe lemeliyal Board-dil NMHC.

**Kkapasal me Weeweel:** Pomwol liiwel reel allègh me afal kkaal nge ebwe tepengi me scheeli CDBG-DR program me layùr schòòl angaang bwal reel Implementing Partner(s) igha rebwe administer-li me manage-li mwòghutùl disaster recovery grants mereel mille Workforce Development Training Scholarship Program bwal yaal requirements ikka ebwal ffatawow mellòl aweeweel allèghùl me afal.

**Citation reel ikka eghil ngali Statutes reel Allegh me Afal:** Reel ikkeey pomwol afalafal iye emal lo llòl CDBG-DR eligible activities sibwe ira eligible activity ye e lo faal HCDA Section 105(a)(8), allèghùl alillisil toulap. Reel allocation-nul Workforce Development Training Scholarship Program nge ebwe llòl tool allocation-nul Super Typhoon Yutu funding reel ebwe attabweey yaal requirements iye ese parelò 15 percent reel tool alillis iye màli ebwe bwal yààli llòl activities iye emal lo faal public services reel mille eligible activity.

**Afal reel Ammalil me Akkateewowul:** Pomwol afal kkaal nge ebwe akkatèèlong Commonwealth Register bwal afal ikka elààl adopted-lò (CMC § 9102(a)(1) me ebwe appasch schèèy mellòl sòòbw kkeey bwal bwulasiyol government llòl ghal ikkeey senatorial district llòl mwaleyeer re Englis bwal llòl mwaleyasch (1 CMC § 9104(a)(1).

**Mangemang:** Iyo kka re tipeli rebwe ischilong yaar màngemàng reel pomwol liiwel kkaal nge òubwe isch ngàli Jesse S. Palacios, Corporate Director, NMHC, reel ikkaal address, fax me ngare email address reel subject line "Pomwol Allègh me Afal Reel Workforce Development Scholarship Program"

NORTHERN MARIANAS HOUSING CORPORATION
P.O. BOX 500514
Seipel MP 96950
Fax : 2349021
Email address: jspalacios@nmhcgov.net

Màngemàng, data, views, nagre angiingi ebwe toolong loll eliigh(30) ràl sàngi mmwal akkatèèwowul arong yeel. 1 CMC § 9104(a)(2). Ngare eyoor yòòmw aiyegh emmwel ubwe faffailò NMHC reel telephon kkaal 234-6866 / 234-9447 / 234-7689.

Isaliyalong:

Merced (aka-Marcie) M. Tomokane — Ral: 05/25/21

Bwughiyal:

Matilda A. Rosario
Special Assistant for Administration — Ral: 05/28/21

Ammwelil:

Ms. Esther SN. Nesbitt
Commonwealth Register — Ral: 05.28.2021

I alúghúlúgh, sángi 1 CMC § 2153(e) me 1 CMC § 9104(a)(3), bwe ya takkal amweri fischiiy me allèghùùlò afal kkaal reel igha ebwe scheelò me legal sufficiency.

Mr. Edward Manibusan
Sòulemelemil Allégh Lapalap — Ráál: 5/28/2021

# NORTHERN MARIANAS HOUSING CORPORATION

## WORKFORCE DEVELOPMENT TRAINING SCHOLARSHIP PROGRAM
## POLICIES AND PROCEDURES

**VERSION: 1.0**

**[ENTER DATE OF APPROVAL HERE]**

Prepared by:

Northern Marianas Housing Corporation – CDBG-DR Program Division

The policies stated in this manual are current as of [ENTER DATE OF APPROVAL HERE]. This Manual represents the current version of the Northern Marianas Housing Corporation's (NMHC) policies which provide general guidance for the administration of its CDBG-DR Workforce Development Program. All manuals will be reviewed periodically and updated. Therefore, users are strongly encouraged to visit our website: www.cnmi-cdbgdr.com to access the latest version.

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# 1.0 CONTENT

## 1.1. Version History

### Version Policy

Version history is tracked in Table 1, with notes regarding version changes. The dates of each publication are also tracked in this table. The first version of this document is 1.0.

Substantive changes within this document that reflect a policy change will result in the issuance of a new version 2.0, an increase in the primary version number. Future policy changes will result in additional revision and the issuance of a new primary version number.

Non-substantive changes such as minor wording and editing, or clarification of existing policy, that do not affect the interpretation or applicability of the policy will be included in minor version updates denoted by a sequential number increase behind the primary version number. Such changes would result in a version number such as 2.1, 2.2, etc.

## 1.2 Agencies and Acronyms

| | |
|---|---|
| **BCA** | Benefit Cost Analysis |
| **DOB** | Duplication of Benefits |
| **HCDA** | Housing and Community Development Act |
| **HUD** | U.S. Department of Housing and Urban Development |
| **NMHC** | Northern Marianas Housing Corporation |
| **NTP** | Notice to Proceed |
| **QPR** | Quarterly Status Report |
| WDTSP | Workforce Development Training Scholarship Program |

## 1.3 Definitions

**Action Plan:** A plan to guide the spending of a HUD CDBG-DR grant award to address housing economic, and infrastructure needs after a disaster.

**Allocation:** 1) Amount of a grant award that has been determined for a particular grantee. 2) Amount of funding attributed to a program.

**Community Development Block Grant-Disaster Recovery:** Flexible grant assistance from HUD to help the CNMI recover from presidentially declared disasters, especially in low-income areas, subject to availability of supplemental appropriations.

**Duplication of Benefits (DOB):** A duplication of benefit is the receipt of funding from multiple sources for the same purpose. The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern or other entity from receiving financial assistance from CDBG Disaster Recovery funding with respect to any part of the loss resulting from a major disaster as to which he/she has already received financial assistance under any other program or from insurance or any other sources. It is an amount determined by the program that may result in the reduction of an award value.

**Eligible Activity:** Activities eligible to be assisted under the CDBG program. All CDBG-DR grantees must: (1) use CDBG funds only for activities that fall under an authorized category of basic eligibility; (2) properly classify the activity; and (3) provide adequate documentation as required by the category it selects for each such activity.

**Grantee:** HUD grantees receive funding from HUD to support HUD's mission to create strong, sustainable, inclusive communities and quality affordable homes for all. HUD grantees include state and local governments, non-profit and for-profit organizations, public housing authorities, and tribal entities.

**Implementing Partner:** Awardee(s) of CDBG-DR funds for their use in carrying out agreed-upon, eligible activities authorized through an intergovernmental agreement entered into with the grantee (NMHC).

**Low- and Moderate-Income (LMI):** A household considered to be of low- and moderate-income if the household income (including income derived from assets) is at or below 80 percent of an area's median income. All income is based on the HOME Area Median Income limits set annually by HUD.

**National Objective:** The authorizing statute of the CDBG program requires that each activity funded, except for program administration and planning activities, must meet one of three national objectives. The three national objectives are: 1) Benefit to low- and moderate (LMI) persons; 2) Aid in the prevention or elimination of slums and blight; and 3) Meet a need having a particular urgency (referred to as urgent need). An activity that does not meet a national objective is subject to recapture.

**Section 3:** A provision of the Housing and Urban Development (HUD) Act of 1968 that requires the recipients of HUD financial assistance, to the greatest extent feasible, provide training, employment, and contracting opportunities for low- or very-low-income residents in connection with projects and activities in their neighborhoods.

**Section 504:** A provision of the Rehabilitation Act of 1973 which provides that no qualified individual with a disability should, only by reason of his or her disability, be excluded from the participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving financial assistance as prescribed under:

- Title VI of the Civil Rights Act of 1964, as amended in 1988
- Fair Housing Act (42 U.S.C. 3601-3619)
- Architectural Barriers Act of 1968
- Title IX of the Education Amendments Ant of 1972
- Section 508 of the Rehabilitation Act of 1973
- Section 109 of the Title I of the Housing and Community Development Act of 1974
- Section 104(b)(2) of the Housing Community Development Act of 1974.
- Title II of the Americans with Disabilities Act of 1990.
- All non-discrimination clauses in 24 CFR Parts 1, 3, 8, and 570

# 2.0 INTRODUCTION

## 2.1 Purpose

This Policies and Procedures Manual for the Workforce Development Training Scholarship Program (WDTSP) is provided to assist program staff and Implementing Partner(s) in administering and managing disaster recovery grants through the WDTSP. It provides guidance regarding the general requirements that apply to grantee and Implementing Partner(s). It is the responsibility of NMHC's CDBG-DR program staff to ensure that Implementing Partner(s) of CDBG-DR funding comply with all provisions of this manual, state and federal rules and regulations, and the grant award intergovernmental agreement. Grantee and Implementing Partner(s) must also carry out proper and efficient grant administrative practices. The Policies and Procedures Manual is intended to provide clear areas of responsibility to ensure consistent application of the procedures outlined in the manual. It is anticipated that circumstances will arise that will require deviations from the processes outlined in this manual. In those instances, the reason for the deviations needs to be clearly documented and included in the Implementing Partner's file. In some cases, these circumstances will require amending the Policies and Procedures.

NMHC will be charged with allocating funds directly to public educational institution(s) to administer a special scholarship program through their financial aid office(s) and aimed at providing eligible low- and moderate income students who

enroll and complete course requirements receive certifications in various trades in construction, e.g., carpentry, masonry, welding, etc., upon completion of classroom instructional courses and on-the-job work experience in the construction industry.

## 2.2 Background

The Commonwealth of the Northern Mariana Islands (CNMI), an archipelago of 14 islands, sustained severe damages from two typhoons in September and October 2018, respectively, thereby impacting the three main inhabited islands of Saipan, Tinian, and Rota. Consequently, the U.S. Department of Housing and Urban Development (HUD) has allocated $243,946,000 in Community Development Block Grant Disaster Recovery (CDBG-DR) Funds.

Furthermore, post-disaster, the U.S. and CNMI Department of Labor provided over $1M to approved applicants under Disaster Unemployment Assistance. The overall recovery plan includes investment in skilled workforce development and institutions of higher education. It is the desire of the CNMI to the greatest extent feasible to comply with the Section 3 requirements that are generated by certain HUD financial assistance regarding training, employment and other economic opportunities. Key provisions and special outreach effort will be made to low- and moderate-income person and minorities by:

Appointing a local Section 3 Coordinator or hire a compliance specialist with this responsibility

Posting Section 3 requirement and opportunities on the DR web page

Continue to include Section 3 language where applicable in all CDBG-DR related bids, procurements, and contracts

Encourage adoption of local Section 3 plans to recipients receiving CDBG-DR funds

Provide Section 3 Training and Literature

Ensure sufficient access to job opportunities within the recovering economy and prioritize access to residents that are unemployed or underemployed as a result of the disaster.

The Workforce Development Training Scholarship Program will offer scholarships to LMI residents in the most disaster impacted sectors in the CNMI: Saipan and Tinian. The primary focus of the workforce development program will be LMI residents to fill jobs in recovery-related sectors such as construction. With construction, producing skilled workers by way of investing CDBG-DR funds into

public educational institutions that offer classes and training in the field of construction and will yield the following outcomes:

1. Address the shortage of construction workers,

2. Benefit LMI households by providing training and employment opportunities; and

3. Address HUD's Section 3 requirement.

Funding for these activities will strengthen collaboration between the workforce, educational institutions, and employers with a shared goal of providing solutions to promote growth and stability to the CNMI economy. Through the workforce development program, the CNMI will be able to assist an estimated 300 participants based on current tuition rates. The current workforce needs related to the CNMI's recovery initiatives present both a challenge and an opportunity to benefit residents across the CNMI. These efforts are aimed at ensuring that low- and moderate-income residents have access to the training needed to take advantage of these opportunities and additional support to ensure long-term success.

# 3.0 CDBG-DR REQUIREMENTS

Each project that receives funding under the Workforce Development Training Scholarship Program (WDTSP) must meet CDBG-DR requirements, including tie to the disaster, national objective, and eligible activities.

## 3.1 Tie to the Disaster

All activities funded through CDBG-DR must in some way respond to a direct or indirect impact of the applicable disaster. The WDTSP addresses impacts of Super Typhoon Yutu across the areas of Saipan and Tinian. Super Typhoon Yutu had a significant impact on the housing supply, creating an increased demand for new construction and home repair activities, with additional impacts on commercial construction and repair activities. The increased demand for construction activities following Super Typhoon Yutu has created or increased the supply gap in many construction occupations.

The WDTSP will address CNMI's skilled construction worker shortage needed to recover by expanding workforce training. The WDTSP provides assistance to Implementing Partner(s) for eligible students' tuition costs not covered by other federal grant sources. . Additionally, the WDTSP will support LMI persons looking for new employment in the post-disaster economy to encourage economic recovery of individuals and communities. For the WDTSP, a tie to the disaster is demonstrated through the Implementing Partner(s) ability to administer a scholarship program through its financial aid office for interested and eligible LMI persons to apply and for purposes of covering attendance and tuition costs not

covered by other financial aid (excluding loans) for classes and training in the construction trade. .

## 3.2 HCDA Eligible Activity

CDBG-DR activities must meet an eligible activity under Section 105(a) of the Housing and Community Development Act of 1974 (HCDA). The WDTSP is provided as an eligible activity under HCDA Section 105(a)(8), provision of public services. The allocation for the WDTSP within the total allocation for Super Typhoon Yutu funding complies with requirements that not more than 15 percent of the amount of assistance may be used for activities provided under the public services' eligible activity.

## 3.3 Meeting National Objective

All CDBG-DR activities must meet a national objective. The WDTSP will meet requirements for the LMI national objective utilizing the LMI limited clientele category. Services provided under this category serve a specific clientele, rather than providing services to all persons in a geographic area. The WDTSP will meet the LMI clientele category by serving LMI individuals as determined by family size and income. See 24 CFR 570.483 for more information about national objectives.

Eligible Implementing Partner must provide a plan to ensure that 100 percent of individuals served by the Implementing Partner through WDTSP funding meet LMI requirements. NMHC will determine whether the plan is sufficient to meet the national objective as a part of the Implementing Partner's training program review process. Each Implementing Partner must maintain a copy of its plan to ensure that at least 100 percent of individuals served by the contractor through WDTSP funding meet LMI requirements. If a contractor updates its plan, a copy must be provided to NMHC for review and approval. NMHC will maintain documentation of each Implementing Partner's plan in its program files.

Documentation must be retained throughout the term of the service contract awarded and for six years thereafter.

### 3.3.1 National Objective Documentation and Records

An Implementing Partner must maintain records showing that funded activities meet the applicable national objective. Documents required to be maintained for purposes of demonstrating that the LMI national objective is being met include:

- Documentation that participants or beneficiaries are LMI based on family size and income (*see* 24 CFR 570.208), including verification of income in accordance with WDTP Program Guidelines. Documentation may include

federal tax return documentation, an income self-attestation form, a zero income self-attestation form, or other appropriate documentation.

Each Implementing Partner must have written policies and procedures regarding verification of income and income self-certification. The verification of income and income self-certification policies and procedures and any amendments thereto must be approved by NMHC. Under CDBG regulations, a program is not considered having met a national objective until it has provided complete documentation that verifies the national objective has been met. Implementing Partners must be aware of the national objective category and document compliance throughout the life of the program.

### 3.3.2 Performance Benchmarks and Documenting Program Learning Outcomes

- Implementing Partner(s) shall set clear and compliant performance benchmarks and document program outcomes on these training services from the point of successful enrollment to class and program completing per quarter or semester. Documentation on these learning outcomes, i.e., student progress reports, transcripts, or certifications of completion and/or certification shall be furnished to NMHC along with program description and training classes offered.

## 3.4 Duplication of Benefits

Duplication of Benefits (DOB) is a component of the Stafford Act, which governs disaster recovery. The requirements of the Stafford Act prohibit any person, business concern, or other entity from receiving federal funds for any part of an activity for which they have already received financial assistance under any other program, private insurance, charitable assistance, or any other source. A DOB occurs when a recipient of federal disaster funds receives funding from more than once source for the same activity.

### 3.4.1 Preventing DOBs

Implementing Partners are responsible for verifying there is no duplication of resources, such as charitable or public grants pertaining to workforce training. Funds provided by any federal, state, or local government entity, or non-profit or private source intended for the same purpose as the WDTSP are considered a DOB and under federal law must be deducted from the assistance provided by the WDTSP. A DOB may occur at any point, including after receipt of CDBG-DR funds. Any additional funds paid to participants for the same purpose as the WDTSP after services are completed must be returned to NMHC.

Participant applicants will be required during the application process to provide information on any other funding or benefits relating to disaster recovery and/or workforce training, including charitable contributions, scholarships, or other sources of financial assistance. Participant applicants will also be required to complete authorization for the Implementing Partners to verify information with federal, state, local, and private entities. Participants in the WDTSP must sign a subrogation agreement, in which participants agree to repay any duplicative assistance considered a DOB. The subrogation agreement requires the participant to notify NMHC if additional funds are received and to assist NMHC in collecting any amounts owed to them from these sources.

All WDTSP Implementing Partners must include a DOB review as part of the participant applicant eligibility screening process. Each Implementing Partner must have written policies and procedures documenting the Implementing Partner's duplication of benefits verification process. The duplication of benefits policies and procedures and any amendments thereto must be approved by NMHC.

Each Implementing Partner must maintain records of the DOB information reported by the participant applicant, verified by the Implementing Partner, and results of the DOB review, including any denial or reduction in award or benefits to the participant applicant, if applicable. DOB information must be maintained throughout the term of the contract and for six years thereafter.

### 3.4.2 Supplanting

CDBG-DR funds may not be used to supplant funds otherwise available for similar workforce training programs. Implementing Partners must document that funds awarded are above and beyond any annual appropriations that are provided for the same purpose. Implementing Partners must also document that WDTSP funds expended on any participant are above and beyond any other funding available through other sources for the same purpose, including any funding available through other federal, state, or local funding. WDTSP funds may be utilized after all other funds available to provide benefits to the participant for the same purpose have been expended. Any supplanting of funds will be treated as a duplication of benefits or fraud, waste, and abuse, and is subject to recapture under the terms of the Implementing Partner agreement.

## 3.5 Recapture

An Implementing Partner or participant may be required to repay all or a portion of CDBG-DR funds received. Reasons for recapture may include, but are not limited to:

• An Implementing Partneris determined to have provided false or misleading information to the program;

• An Implementing Partner withdraws from the program prior to completion of the project;

• An Implementing Partner does not complete the project;

• An Implementing Partner fails to meet the national objective;

• An Implementing Partner is found to have used program funds for an ineligible activity; or

• An Implementing Partner fails to report the receipt of additional funds or benefits received that create a DOB.

# 4.0 WORKFORCE TRAINING ACTIVITIES

To ensure that there are resources to support the remaining recovery needs, and to assist disaster-impacted individuals in obtaining employment, the WDTSP will focus on workforce training in the construction trades.

## 4.1 Eligible Activities

Workforce Training in the area of construction is the only eligible activity under this program

## 4.2 Ineligible Activities

Activities requiring construction, rehabilitation, or renovation of any facilities or real property are not eligible activities under the WDTSP as funds are strictly allocated to defray program attendance and tuition costs not covered by similar funding sources.

## 4.3 Training

Training may be provided through multiple means, including classroom training, apprenticeship programs, on-the-job training, customized training, or other innovative models as offered by Implementing Partners to NMHC. Training may be delivered via partnerships with public, private, or non-profit entities. If an

Implementing Partner intends to utilize a partnership to deliver services, the Implementing Partner must document how partners will be selected. Any entity that is listed as excluded, debarred, or suspended on the System for Award Management (https://sam.gov/SAM/), including affiliated businesses with the same Employer Identification Number (EIN), is not eligible to receive WDTSP funds and may not be selected as an Implementing Partner, Subcontractor, or Vendor.

### 4.3.1 Training Subjects

To support housing recovery, all Implementing Partners are required to provide scholarships to eligible LMIs interested in enrolling in workforce training in construction trades. Construction trades include, but are not limited to:

o Roofing;
o Masonry;
o Carpentry;
o Concrete finishing;
o Plumbing;
o HVAC (heating, ventilation, and air conditioning);
o Electricity;
o Heavy equipment operations;

o Glass / window installation;
o Plastering; and
o Welding.

Construction training must develop participants' specific occupational knowledge and skills that will prepare and contribute to participants' ability to obtain employment. Construction training does not have to result in an industry recognized credential, but training curricula must reflect current industry standards and be sufficient to lead to employment within the relevant construction trade.

Each Implementing Partner may determine the timeframe for the training program in each construction trade and/or programming option it makes available to participants. The timeframe for training must be within the timeframe of the WDTSP, to ensure that all participants have the opportunity to complete the training program before the conclusion of WDTP training activities on **November 24, 2026**.

### 4.3.2 Training Schedule

Implementing Partners must publish the schedule of class times for each term on the Implementing Partners' website at least 60 calendar days before the first day of the term or within 15 calendar days of execution of the service contract, whichever is later. The Implementing Partner must submit a copy of the schedule of days and times of classes for each term to NMHC at least before the first day of the term or within 15 calendar days of execution of the Implementing Partner agreement, whichever is later.

Changes, updates, or cancellations to scheduled programming must be made at least 5 business days prior to the date of the originally scheduled activity. All information on the changes, updates, or cancellations must be posted to the Implementing Partner's website, provided in writing to all known attendees, and submitted to NMHC at least five (5) business days prior to the date of the originally scheduled activity. Exceptions to the timeframe for changes, updates, or cancellations may be made for extenuating circumstances, including emergency, extreme weather, and instructor illness. If NMHC determines that an Implementing Partner has made unreasonable or recurring changes, updates, or cancellations, NMHC may request a root cause analysis and corrective action plan from the Implementing Partner.

### 4.4 Case Management Services (Optional and not funded by CDBG-DR funds)

Implementing Partners are highly encouraged to provide case management services to participants to provide support and ensure successful program completion. Case management services may be provided throughout the entire duration of program participation, from the time of application intake through program exit. Case management services may include, but are not limited to:

- Administering assessments;
- Identifying barriers to program participation and recommending ways to remove such barriers, including provision of support services or referral to other support services providers;
- Financial assistance information;
- Tutoring information;
- Referrals to other sources of assistance;
- Certification, credential, or licensing assistance;
- Establishing training benchmarks, tracking participant progress, and verifying satisfactory progress; and
- Maintaining and/or monitoring participant files.

## 5.0 PARTICIPANT APPLICATION

### 5.1 Application Process

Individuals seeking to receive training, support services, or other benefits through the WDTSP must complete the official scholarship application developed and distributed by the Implementing Partner(s).

Implementing Partners are required to assist individuals who contact their training institutions to complete an application by phone or by visiting an Implementing Partner's office location. Implementing Partners must provide a hard copy application by U.S. mail to any individual who requests a hard copy application. Implementing Partners must accept completed applications from applicants, if provided directly to the Implementing Partner via email, mail, in-person, or other means. After WDTSP Implementing Partners are selected, contact information for all Implementing Partners will be made available to the public and posted on www.cnmi-cdbgdr.com.

### 5.1.1 Application Period

Each Implementing Partner may set the scholarship application period for program services. Any Implementing Partner's scholarship application period must be documented in policies and procedures made available to participants and participant applicants.

### 5.1.2 Scholarship Application Intake

Implementing Partners are responsible for processing applications. Each Implementing Partner must review and process all applications in which the participant applicant indicated that he or she would like to apply to that Implementing Partner's program. Implementing Partners must ensure all applications and attached documentation are complete, and issue a notice of incompleteness, if applicable, detailing all incomplete elements of the application and information on how the applicant may submit the missing information. Implementing Partners are responsible for maintaining the complete application file, including information received in the initial application and any additional information provided during application processing. Each Implementing Partner must have written policies and procedures documenting their application intake that are made available to participants and participant applicants. The application intake policies and procedures and any amendments thereto must be approved by NMHC. Implementing Partners may not begin processing applications until the Implementing Partners' relevant policies and procedures have been reviewed and approved by NMHC.

## 5.2 Participant Eligibility Screening Process

Implementing Partners are required to screen each application received to determine eligibility in accordance with the WDTSP Program Guidelines and other relevant program guidance. Participant applicants must provide documentation for eligibility criteria during the application process. Upon determination of eligibility

or non-eligibility for program benefits, Implementing Partners must notify the participant applicant in writing of the determination and reasons for denial, if applicable. Implementing Partners must maintain an accurate log of all participant applicant approval and denial determinations.

### 5.2.1 Priority Schedule

Participant applications may be accepted and eligibility for services and benefits determined on a priority schedule to ensure compliance with the LMI national objective. Veterans and eligible veteran spouses and dependents will receive priority in accordance with federal regulations. Each Implementing Partner may set its own priority schedule to meet these requirements. Each Implementing Partner must have written policies and procedures documenting the priority schedule set by the Implementing Partner that are made available to participants and participant applicants. The policies and procedures and any amendments thereto must be approved by NMHC.

### 5.2.2 Participant Program Assistance Requirements

In order to receive program assistance, participants must:

- Complete an WDTSP scholarship application.
- Provide all documentation required by the WDTSP application.
- Sign a release so that information provided by the participant can be shared with state and federal agencies and certain third parties in order to verify information given to the program. The participant and everyone 18 and older in the household are required to sign the release.
- Swear to the accuracy and completeness of all information provided to the program under penalty of law.
- Sign a subrogation agreement acknowledging that any overpayment of benefits will be subject to recapture.

Implementing Partners are required to ensure that each participant has completed the required documentation and forms before providing program assistance. Implementing Partners must retain completed participant documentation in the participant's file.

## 6.0 DRAWDOWNS AND DISBURSEMENTS

### 6.1 Drawdowns

Following receipt and review of all required documentation, e.g., execution of intergovernmental agreement and registration listing showing eligible LMIs availing to this scholarship program, and billings, NMHC shall drawdown funds.

Within 48 hours from date of drawdown, NMHC shall release payment to the Implementing Partner(s). Required documentation include but are not limited to:

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1) Fully executed Intergovernmental Agreement;
2) Completed Section 504 Checklist;
3) Registration roster containing names of eligible LMIs;
4) Inspection and/or obtainment of copies of scholarship applications;
5) Copies of class/training schedules per LMI-eligible student;
6) Program/class description;
7) YTD WDTSP expenditure report and per semester/quarter;
8) Other documents as may be requested and required by NMHC/HUD.

## 6.2 Disbursements

Disbursement amounts shall be based on no. of eligible scholarship applicants registered in the construction trade classes and/or training. NMHC may require Implementing Partner(s) to submit class/training schedules of eligible LMIs enrolled this this program.

**WORKFORCE DEVELOPMENT PROGRAM**
**SECTION-BY-SECTION COMPARATIVE ANALYSIS**
**Tracked Changes**

| CURRENT POLICY/REGULATION | PROPOSED POLICY/REGULATION (CHANGE(S)/AMENDMENT(S)) | PAGE NO. AND SECTION/SUBSECTION | RATIONALE/REASON(S) FOR AMENDMENT |
|---|---|---|---|
| **Implementing Partner:** Contractor(s) or subcontractor(s) that are provided CDBG-DR funds by a grantee for their use in carrying out agreed-upon, eligible activities through an awarded contract from NMHC. | **Implementing Partner:** Awardee(s) of CDBG-DR funds for their use in carrying out agreed-upon, eligible activities authorized through an intergovernmental agreement entered into with the grantee (NMHC). | 045053; Subsection 1.3 | HUD/ICF comments and recommendations |
| **Request for Release of Funds (RROF):** An environmental review term for a process used by Responsible Entities (CNMI) when requesting the release of funds and the authority to use such funds for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and states. The approval of the RROF is required before environmental clearance may be provided to a recipient of CDBG-DR funds. | Deleted | 045053; Subsection 1.3 | Provision inapplicable to program |
| **Section 504:** A provision of the Rehabilitation Act of 1973 which provides that no qualified individual | **Section 504:** A provision of the Rehabilitation Act of 1973 which provides that no qualified individual | 045054; Subsection 1.3 | ICF comments/recommendations |

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| with a disability should, only by reason of his or her disability, be excluded from the participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving financial assistance. | with a disability should, only by reason of his or her disability, be excluded from the participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving financial assistance as prescribed under:<br>• Title VI of the Civil Rights Act of 1964, as amended in 1988<br>• Fair Housing Act (42 U.S.C. 3601-3619)<br>• Architectural Barriers Act of 1968<br>• Title IX of the Education Amendments Ant of 1972<br>• Section 508 of the Rehabilitation Act of 1973<br>• Section 109 of the Title I of the Housing and Community Development Act of 1974<br>• Section 104(b)(2) of the Housing Community Development Act of 1974.<br>• Title II of the Americans with Disabilities Act of 1990.<br>• All non-discrimination clauses in 24 CFR Parts 1, 3, 8, and 570 | | |
| This Policies and Procedures Manual for the Workforce Development | This Policies and Procedures Manual for the Workforce Development | Page 045054; Subsection 2.1 | HUD comments and recommendations |

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| Training Program (WDTP) is provided to assist program staff and contractor(s) in implementing and managing disaster recovery grants through the WDTP. It provides guidance regarding the general requirements that apply to grantee and contractor(s). It is the responsibility of NMHC's CDBG-DR program staff to ensure that recipients of CDBG-DR funding comply with all provisions of this manual, state and federal rules and regulations, and the grant award agreement. Grantee and contractor(s) must also carry out proper and efficient grant administrative practices. The Policies and Procedures Manual is intended to provide clear areas of responsibility to ensure consistent application of the procedures outlined in the manual. It is anticipated that circumstances will arise that will require deviations from the processes outlined in this manual. In those instances, the reason for the deviations need to be clearly documented and included in the Implementing Partner's file. In some cases, these circumstances will require amending the Policies and Procedures.<br><br>NMHC will be charged with soliciting proposals for WDTP so that students who enroll and complete course | Training Scholarship Program (WDTSP) is provided to assist and guide CDBTG-DR program staff and Implementing Partner(s) in administering and managing disaster recovery grants through the WDTSP. It provides guidance regarding the general requirements that apply to grantee and Implementing Partner(s). It is the responsibility of NMHC's CDBG-DR program staff to ensure that Implementing Partner(s) of CDBG-DR funding comply with all provisions of this manual, state and federal rules and regulations, and the grant award intergovernmental agreement. Grantee and Implementing Partner(s) must also carry out proper and efficient grant administrative practices. The Policies and Procedures Manual is intended to provide clear areas of responsibility to ensure consistent application of the procedures outlined in the manual. It is anticipated that circumstances will arise that will require deviations from the processes outlined in this manual. In those instances, the reason for the deviations needs to be clearly documented and included in the Implementing Partner's file. In some cases, these circumstances will require amending the Policies and Procedures. | | |

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| requirements receive certifications in various trades, e.g., carpentry, masonry, welding, etc., upon completion of classroom instructional courses and on-the-job work experience in the construction industry. | NMHC will be charged with allocating funds directly to public educational institution(s) to administer a special scholarship program through their financial aid office(s) and aimed at providing eligible low- and moderate income students who enroll and complete course requirements receive certifications in various trades in construction, e.g., carpentry, masonry, welding, etc., upon completion of classroom instructional courses and on-the-job work experience in the construction industry. | | |
| The workforce development training program will offer training opportunities for LMI residents in the most in-demand sectors for the CNMI. The primary focus of the workforce development program will be LMI residents to fill jobs in recovery-related sectors such as construction. With construction, producing skilled workers by way of investing CDBG-DR funds into educational institutions such as the Northern Marianas College (NMC), Northern Marianas Technical Institute (public) and Latte Academy (private), will yield the following outcomes: | The Workforce Development Training Scholarship Program will offer scholarships to LMI residents in the most disaster impacted sectors in the CNMI: Saipan and Tinian. The primary focus of the workforce development program will be LMI residents to fill jobs in recovery-related sectors such as construction. With construction, producing skilled workers by way of investing CDBG-DR funds into public educational institutions that offer classes and training in the field of construction and will yield the following outcomes: | Page 045055; Subsection 2.1 | HUD/ICF comments and recommendations |

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| It is worth mentioning that, Latte Academy, which was established in 2013, offers job trainings in nationally recognized certifications. Further, the Academy has a 95% certification rate with 400 students attaining certifications between 2014 - 2017. Similarly, the Northern Marianas Trades Institute (NMTI), established in 2008 and a public education institute, is accredited by the National Center for Construction Education. It is now called the Northern Marianas Technical Institute. Funding for these activities will strengthen collaboration between the workforce, educational institutions, and employers with a shared goal of providing solutions to promote growth and stability to the CNMI economy. Through the workforce development program, the CNMI will be able to assist an estimated 300 participants based on current tuition rates. The current workforce needs related to the CNMI's recovery initiatives present both a challenge and an opportunity to benefit residents across the CNMI. These efforts are aimed at ensuring that low- and moderate-income residents have access to the training needed to take advantage of these opportunities and | Deleted | Page 045055; Subsection 2.1 | HUD/ICF Recommendations |

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| additional support to ensure long-term success. | | | |
| All activities funded through CDBG-DR must in some way respond to a direct or indirect impact of the applicable disaster. The WDTP addresses impacts of Super Typhoon Yutu across the areas of Saipan **(and Tinian)**. Super Typhoon Yutu had a significant impact on the housing supply, creating an increased demand for new construction and home repair activities, with additional impacts on commercial construction and repair activities. The increased demand for construction activities following Super Typhoon Yutu has created or increased the supply gap in many construction occupations.<br><br>The WDTP will address this unmet need by providing workforce training in construction trades to support post-disaster construction activities. Additionally, the WDTP will support LMI persons looking for new employment in the post-disaster economy to encourage economic recovery of individuals and communities. For the WDTP, a tie to the disaster is demonstrated through the contractor(s) ability to provide | All activities funded through CDBG-DR must in some way respond to a direct or indirect impact of the applicable disaster. The WDTSP addresses impacts of Super Typhoon Yutu across the areas of Saipan and Tinian. Super Typhoon Yutu had a significant impact on the housing supply, creating an increased demand for new construction and home repair activities, with additional impacts on commercial construction and repair activities. The increased demand for construction activities following Super Typhoon Yutu has created or increased the supply gap in many construction occupations.<br><br>The WDTSP will address CNMI's skilled construction worker shortage needed to recover by expanding workforce training. The WDTSP provides assistance to Implementing Partner(s) for eligible students' tuition costs not covered by other federal grant sources. . Additionally, the WDTSP will support LMI persons looking for new employment in the post-disaster economy to encourage economic recovery of individuals and | Page 045056; Subsection 3.1 | HUD/ICF comments and recommendations |

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| training in construction trades and job opportunities to LMI persons in disaster impacted areas. | communities. For the WDTSP, a tie to the disaster is demonstrated through the Implementing Partner(s) ability to administer a scholarship program through its financial aid office for interested and eligible LMI persons to apply and for purposes of covering attendance and tuition costs not covered by other financial aid (excluding loans) for classes and training in the construction trade. | | |
| CDBG-DR activities must meet an eligible activity under Section 105(a) of the Housing and Community Development Act of 1974 (HCDA). The WDTP is provided as an eligible activity under HCDA Section 105(a)(8), provision of public services. The allocation for the WDTP within the total allocation for Super Typhoon Yutu funding complies with requirements that not more than 15 percent of the amount of assistance may be used for activities provided under the public services' eligible activity. | CDBG-DR activities must meet an eligible activity under Section 105(a) of the Housing and Community Development Act of 1974 (HCDA). The WDTSP is provided as an eligible activity under HCDA Section 105(a)(8), provision of public services. The allocation for the WDTSP within the total allocation for Super Typhoon Yutu funding complies with requirements that not more than 15 percent of the amount of assistance may be used for activities provided under the public services' eligible activity. | Page 045056; Subsection 3.2 | HUD/ICF comments and recommendations |
| All CDBG-DR activities must meet a national objective. The WDTP will meet requirements for the LMI national objective utilizing the LMI limited clientele category. Services provided under this category serve a specific | All CDBG-DR activities must meet a national objective. The WDTSP will meet requirements for the LMI national objective utilizing the LMI limited clientele category. Services provided under this category serve a | Page 045057; Subsection 3.3 | HUD comments and recommendations |

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| clientele, rather than providing services to all persons in a geographic area. The WDTP will meet the LMI clientele category by serving LMI individuals as determined by family size and income. At least 51 percent of individuals served must meet LMI requirements based on total household income and total household size for the program to meet the LMI national objective. See 24 CFR 570.483 for more information about national objectives.<br><br>In the application for WDTP funding, each eligible Implementing Partner ("contractors" and "subcontractors") must provide a plan to ensure that at least 51 percent of individuals served by the Implementing Partner through WDTP funding meet LMI requirements. NMHC will determine whether the plan is sufficient to meet the national objective as a part of the application review process. Each Implementing Partner must maintain a copy of its plan to ensure that at least 51 percent of individuals served by the contractor through WDTP funding meet LMI requirements. If a contractor updates its plan, a copy must be provided to NMHC for review and approval. NMHC will maintain | specific clientele, rather than providing services to all persons in a geographic area. The WDTSP will meet the LMI clientele category by serving LMI individuals as determined by family size and income. See 24 CFR 570.483 for more information about national objectives.<br><br>Eligible Implementing Partner must provide a plan to ensure that 100 percent of individuals served by the Implementing Partner through WDTSP funding meet LMI requirements. NMHC will determine whether the plan is sufficient to meet the national objective as a part of the Implementing Partner's training program review process. Each Implementing Partner must maintain a copy of its plan to ensure that at least 100 percent of individuals served by the contractor through WDTSP funding meet LMI requirements. If a contractor updates its plan, a copy must be provided to NMHC for review and approval. NMHC will maintain documentation of each Implementing Partner's plan in its program files. | | |

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| documentation of each Implementing Partner's plan in its program files.<br><br>Documentation must be retained throughout the term of the service contract awarded and for six years thereafter. | Documentation must be retained throughout the term of the service contract awarded and for six years thereafter. | | |
| jective Documentation and Records<br><br>An Implementing Partner must maintain records showing that funded activities meet the applicable national objective. Documents required to be maintained for purposes of demonstrating that the LMI national objective is being met include:<br><br>• Documentation that participants or beneficiaries are LMI based on family size and income (*see* 24 CFR 570.208), including verification of income in accordance with WDTP Program Guidelines Section 2.13. Documentation may include federal tax | Deleted | Page 45057; Subsection 3.3.1 | HUD/ICF comments and recommendations |

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| return documentation, an income self-attestation form, a zero income self-attestation form, or other appropriate documentation.<br><br>Each Implementing Partner must have written policies and procedures regarding verification of income and income self-certification. The verification of income and income self-certification policies and procedures and any amendments thereto must be approved by NMHC. Under CDBG regulations, a project is not considered having met a national objective until it has provided complete documentation that verifies the national objective has been met. Implementing Partners must be aware of the national objective category and document compliance throughout the life of the project. | | | |
| Implementing Partners are responsible for verifying there is no duplication of resources, such as charitable or public grants pertaining to workforce training. Funds provided by any federal, state, or local government entity, or non-profit or private source intended for the same | Implementing Partners are responsible for verifying there is no duplication of resources, such as charitable or public grants pertaining to workforce training. Funds provided by any federal, state, or local government entity, or non-profit or private source | Page 045058; Subsection 3.4.1 | HUD/ICF comments and recommendations |

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| purpose as the WDTP are considered a DOB and under federal law must be deducted from the assistance provided by the WDTP. A DOB may occur at any point, including after receipt of CDBG-DR funds. Any additional funds paid to participants for the same purpose as the WDPT after the WDTP services are completed must be returned to NMHC.<br><br>Participant applicants will be required during the application process to provide information on any other funding or benefits relating to disaster recovery and/or workforce training, including charitable contributions, scholarships, or other sources of financial assistance. Participant applicants will also be required to complete authorization for the Implementing Partners to verify information with federal, state, local, and private entities. Participants in the WDTP must sign a subrogation agreement, in which participants agree to repay any duplicative assistance considered a DOB. The subrogation agreement requires the participant to notify NMHC if additional funds are received and to assist NMHC in collecting any amounts owed to them from these sources. | intended for the same purpose as the WDTSP are considered a DOB and under federal law must be deducted from the assistance provided by the WDTSP. A DOB may occur at any point, including after receipt of CDBG-DR funds. Any additional funds paid to participants for the same purpose as the WDTSP after services are completed must be returned to NMHC.<br><br>Participant applicants will be required during the application process to provide information on any other funding or benefits relating to disaster recovery and/or workforce training, including charitable contributions, scholarships, or other sources of financial assistance. Participant applicants will also be required to complete authorization for the Implementing Partners to verify information with federal, state, local, and private entities. Participants in the WDTSP must sign a subrogation agreement, in which participants agree to repay any duplicative assistance considered a DOB. The subrogation agreement requires the participant to notify NMHC if additional funds are received and to assist NMHC in | | |

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| All WDTP Implementing Partners must include a DOB review as part of the participant applicant eligibility screening process. Each Implementing Partner must have written policies and procedures documenting the Implementing Partner's duplication of benefits verification process. The duplication of benefits policies and procedures and any amendments thereto must be approved by NMHC. | collecting any amounts owed to them from these sources.<br><br>All WDTSP Implementing Partners must include a DOB review as part of the participant applicant eligibility screening process. | | |
| CDBG-DR funds may not be used to supplant funds otherwise available for similar workforce training programs. Implementing Partners must document that funds awarded are above and beyond any annual appropriations that are provided for the same purpose. Implementing Partners must also document that WDTP funds expended on any participant are above and beyond any other funding available through other sources for the same purpose, including any funding available through other federal, state, or local funding. WDTP funds may be utilized after all other funds available to provide benefits to the participant for the same purpose have been expended. Any supplanting of funds will be | CDBG-DR funds may not be used to supplant funds otherwise available for similar workforce training programs. Implementing Partners must document that funds awarded are above and beyond any annual appropriations that are provided for the same purpose. Implementing Partners must also document that WDTSP funds expended on any participant are above and beyond any other funding available through other sources for the same purpose, including any funding available through other federal, state, or local funding. WDTSP funds may be utilized after all other funds available to provide benefits to the participant for the same purpose have been | Page 045059; Subsection 3.4.2 | HUD/ICF comments and recommendations |

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| treated as a duplication of benefits or fraud, waste, and abuse, and is subject to recapture under the terms of the Implementing Partner agreement. | expended. Any supplanting of funds will be treated as a duplication of benefits or fraud, waste, and abuse, and is subject to recapture under the terms of the Implementing Partner agreement. | | |
| An Implementing Partner or participant may be required to repay all or a portion of CDBG-DR funds received. Reasons for recapture may include, but are not limited to:<br><br>• An Implementing Partner, subcontractor, or participant is determined to have provided false or misleading information to the program;<br><br>• An Implementing Partner or subcontractor withdraws from the program prior to completion of the project;<br><br>• An Implementing Partner or subcontractor does not complete the project;<br><br>• An Implementing Partner or subcontractor fails to meet the national objective;<br><br>• An Implementing Partner or subcontractor is found to have used | An Implementing Partner or participant may be required to repay all or a portion of CDBG-DR funds received. Reasons for recapture may include, but are not limited to:<br><br>• An Implementing Partner is determined to have provided false or misleading information to the program;<br><br>• An Implementing Partner withdraws from the program prior to completion of the project;<br><br>• An Implementing Partner does not complete the project;<br><br>• An Implementing Partner fails to meet the national objective;<br><br>• An Implementing Partner is found to have used program funds for an ineligible activity; or | Page 045059; Subsection 3.5 | HUD/ICF comments and recommendations |

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| program funds for an ineligible activity; or<br><br>• An Implementing Partner, subcontractor, or participant fails to report the receipt of additional funds or benefits received that create a DOB. | • An Implementing Partner fails to report the receipt of additional funds or benefits received that create a DOB. | | |
| **4.0 Workforce Training Activities**<br><br>To ensure that there are resources to support the remaining recovery needs, and to assist disaster-impacted individuals in obtaining employment, the WDTP will focus on workforce training in the construction trades.<br><br>**4.1 Eligible Activities**<br><br>Eligible activities under this program include:<br><br>• Workforce training in construction trades;<br>• Employment support services; and<br>• Job readiness and job placement assistance to support successful graduates of training in obtaining employment. | **4.0 Workforce Training Activities**<br><br>To ensure that there are resources to support the remaining recovery needs, and to assist disaster-impacted individuals in obtaining employment, the WDTSP will focus on workforce training in the construction trades.<br><br>**4.1 Eligible Activities**<br><br>Workforce Training in the area of construction is the only eligible activity under this program<br><br>**4.2 Ineligible Activities**<br><br>Activities requiring construction, rehabilitation, or renovation of any facilities or real property are not | Pages 045059 - 045063; Section 4 | HUD/ICF comments and recommendations |

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| Activities requiring construction, rehabilitation, or renovation of any facilities or real property are not eligible activities under the WDTP.<br><br>**4.2 Training**<br><br>Training may be provided through multiple means, including classroom training, apprenticeship programs, on-the-job training, customized training, or other innovative models as proposed by Implementing Partners to NMHC. Training may be delivered via partnerships with public, private, or non-profit entities. If an Implementing Partner intends to utilize a partnership to deliver services, the Implementing Partner must document how partners will be selected. Any entity that is listed as excluded, debarred, or suspended on the System for Award Management (https://sam.gov/SAM/), including affiliated businesses with the same Employer Identification Number (EIN), is not eligible to receive WDTP funds and may not be selected as an Implementing Partner, Subcontractor, or Vendor.<br><br>**4.2.1 Training Subjects** | eligible activities under the WDTSP as funds are strictly allocated to defray program attendance and tuition costs not covered by similar funding sources.<br><br>**4.3 Training**<br><br>Training may be provided through multiple means, including classroom training, apprenticeship programs, on-the-job training, customized training, or other innovative models as offered by Implementing Partners to NMHC. Training may be delivered via partnerships with public, private, or non-profit entities. If an Implementing Partner intends to utilize a partnership to deliver services, the Implementing Partner must document how partners will be selected. Any entity that is listed as excluded, debarred, or suspended on the System for Award Management (https://sam.gov/SAM/), including affiliated businesses with the same Employer Identification Number (EIN), is not eligible to receive WDTSP funds and may not be selected as an Implementing Partner, Subcontractor, or Vendor.<br><br>**4.3.1 Training Subjects** | | |

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| To support housing recovery, all Implementing Partners are required to provide workforce training in construction trades. Construction trades include, but are not limited to:<br><br>o Roofing;<br>o Masonry;<br>o Carpentry;<br>o Concrete finishing;<br>o Plumbing;<br>o HVAC (heating, ventilation, and air conditioning);<br>o Electricity;<br>o Heavy equipment operations;<br><br>o Glass / window installation;<br>o Plastering; and<br>o Welding.<br><br>Construction training must develop participants' specific occupational knowledge and skills that will prepare and contribute to participants' ability to obtain employment. Construction training does not have to result in an industry recognized credential, but training curricula must reflect current industry standards and be sufficient to lead to employment within the relevant construction trade. | To support housing recovery, all Implementing Partners are required to provide scholarships to eligible LMIs interested in enrolling in workforce training in construction trades. Construction trades include, but are not limited to:<br><br>o Roofing;<br>o Masonry;<br>o Carpentry;<br>o Concrete finishing;<br>o Plumbing;<br>o HVAC (heating, ventilation, and air conditioning);<br>o Electricity;<br>o Heavy equipment operations;<br>o Glass / window installation;<br>o Plastering; and<br>o Welding.<br><br>Construction training must develop participants' specific occupational knowledge and skills that will prepare and contribute to participants' ability to obtain employment. Construction training does not have to result in an industry recognized credential, but training curricula must reflect current industry standards and be sufficient to lead to employment within the relevant construction trade. | | |

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| Each Implementing Partner may determine the timeframe for the training program in each construction trade and/or programming option it makes available to participants. The timeframe for training must be within the timeframe of the WDTP, to ensure that all participants have the opportunity to complete the training program before the conclusion of WDTP training activities on **November 24, 2026**. | Each Implementing Partner may determine the timeframe for the training program in each construction trade and/or programming option it makes available to participants. The timeframe for training must be within the timeframe of the WDTSP, to ensure that all participants have the opportunity to complete the training program before the conclusion of WDTSP training activities on **November 24, 2026**. | | |
| **4.2.2 Training Schedule** | **4.3.2 Training Schedule** | | |
| Implementing Partners must publish the schedule of class times for each term on the Implementing Partners' website at least 60 calendar days before the first day of the term or within 15 calendar days of execution of the service contract, whichever is later. The Implementing Partner must submit a copy of the schedule of days and times of classes for each term to NMHC at least before the first day of the term or within 15 calendar days of execution of the Implementing Partner agreement, whichever is later. | Implementing Partners must publish the schedule of class times for each term on the Implementing Partners' website at least 60 calendar days before the first day of the term or within 15 calendar days of execution of the service contract, whichever is later. The Implementing Partner must submit a copy of the schedule of days and times of classes for each term to NMHC at least before the first day of the term or within 15 calendar days of execution of the Implementing Partner agreement, whichever is later. | | |

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| Changes, updates, or cancellations to scheduled programming must be made at least 5 business days prior to the date of the originally scheduled activity. All information on the changes, updates, or cancellations must be posted to the Implementing Partner's website, provided in writing to all known attendees, and submitted to NMHC at least five (5) business days prior to the date of the originally scheduled activity. Exceptions to the timeframe for changes, updates, or cancellations may be made for extenuating circumstances, including emergency, extreme weather, and instructor illness. If NMHC determines that an Implementing Partner has made unreasonable or recurring changes, updates, or cancellations, NMHC may request a root cause analysis and corrective action plan from the Implementing Partner.<br><br>**4.3 Support Services**<br><br>CDBG-DR funds may be used for activities that provide employment support services. Support services include, but are not limited to, peer support programs, counseling, English to speakers of other languages (ESOL), t ansportation, child care, computer | Changes, updates, or cancellations to scheduled programming must be made at least 5 business days prior to the date of the originally scheduled activity. All information on the changes, updates, or cancellations must be posted to the Implementing Partner's website, provided in writing to all known attendees, and submitted to NMHC at least five (5) business days prior to the date of the originally scheduled activity. Exceptions to the timeframe for changes, updates, or cancellations may be made for extenuating circumstances, including emergency, extreme weather, and instructor illness. If NMHC determines that an Implementing Partner has made unreasonable or recurring changes, updates, or cancellations, NMHC may request a root cause analysis and corrective action plan from the Implementing Partner.<br><br>**Subsection 4.3**: Deleted<br><br>**4.4 Case Management Services (Optional and not funded by CDBG-DR funds)** | | |

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| skills / digital literacy, and other similar services. Support services may be provided to participants in the WDTP, but Implementing Partners are not required to provide support services. Implementing Partners must clearly outline the support services that participants may receive, the eligibility determination process for support services, and any limitations on support service expenditures (including limited timeframes and maximum allowances) in written policies and procedures that are made available to participants and participant applicants. The support service policies and procedures and any amendments thereto must be approved by NMHC.<br><br>Support services are provided to reduce or eliminate barriers to an individual's ability to participate in WDTP activities or obtain employment. Implementing Partners must assess participants individually to identify eligibility and need for support services. The rationale for providing support services must be documented in the participant's file.<br><br>Support services may be provided directly by the Implementing Partners or may be provided through referrals to | Implementing Partners are highly encouraged to provide case management services to participants to provide support and ensure successful program completion. Case management services may be provided throughout the entire duration of program participation, from the time of application intake through program exit. Case management services may include, but are not limited to:<br><br>• Administering assessments;<br>• Identifying barriers to program participation and recommending ways to remove such barriers, including provision of support services or referral to other support services providers;<br>• Financial assistance information;<br>• Tutoring information;<br>• Referrals to other sources of assistance;<br>• Certification, credential, or licensing assistance;<br>• Establishing training benchmarks, tracking participant progress, and verifying satisfactory progress; and<br>• Maintaining and/or monitoring participant files.<br><br>**Subsection 4.3:** Deleted | | |

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| other community resources and entities for support service delivery. Support services provided directly by the Implementing Partner should include consideration of the Implementing Partner's WDTP funding limitations and the availability of other community resources and entities, to leverage limited program resources to the greatest extent possible. Implementing Partners are encouraged to explore viable alternatives available to the participant before providing support services.<br><br>Support services are not an entitlement. Implementing Partners' availability of support services do not obligate or commit them to approve or provide services of any type to any participant.<br><br>Transportation and child care support services must clearly be related to the participant's WDTP activities. For example, an Implementing Partner may provide a transportation allowance for bus fare to and from the training site from the participant's residence but may not provide a transportation allowance for travel to non-WDTP locations. A participant's transportation allowance may not exceed $6 per day. Automotive repair | | | |

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| assistance may not exceed $500 per participant. Child care support services may be provided for a participant's dependents who are up to twelve (12) years of age, not to exceed $120 per week.<br><br>Materials and supplies provided to participants utilizing WDTP funds must be related to WDTP training activities. Clothing, with the exclusion of wearable materials and supplies related to WDTP training activities, such as steel-toed boots, hard hats, etc., may not be provided utilizing WDTP funds.<br><br>Implementing Partners may provide support services to participants in the WDTP throughout the term of the beneficiary's participation in a workforce training program. Support services may not be provided to a participant after that participant has concluded workforce training components, for example, completion of a training program in the electrical trade.<br><br>**4.4 Career Services**<br><br>All Implementing Partners are required to provide job readiness and job search | | | |

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| assistance to support successful graduates of training in obtaining employment. These services are intended to help prepare participants for the workforce and assist in obtaining a position on program exit. Job readiness and job search services may include, but are not limited to:<br><br>• Resume assistance;<br>• Interview preparation;<br>• Employability skills;<br>• Provision of information on market demand, vacancy listings, job skills requirements for vacancy listings, and wage information;<br>• Job search assistance;<br>• Career counseling;<br>• Individual employment plans; and<br>• Referral and direct employment opportunity assistance.<br><br>**4.5 Case Management Services**<br><br>Implementing Partners are highly encouraged to provide case management services to participants to provide support and ensure successful program completion. Case management services may be provided throughout the entire duration of program participation, from the time of | | | |

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| application intake through program exit. Case management services may include, but are not limited to:<br><br>• Administering assessments;<br>• Identifying barriers to program participation and recommending ways to remove such barriers, including provision of support services or referral to other support services providers;<br>• Financial assistance information;<br>• Support service screening and information;<br>• Tutoring information;<br>• Referrals to other sources of assistance;<br>• Certification, credential, or licensing assistance;<br>• Establishing training benchmarks, tracking participant progress, and verifying satisfactory progress; and<br>• Maintaining and/or monitoring participant files. | | | |
| **5.0 PARTICIPANT APPLICATION**<br><br>**5.1 Application Process**<br><br>Individuals seeking to receive training, support services, or other benefits through the WDTP must complete the official application developed and | **5.0PARTICIPANT APPLICATION**<br><br>**5.1Application Process**<br><br>Individuals seeking to receive training, support services, or other benefits through the WDTSP must complete the | Pages 045063 – 045065; Section 5 | HUD/ICF comments and recommendations |

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| distributed by the Implementing Partner.<br><br>Implementing Partners are required to assist individuals who contact their training institutions to complete an application by phone or by visiting an Implementing Partner's office location. Implementing Partners must provide a hard copy application by U.S. mail to any individual who requests a hard copy application. Implementing Partners must accept completed applications from applicants, if provided directly to the Implementing Partner via email, mail, in-person, or other means. After WDTP Implementing Partners are selected, contact information for all Implementing Partners will be made available to the public and posted on www.cnmi-cdbgdr.com.<br><br>**5.1.1 Application Period**<br><br>Each Implementing Partner may set the application period for the Implementing Partner's program services. Any Implementing Partner's application period must be documented in policies and procedures made available to participants and participant | official scholarship application developed and distributed by the Implementing Partner(s).<br><br>Implementing Partners are required to assist individuals who contact their training institutions to complete an application by phone or by visiting an Implementing Partner's office location. Implementing Partners must provide a hard copy application by U.S. mail to any individual who requests a hard copy application. Implementing Partners must accept completed applications from applicants, if provided directly to the Implementing Partner via email, mail, in-person, or other means. After WDTSP Implementing Partners are selected, contact information for all Implementing Partners will be made available to the public and posted on www.cnmi-cdbgdr.com.<br><br>**5.2.3 Application Period** | | |

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| applicants. If no application period is provided in an Implementing Partner's policies and procedures, applications will be accepted on a rolling basis until all Implementing Partner's funding has been expended.<br><br>**5.1.2 Application Intake**<br><br>Implementing Partners are responsible for processing applications. Each Implementing Partner must review and process all applications in which the participant applicant indicated that he or she would like to apply to that Implementing Partner's program. Implementing Partners must ensure all applications and attached documentation are complete, and issue a notice of incompleteness, if applicable, detailing all incomplete elements of the application and information on how the applicant may submit the missing information. Implementing Partners are responsible for maintaining the complete application file, including information received in the initial application and any additional information provided during application processing. Each Implementing Partner must have written policies and procedures | Each Implementing Partner may set the scholarship application period for program services. Any Implementing Partner's scholarship application period must be documented in policies and procedures made available to participants and participant applicants.<br><br>**5.2.4 Scholarship Application Intake**<br><br>Implementing Partners are responsible for processing applications. Each Implementing Partner must review and process all applications in which the participant applicant indicated that he or she would like to apply to that Implementing Partner's program. Implementing Partners must ensure all applications and attached documentation are complete, and issue a notice of incompleteness, if applicable, detailing all incomplete elements of the application and information on how the applicant may submit the missing information. Implementing Partners are responsible for maintaining the complete application file, including information received in the initial application and | | |

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| documenting their application intake that are made available to participants and participant applicants. The application intake policies and procedures and any amendments thereto must be approved by NMHC. Implementing Partners may not begin processing applications until the Implementing Partners' relevant policies and procedures have been reviewed and approved by NMHC.<br><br>**5.2 Participant Eligibility Screening Process**<br><br>Implementing Partners are required to screen each application received to determine eligibility in accordance with the WDTP Program Guidelines and other relevant program guidance. Participant applicants must provide documentation for eligibility criteria during the application process. Upon determination of eligibility or non-eligibility for program benefits, Implementing Partners must notify the participant applicant in writing of the determination and reasons for denial, if applicable. Implementing Partners must maintain an accurate log of all participant applicant approval and denial determinations. | any additional information provided during application processing. Each Implementing Partner must have written policies and procedures documenting their application intake that are made available to participants and participant applicants. The application intake policies and procedures and any amendments thereto must be approved by NMHC. Implementing Partners may not begin processing applications until the Implementing Partners' relevant policies and procedures have been reviewed and approved by NMHC.<br><br>**5.3 Participant Eligibility Screening Process**<br><br>Implementing Partners are required to screen each application received to determine eligibility in accordance with the WDTSP Program Guidelines and other relevant program guidance. Participant applicants must provide documentation for eligibility criteria during the application process. Upon determination of eligibility or non-eligibility for program benefits, Implementing Partners must notify the participant applicant in writing of the determination and reasons for denial, if applicable. Implementing Partners | | |

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| **5.2.1 Priority Schedule**<br><br>Participant applications may be accepted and eligibility for services and benefits determined on a priority schedule to ensure compliance with the LMI national objective. Veterans and eligible veteran spouses and dependents will receive priority in accordance with federal regulations. Each Implementing Partner may set its own priority schedule to meet these requirements. Each Implementing Partner must have written policies and procedures documenting the priority schedule set by the Implementing Partner that are made available to participants and participant applicants. The policies and procedures and any amendments thereto must be approved by NMHC.<br><br>**5.2.2 Participant Program Assistance Requirements**<br><br>In order to receive program assistance, participants must:<br><br>• Complete an WDTP application. | must maintain an accurate log of all participant applicant approval and denial determinations.<br><br>**5.3.1 Priority Schedule**<br><br>Participant applications may be accepted and eligibility for services and benefits determined on a priority schedule to ensure compliance with the LMI national objective. Veterans and eligible veteran spouses and dependents will receive priority in accordance with federal regulations. Each Implementing Partner may set its own priority schedule to meet these requirements. Each Implementing Partner must have written policies and procedures documenting the priority schedule set by the Implementing Partner that are made available to participants and participant applicants. The policies and procedures and any amendments thereto must be approved by NMHC.<br><br>**5.3.2 Participant Program Assistance Requirements** | | |

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| • Provide all documentation required by the WDTP application.<br>• Sign a release so that information provided by the participant can be shared with state and federal agencies and certain third parties in order to verify information given to the program. The participant and everyone 18 and older in the household are required to sign the release.<br>• Swear to the accuracy and completeness of all information provided to the program under penalty of law.<br>• Sign a subrogation agreement acknowledging that any overpayment of benefits will be subject to recapture.<br><br>Implementing Partners are required to ensure that each participant has completed the required documentation and forms before providing program assistance. Implementing Partners must retain completed participant documentation in the participant's file. | In order to receive program assistance, participants must:<br><br>• Complete an WDTSP scholarship application.<br>• Provide all documentation required by the WDTSP application.<br>• Sign a release so that information provided by the participant can be shared with state and federal agencies and certain third parties in order to verify information given to the program. The participant and everyone 18 and older in the household are required to sign the release.<br>• Swear to the accuracy and completeness of all information provided to the program under penalty of law.<br>• Sign a subrogation agreement acknowledging that any overpayment of benefits will be subject to recapture.<br><br>Implementing Partners are required to ensure that each participant has completed the required documentation and forms before providing program assistance. Implementing Partners must retain completed participant documentation in the participant's file. | | |

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| **NONE** | **ADD New Subsection 6.0**<br><br>**6.0 DRAWDOWNS AND DISBURSEMENTS**<br><br>**6.1 Drawdowns**<br><br>Following receipt and review of all required documentation, e.g., execution of intergovernmental agreement and registration listing showing eligible LMIs availing to this scholarship program, and billings, NMHC shall drawdown funds. Within 48 hours from date of drawdown, NMHC shall release payment to the Implementing Partner(s). Required documentation include but are not limited to:<br><br>**6.1.1**<br><br>1) Fully executed Intergovernmental Agreement;<br>2) Completed Section 504 Checklist;<br>3) Registration roster containing names of eligible LMIs;<br>4) Inspection and/or obtainment of copies of | N/A | HUD/ICF comments and recommendations |

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| | scholarship applications:<br>5) Copies of class/training schedules per LMI-eligible student;<br>6) Program/class description;<br>7) YTD WDTSP expenditure report and per semester/quarter;<br>8) Other documents as may be requested and required by NMHC/HUD.<br><br>**6.2 Disbursements**<br><br>Disbursement amounts shall be based on no. of eligible scholarship applicants registered in the construction trade classes and/or training. NMHC may require Implementing Partner(s) to submit class/training schedules of eligible LMIs enrolled this this program. | | |

# NORTHERN MARIANAS HOUSING CORPORATION

P.O. BOX 500514, Saipan, MP 96950-0514
Email: nmhc@nmhc.gov.mp
Website: http://www.nmhcgov.net

Tels: (670) 234-9447
234-6866
234-7670
Fax: (670) 234-9021


## NORTHERN MARIANAS HOUSING CORPORATION

**P.O. BOX 500514 Saipan, MP 96950**

### PUBLIC NOTICE
### OF PROPOSED POLICIES AND PROCEDURES – RENTAL REHABILITATION, RECONSTRUCTION AND NEW CONSTRUCTION PROGRAM POLICIES AND PROCEDURES - UNDER THE CDBG-DR AFFORDABLE RENTAL HOUSING DEVELOPMENT PROGRAM OF THE NORTHERN MARIANAS HOUSING CORPORATION

**Notice of Intended Action:** The Board of Directors of the Northern Marianas Housing Corporation proposes the following policies and procedures – Rental Rehabilitation, Reconstruction and New Construction Program Policies and Procedures – under the CDBG-DR Affordable Rental Housing Development Program pursuant to the Administrative Procedure Act, 1 CMC § 9104(a). If adopted, these regulations will become effective ten (10) calendar days after publication of a Notice of Adoption in the Commonwealth Register after compliance with 1 CMC §§ 9102, 9104(a), and 9105(b).

**Authority:** This proposal for policies and procedures is promulgated under the authority of the Board of Directors, through its Chairperson, to promulgate rules and regulations pursuant to 2 CMC § 4433(i), which lists the responsibilities of the Board of the NMHC.

**Terms and Substance:** These proposed regulations seek to expand and provide in greater detail one of the subset programs under the Affordable Rental Housing Development Program. The purpose of the regulations is to inform the public of the availability of a rental program for landlords who are interested in providing one to four rental units to households that qualify under the U.S. Department of Housing and Urban Development's Housing Choice Voucher Program. The funding amount and requirements of the rental program are also described in the regulations.

**Citation of Related and/or Affected Statutes, Rules and Regulations.** The proposed regulations are in line with CDBG-DR eligible activities such as rehabilitation, reconstruction, new construction and acquisition. HCDA Section 105 (a)(1), 105(a)(3-4), 105(a)(7-8), 105(a)(11), and 105(a)(14-15).

**Directions for Filing and Publication:** These proposed regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular (1 CMC § 9104(a)(1)).

**Comments:** Interested parties may submit written comments on the proposed amendments to Jesse S. Palacios, Corporate Director, NMHC, to the following address, fax or email address, with the subject line "Proposed Rental Rehabilitation, Reconstruction and New Construction Program Policies and Procedures."

NORTHERN MARIANAS HOUSING CORPORATION
PO Box 500514
Saipan, MP 96950
Fax: 234-9021
Email address: jspalacios@nmhcgov.net

Comments, data, views, or arguments are due within thirty (30) calendar days from the date of publication of this notice. 1 CMC § 9104(a)(2). If you have any questions, you may reach NMHC at telephone nos. 234-6866/234-9447, 234-7689.

Submitted by:

Date: 05/25/21

Merced "Marcie M. Tomokane
Chairperson

Received by:

Date: 05/28/21

Matilda A. Rosario
Special Assistant for Administration

Filed and Recorded by:

Date: 05.28.2021

Ms. Esther SN. Nesbitt
Commonwealth Register

I certify, pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3), that I have reviewed and approved these regulations as to form and legal sufficiency.

Date: 5/28/2021

Mr. Edward Manibusan
Attorney General

# NORTHERN MARIANAS HOUSING CORPORATION

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**NORTHERN MARIANAS HOUSING CORPORATION**
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**ARONORONGOL TOULAP**

**REEL IKKEEY POMWOL ALLÈGHÙL ME AFAL REEL IYEEL WORKFORCE DEVELOPMENT TRAINING SCHOLARSCHIP PROGRAM IYE E LO FAAL CDBG-DR ECONOMIC REVITALIZATION REEL BWULASIYOL NORTHERN MARIANAS HOUSING CORPORATION**

**Arongorong reel Màngemàngil Mwòghùt:** Board of Directors mellòl Northern Marianas Housing Corporation re pomwoli liiwel reel allèghùl me afal kkaal reel Workforce Development Training Scholarship Program faal CDBG-DR Economic Revitalization Program sàngi bwangil Administrative Procedure Act, 1 CMC § 9104(a). Ngare a adopt-lò iwe ebwele bwungulò mwòghùt kkaal loll seigh(10) ràl takkalòòl arongorongol Notice of Adoption mellòl Commonwealth Register mwiril bwungulòòl 1 CMC § § 9102, 9104(a) bwal 9105(b).

**Bwangil:** Pomwol liiwel yeel reel Allègh me Afal kkaal a akkatèèlò faal bwàngil Board of Directors, me layùr Chairperson, ebwe akkatèèlò allègh me mwòghut sàngi 2 CMC § 4433(i), iye e ischitiw bwe lemeliyal Board-dil NMHC.

**Kkapasal me Weeweel:** Pomwol liiwel reel allègh me afal kkaal nge ebwe tepengi me scheeli CDBG-DR program me layùr schòòl angaang bwal reel Implementing Partner(s) igha rebwe administer-li me manage-li mwòghutùl disaster recovery grants mereel mille Workforce Development Training Scholarship Program bwal yaal requirements ikka ebwal ffatawow mellòl aweeweel allèghùl me afal.

**Citation reel ikka eghil ngali Statutes reel Allegh me Afal:** Reel ikkeey pomwol afalafal iye emal lo llòl CDBG-DR eligible activities sibwe ira eligible activity ye e lo faal HCDA Section 105(a)(8), allèghùl alillisil toulap. Reel allocation-nul Workforce Development Training Scholarship Program nge ebwe llòl tool allocation-nul Super Typhoon Yutu funding reel ebwe attabweey yaal requirements iye ese parelò 15 percent reel tool alillis iye màli ebwe bwal yààli llòl activities iye emal lo faal public services reel mille eligible activity.

**Afal reel Ammalil me Akkateewowul:** Pomwol afal kkaal nge ebwe akkatèèlong Commonwealth Register bwal afal ikka elààl adopted-lò (CMC § 9102(a)(1) me ebwe appasch schèèy mellòl sòòbw kkeey bwal bwulasiyol government llòl ghal ikkeey senatorial district llòl mwaleyeer re Englis bwal llòl mwaleyasch (1 CMC § 9104(a)(1).
**Mangemang:** Iyo kka re tipeli rebwe ischilong yaar màngemàng reel pomwol liiwel kkaal nge òubwe isch ngàli Jesse S. Palacios, Corporate Director, NMHC, reel ikkaal address, fax me ngare email address reel subject line "Pomwol Allègh me Afal Reel Workforce Development Scholarship Program"

NORTHERN MARIANAS HOUSING CORPORATION
P.O. BOX 500514
Seipel MP 96950
Fax : 2349021
Email address: jspalacios@nmhcgov.net

Màngemàng, data, views, nagre angiingi ebwe toolong loll eliigh(30) ràl sàngi mmwal akkatèèwowul arong yeel. 1 CMC § 9104(a)(2). Ngare eyoor yòòmw aiyegh emmwel ubwe faffailò NMHC reel telephon kkaal 234-6866 / 234-9447 / 234-7689.

Isaliyalong:

Merced (aka-Marcie) M. Tomokane — Ral: 05/25/21

Bwughiyal:

Matilda A. Rosario
Special Assistant for Administration — Ral: 05/28/21

Ammwelil:

Ms. Esther SN. Nesbitt
Commonwealth Register — Ral: 05-28-2021

I alúghúlúgh, sángi 1 CMC § 2153(e) me 1 CMC § 9104(a)(3), bwe ya takkal amweri fischiiy me allèghùùlò afal kkaal reel igha ebwe scheelò me legal sufficiency.

Mr. Edward Manibusan
Sòulemelemil Allégh Lapalap — Ráál: 5/28/2021

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## NORTHERN MARIANAS HOUSING CORPORATION

P.O. BOX 500514, Saipan, MP 96950-0514

**NUTISIAN PUPBLIKU**

**PUT I MANMAPROPONI NA POLICIES YAN PROCEDURES – RENTAL REHABILITATION, RECONSTRUCTION AND NEW CONSTRUCTION PROGRAM POLICIES AND PROCEDURES - UNDER THE CDBG-DR AFFORDABLE RENTAL HOUSING DEVELOPMENT PROGRAM GI NORTHERN MARIANAS HOUSING CORPORATION**

**NOTISIAN INTENSIONA NA AKSION:** I Kuetpun Direktot siha gi Northern Marianas Housing Corporation maproponi i tinattiyi na policies yan procedures – Rental Rehabilitation, Reconstruction and New Construction Program Policies and Procedures sigun para i Åktun Administrative Procedure, 1 CMC § 9104(a). Kumu ma´adåpta, esti na regulasion siha para u ifektibu gi hålum dies (10) dihas ni mafetcha dispues di pupblikasion i Nutisian i Adåptasion gi hålum i Rehistran Commonwealth dispues di compliance yan i CMC §§ 9102 yan 9104 (a), yan 9105(b).

**ÅTURIDÅT:** Esti na mapropoponi na policies yan procedures manmacho´gui gi påpa´ i aturidåt i Kuepun Direktot siha, ginin iyon-ñiha Chairperson, para u macho´gui i areklamentu yan regulasion siha sigun para i 2 CMC § 4433 (i), ni malista i risponsibilidåt i Kuepu siha gi NMHC.

**I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA:** Esti i maproponi na regulasion siha ma´aligao para hu extendi yan na'i mas infomasion esti na programa gi papa i Affordable Rental Housing Development Program. I rason esti na regulasion para uma infotma i publiku na guaha programan atkilon para i dueñun guma' ni man intirisao ni hu ma na guaha uno para kuatro na guma' para i familia ni man kualifikao gi programan i U.S. Department of Housing and Urban Development's Housing Choice Voucher. Kuantu na salapi yan hafa manasisita para i programa ma eksplikasi gi halom i regulasion.

**SITASION I ASOSIÅT YAN/PAT I MANINA´FEKTA NA STATUTES, AREKLAMENTU YAN REGULASION SIHA:** I maproponi na regulasion siha ha tatitiye i CDBG-DR kualifikao na aktibidat pot sino i rehabilitation, reconstruction, new construction and acquisition. HCDA Section 105 (a)(1), 105(a)(3-4), 105(a)(7-8), 105(a)(11), and 105(a)(14-15).

**DIREKSION SIHA PARA U MAPO´LU YAN PUPBLIKASION:** Esti i maproponi na regulasion debi na u mapupblika gi hålum i Rehistran Commonwealth gi hålum seksion i maproponi yan nuebu na ma´adåpta na regulasion siha (1 CMC § 9102(a)(1) yan u mapega gi hålum i mangkumbinienti na lugåt gi hålum i Civic Center yan i hålum ufisinan gubietnamentu siha gi kada distritun senadot, parehu English yan i dos na lingguåhi Chamorro yan Refaluwasch. (1 CMC § 9104(a)(1)).

**PARA U MAPRIBENIYI UPIÑON SIHA:** I intirisao na petsona siha siña muna'hålum tinigi' upiñon siha put i manmaproponi na amendasion siha guatu gi as Jesse S. Palacios, Corporate Director, NMHC gi sigienti na address, fax, pat email address, yan i råyan suhetu "Proposed Rental Rehabilitation, Reconstruction and New Construction Program Policies and Procedures."

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I upiñon, infotmasion yan kuntestasion siha debi na u fanhålum gi hålum trenta (30) dihas ginin i fetchan pupblikasion esti na nutisia. Kumu guaha maseha håfa na kuestion-mu, siña un hågan i NMHC gi numerun tilifon gi 234-6866/234-9447, 234-7689.

Nina'halum as: _____ Fetcha: 05|25|21
Merced "Marcie" M. Tomokane
Chairperson

Rinisibi as: _____ Fetcha: 05|28|21
Matila A. Rosario
Ispisiåt Na Ayudånti Para I Atministrasion

Pine'lu yan
Ninota as: _____ Fetcha: 05.28.2021
Esther SN. Nesbitt
Rehistran Commonwealth

Hu sitifikåo, sigun para i 1 CMC § 2153(e) yan 1 CMC § 9104(a)(3), na hu ribisa yan aprueba esti siha na regulasion kumu para u fotma yan ligåt na sufisienti.

_____ Fetcha: 5/28/2021
EDWARD MANIBUSAN
Abugådu Heneråt

# NORTHERN MARIANAS HOUSING CORPORATION

# RENTAL REHABILITATION, RECONSTRUCTION, AND NEW CONSTRUCTION PROGRAM POLICIES AND PROCEDURES

VERSION: 1.0
May 14, 2021

Prepared by:

The Northern Marianas Housing Corporation – CDBG-DR Division

The policies and procedures stated in this manual are current as of May 13, 2021. This Manual represents the current version of the Northern Marianas Housing Corporation (NMHC) policies, which shall provide general guidance for the Rental Rehabilitation, Reconstruction, and New Construction Program's operation. All manuals will be reviewed periodically and will be updated. Therefore, you are strongly urged to visit our website, https://cnmi-cdbgdr.com, to ensure that you have the latest version. There may be times; however, when a policy or procedure will change before the manual is revised.

Table 1: NMHC Rental Rehabilitation, Reconstruction, and New Construction Program Version Control

| VERSION NUMBER | DATE REVISED | DESCRIPTION |
|---|---|---|
| VERSION 1.0 | N/A | Rental Rehabilitation, Reconstruction, and New Construction Program Policy - Version 1.0 |

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# 1 INTRODUCTIONS

## 1.1 Summary

As a result of the damages sustained in the 2018 storms – Typhoon Mangkhut and Super Typhoon Yutu, the Commonwealth of the Northern Mariana Islands received an allocation of Community Development Block Grant Disaster Recovery (CDBG-DR) funds, which will be administered by the Northern Marianas Housing Corporation (NMHC). In order to address both the direct and indirect impacts of the two storms, the Commonwealth has developed the Rental Rehabilitation, Reconstruction, and New Construction Program to cover the eligible costs for repair or replacement of storm-related damage to individual site rental properties as well as to increase the stock of rental units with new construction or acquisition of individual units. What rental units that were available prior to the disaster were quickly rented, creating an even bigger shortage of available and affordable rental units.

# 2 POLICY

## 2.1 Version Policy

Version history is tracked in the table on the title page, with notes regarding version changes reflected in Table 1. The dates of each publication are also tracked in Table 1. The first version of this document is 1.0.

Substantive changes within this document that reflect a policy change will result in version 2.0, an increase in the primary version number. Future policy changes will result in additional revisions and the issuance of a new direct version number.

Non-substantive changes, such as minor wording and editing, or clarification of existing policy that does not affect the interpretation or applicability of the policy will be included in minor version updates denoted by a sequential number increase behind the primary version number, such as 2.1, 2.2, etc.

## 2.2 Policy Change Control

Policy review and changes for the NMHC Rental Rehabilitation, Reconstruction, and New Construction Program are considered through a change control process. When policy clarifications, additions, or deletions are needed to more precisely define the rules by which the Program will operate, Program staff will submit a Policy Change Request or a Request for Decision for internal review by the Corporate Director. The Corporate Director will review to verify that all relevant information and any supporting documentation is included in the request. Upon concurrence, the request is then forwarded to the NMHC Board of Directors for final review and approval.

# 3 DEFINITIONS AND ACRONYMS

## 3.1 Definitions

**Adjusted Gross Income (AGI)**: AGI is an individual's total gross income minus specific deductions.

**Affordable Rent**: For purposes of units subject to an Affordability Period, NMHC defines affordable rent as rental costs that do not exceed 30% of a renter's income. NMHC uses the HUD- defined fair market rents as a basis to determine affordable rent caps. The maximum amount the Landlord may charge for an assisted unit will be limited to the Fair Market Rates.

**Affordability Period**: The minimum period the units will be required to remain "affordable" for LMI households, based on the amount of CDBG-DR assistance, the activity (rehabilitation, reconstruction, or new construction), and the number of housing units in the project. The Affordability Period restrictions will be enforced through recorded deed restrictions, covenants, or other similar mechanisms.

**Area Median Income (AMI)**: Calculated annual limits based on HUD-estimated median family income with adjustments based on family size used for demonstrating LMI beneficiaries in the Program. May also be referred to as Area Median Family Income (AMFI) in other program documents.

**Assisted Unit**: Any unit within the property improved or assisted with CDBG-DR funding.

**Beneficiary**: The recipient deriving advantage from CDBG-DR funding. Households occupying assisted units are beneficiaries.

**Builder/Contractor**: (Used interchangeably) A person who contracts to construct or repair housing units and/or supervises building operations.

**Case Management**: Working with individual landlords/applicants to understand the Program's housing solutions, resulting in clear and transparent determination of eligibility and award amounts. Program staff will work to decrease Landlord's barriers to participate in the Program where possible. They will explain the Program's solutions and provide information on the Rehabilitation/Reconstruction/New Construction/Acquisition process in standardized formats.

**Common Area Under Roof**: The total area under the common roof is primarily interior, conditioned spaces, and for single-story homes, equal to the footprint of the house. The term is also synonymous with the eligible area. In addition, exterior spaces such as detached porches and garages are not considered eligible areas.

**Damage Assessment**: An inspection and assessment of the housing unit to document damage from the event conducted by a certified or licensed inspector required to clearly document storm-related property damage via photographic evidence and detailed narratives. Damage assessments must include final cost of repair estimates according to local code, an assessment of cost-effectiveness of each recommended activity (reconstruction or rehabilitation), mold remediation and assistance needed to bring the property up to code at completion.

**Davis-Bacon Act of 1931 (40 USC Part 3141 et seq.) and Related Acts**: All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality of determined by Secretary of Labor in accordance

with the Davis Bacon Act, as amended. This applies to the rehabilitation and reconstruction of residential property of eight units or more.[1]

**Demolition**: The clearance and proper disposal of dilapidated buildings and improvements.

**Duplication of Benefits**: The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern, or other entity from receiving financial assistance from CDBG-DR funding with respect to any part of a loss resulting from a major disaster as to which he/she has already received financial assistance under any other program or from insurance or any other source. It is an amount determined by the Program that may result in the reduction of an award value.

**Hardship**: A condition that causes difficulty or suffering due to insufficient funds.

**Environmental Review**: All qualified projects must undergo an environmental review process. This process ensures that the activities comply with National Environmental Policy Act (NEPA) and other applicable state, territorial and federal laws.
Family: The term family means all persons living together in the same housing unit, as further defined under 24 CFR 570.3.

**Fair Market Rents (FMRs)**: The U.S. Department of Housing and Urban Development (HUD) annually estimates FMRs for Office of Management and Budget (OMB). They are used to determine payment standard amounts for the Housing Choice Voucher (HCV) Program and the Open Market Rental Program. The rent ceilings are the maximum award amounts of rent a recipient may be charged for units assisted by the Rental Rehabilitation and Reconstruction Program. 42 USC 1437f requires FMRs be posted at least 30 days before they are effective and that they are effective at the start of the federal fiscal year (generally October 1).

**FEMA-Designated High-Risk Area**: Areas designated by FEMA as vulnerable to significant wind and/or storm surge damage and areas located in the 100-year flood zones. These areas will be identified during the environmental review process for each participating jurisdiction.

**Flood Hazard Area**: Areas designated by FEMA as having risk of flooding.

**Flood Insurance**: The Flood Disaster Protection Act of 1973 (42 USC 4012a) requires that projects receiving federal assistance and located in an area identified by FEMA as being within a Special Flood Hazard Areas (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP). To be able to purchase flood insurance, the community must be participating in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used in those areas.

**Floodplain**: FEMA designates floodplains as geographic zones subject to varying levels of flood risk. Each zone reflects the severity or type of potential flooding in the area. "100-year floodplain" – the geographical area defined by FEMA as having one percent chance of being inundated by a flooding event in any given year. "500-year floodplain" – the geographical area defined by FEMA as having a 0.2 percent change of being inundated by a flooding event in any given year.

[1] https://www.hudexchange.infor/resources/documents/Housing-and-Community-Development-Act-1974.pdf

**Household**: A household is defined as all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements. For housing activities, the test of meeting the LMI National Objective is based on the LMI of the household.

**Housing Choice Voucher (HCV) Program**: The federal government's major program for assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market. The NMHC administers the Program in the CNMI. Since housing assistance is provided on behalf of the family or individual, participants are free to choose any housing, including single-family homes, townhomes or apartments that meet program requirements and is not limited to units located in subsidized housing projects.

**Housing Quality Standards (HQS)**: The goal of the Program is to provide "decent, safe and sanitary" housing at an affordable cost to low-income families. Housing Choice Voucher (HCV) program regulations at 24 CFR Part 982 set forth basic housing quality standards (HQS) which all units must meet before assistance can be paid on behalf of a family and at least annually throughout the term of the assisted tenancy. HQS define "standard housing" and establish the minimum criteria for the health and safety of program participants. Current HQS regulations consist of 13 key aspects of housing quality, performance requirements, and acceptability criteria to meet each performance requirement. HQS includes requirements for all housing types, including single and multi-family dwelling units, as well as specific requirements for special housing types such as manufactured homes, congregate housing, single room occupancy, shared housing, and group residences. Housing Quality Standards help HUD and the NMHC accomplish that goal by defining "standard housing" and establishing the minimum quality criteria necessary for the health and safety of program participants. Units listed under the Open Market Rental Program are subjected to the same requirements.

**Low to Moderate Income (LMI) National Objective**: Activities which benefit households whose total annual gross income does not exceed 80% of Area Median Income (AMI), adjusted for family size. Income eligibility will be determined and verified in accordance with 24 CFR Part 5 requirements using procedures as stated in the Technical Guide for Determining Income and Allowances, 3rd Edition (HUD-
1780-CPD). The most current income limits, published annually by HUD at https://www.huduser.gov/portal/datasets/il.html, shall be used to verify the income eligibility of each household applying for assistance at the time assistance is provided.

**Major or Severe Damage**: Per the HUD defined damage categories based on FEMA damages outlined in the Federal Register 6066-N-01. According to HUD, FEMA does not inspect rental units for real property damage so personal property damage is used as a proxy for unit damage. Each of the FEMA inspected renter units are categorized by HUD into one of five categories. For rental properties, to meet the statutory requirement of ''most impacted'' in this legislative language, homes are determined to have a high level of damage if they have damage of ''major low'' or higher. That is, they have a FEMA personal property damage assessment of $2,000 or greater or flooding over one foot.

**Not Suitable for Rehabilitation**: The NMHC defines "not suitable for rehabilitation" for the Program as: Structures that are considered "beyond rehabilitation" and do not meet the Program's rehabilitation standards, and/or federal and local code requirements shall be deemed not suitable for rehabilitation, as determined by the Program and consistent with program guidelines.

**Open Market Rental Program**: Properties assisted by the Program are listed on the Open Market to the public. Units are made available to low-moderate income families, the elderly, and the disabled. Landlord responsible to ensure units are decent, safe, and sanitary housing as defined in Housing Quality Standards.

**Payment Standard**: The Program determines a payment standard that is the amount generally needed to rent a moderately priced dwelling unit in the local housing market and that is used to calculate the amount of housing assistance a tenant will receive. The tenant must pay 30% of its monthly-adjusted gross income for rent and utilities.

**Rent Credit**: Credit applied to a borrower/landlord's loan balance triggered by a tenant's, especially extremely low-income tenants, monthly rental payment (which should not exceed 30% of the renter's monthly income) that does not cover the borrower/landlord's debt service to NMHC.

**Repetitive Loss Properties**: Residential properties that have experienced repetitive losses under FEMA's National Flood Insurance Program (NFIP).

**Reconstruction**: Demolition and rebuilding of a housing unit on the same lot in substantially the same footprint and manner. This activity also includes replacing an existing substandard manufactured housing unit (MHU) or stick-built/modular housing unit.

**Rehabilitation**: Repair or restoration of storm-damaged housing units in the impacted areas to applicable construction codes and standards.

**Subrogation Agreement**: An agreement executed by the beneficiary agreeing to repay any duplicative assistance if the beneficiary later receives other disaster assistance for the same purpose as disaster recovery funds already received.

**Substantial Damage**: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed Fifty (50) percent of the market value of the structure before the damage occurred (44 CFR 59.1).

**Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Title 49 CFR Part 24) (42 USC 4601 et seq.) (URA)**: Applies to all acquisitions of real property or displacements of persons resulting from federal or federally assisted program projects. URA's objective is to provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects. For the purposes of these guidelines, URA mostly applies to residential displacements in involuntary (49 CFR Subpart B) and acquisition or multifamily damaged/occupied activities that require the relocation of tenants.

**Urgent Need National Objective**: An urgent need that exists because conditions pose serious and immediate threat to the health or welfare of the community; the existing conditions are recent or recently became urgent; and the subrecipient cannot finance the activities on its own because other funding sources are not available. Subrecipients or the CNMI must document how each program and/or activity funded under this category responds to a disaster-related impact. See 24 CFR 570.483(d).

**United States Department of Housing and Urban Development (HUD)**: Established in 1965, as part of the Department of Housing and Urban Development Act, the department was created to develop and execute policies on housing and metropolises.

### 3.2 Acronyms

| | |
|---|---|
| ACHP | Advisory Council on Historic Preservation |
| AGI | Adjusted Gross Income |
| AMFI | Area Median Family Income |
| ACM | Asbestos containing materials |
| A/E | Architecture / Engineering |
| AMI | Area Median Income |
| CDBG | Community Development Block Grant |
| CDBG-DR | Community Development Block Grant – Disaster Recover |
| CNMI | Commonwealth of the Northern Mariana Islands |
| CPD | Community Planning and Development |
| CFR | Code of Federal Regulations |
| BOD | Duplication of Benefits |
| DR | Disaster Recovery |
| EPA | Environmental Protection Agency |
| ECR | Estimated Cost of Repairs |
| FMRs | Fair Market Rates |
| FEMA | Federal Emergency Management Agency |
| HCDA | Housing and Community Development Act |
| HCV | Housing Choice Voucher |
| HCVPPS | Housing Choice Voucher Program Payment Standard |
| HQS | Housing Quality Standards |
| HUD | U.S. Department of Housing and Urban Development |
| MHU | Manufactured Housing Unit |
| NEPA | National Environmental Policy Act |
| NFIP | National Flood Insurance Program |
| NMHC | Northern Marianas Housing Corporation |
| NRHP | National Regional Historical Places |
| NTP | Notice to Proceed |
| PACM | Presumed asbestos containing materials |
| QA/QC | Quality Assurance / Quality Control |
| RFP | Request for Proposals |
| RFQ | Request for Qualifications |
| SFHA | Specific Flood Hazard Area |
| SHPO | State Historic Preservation Officer |
| SOP | Standard Operating Procedures |
| USC | Unites States Code |
| URA | Uniform Relocation Act |

# 4 PROGRAM OVERVIEW

The Rental Rehabilitation, Reconstruction, and New Construction (which also includes acquisition) Program aims to restore small or individual rental properties damaged by Typhoon Mangkhut and/or Super Typhoon Yutu. Rental damage from the storms has a far-reaching impact on the local population, displacing individuals, and families, constricting the rental income on which Landlords rely, and leaving individuals and families in sub-par housing.

In response to this situation, the CNMI is implementing this program to cover eligible costs for repair or reconstruction of damage to real property or to build or acquire new units.

- **Rehabilitation**: The Program pays for eligible costs necessary to complete the repairs for rehabilitation or reconstruction of rental units that have not yet been completed, including eligible improvements for resilience, up to a cap of $200,000 per affordable rental unit.
- **Reconstruction**: The Program pays for eligible costs necessary to complete the rebuild of destroyed units, or the Program determines that it is not feasible to be rehabilitated, up to a cap of $250,000 per affordable rental unit.
- **New Construction/Acquisition**: The Program pays for the new construction of housing unit(s) or acquisition of unit(s) with a cap of $250,000 per affordable rental unit.

## 4.1 Program Design

The Program will provide a combination of an interest-free loan (75% of total cost) and forgivable loan (25% of total cost) to rental property owners with one (1) to four (4) units. The forgivable loan portion is forgiven after completing the affordability period that is contingent on the type of construction project. If the project is rehabilitation or reconstruction, the affordability period to LMI households is ten (10) years.

If the project entails the new construction or acquisition of units, the affordability period to LMI households is fifteen (15) years. The remaining interest-free loan balance for both rehabilitation/reconstruction and new construction/acquisition will also be forgiven but after completing fifteen (15) years of payments. Prepayment is allowed but the property is still restricted until after the affordability period ends. When the Program provides a loan, owners/applicants agree to the following:

- the affordable rental period based on the type of construction project and;
- provide affordable rent to LMI populations for any units rehabilitated/reconstructed or newly constructed or acquired by the Program. During the affordability period, all tenants must be income-approved by the Program or by the Housing Choice Voucher program before signing a lease.

The maximum loan awards will be equal to or less than $200,000 per affordable rental unit (rehabilitation), or 100% of the estimated cost to repair the property (reconstruction) as determined by the Program Construction Manager approved Damage Assessment less Duplication of Benefits (DOB) as calculated per the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act). The maximum loan awards for new construction or acquisition will be equal to or less than $250,000 per affordable rental unit.

### 4.1.1 Administering Entity

Northern Marianas Housing Corporation administers the Program.

### 4.1.2 National Objective
Benefit Low-to Moderate-Income (LMI) Persons or Households through Housing Activities

### 4.1.3 Eligible Activities
Clearance, Rehabilitation, Reconstruction, and Construction of Buildings (including Housing) (HCDA Section 105(a) (4)); Public Services (HCDA Section 105(a) (8)).

### 4.1.4 Total Allocation
$39,120,667 in the aggregate for Affordable Rental Housing Development

### 4.1.5 Estimate Start and End Dates
Quarter 2, 2021 through Quarter 4, 2026

## 4.2 Basic Eligibility Criteria
Assistance will be offered to Landlords in one or two rounds based on funding availability. The Program will fund the repair of privately owned rental properties with one (1) to four (4) units with outstanding needs not met by insurance proceeds or other resources. Within 60 days of completion of construction and throughout the extent of the Affordability Period, Landlords must offer the units to LMI households with a priority given to Housing Choice Vouchers Recipients.

Other Eligibility Criteria:

- Units are verified as Majorly or Severely damaged in Typhoon Mangkhut or Super Typhoon Yutu as a priority;
- Units are solely year-long rental housing and not as a second home or seasonal or short-term rental properties;
- Rents may not exceed the HUD Fair Market Rates as updated annually.
- Properties with four or fewer (≤4) units assisted by the Program (rehabilitation/reconstruction) require an Affordability Period of ten (10) years codified in the Landlord Agreement and a recorded covenant, guaranteeing no transient use including second home, seasonal or short-term rental use;
- Properties with four or fewer (≤4) units assisted by the Program (new construction/acquisition) require a minimum Affordability Period of fifteen (15) years codified in the landlord agreement and a recorded covenant, guaranteeing no transient use including second home, seasonal or short-term rental use;
- Applicants must complete a process to verify previously received disaster recovery benefits. Unmet needs are accounting after determining all federal, CNMI, local and private sources of disaster-related assistance, including, but not limited to FEMA, SBA, private donations, property, and flood insurance proceeds;
- All units must meet the legal requirements for tenant occupancy; and
- All units must meet housing quality standards.

## 4.3 Priority Verification
Once applicants complete the application, the Program will collect and review the applicant's supporting documentation to verify whether they are eligible for the priority. This document describes the rounds' prioritization criteria. During the application process, the Program will verify all information provided. If it is determined that any information provided on the application must be modified, based upon the application verification, the result could be a priority change for that applicant, and the application could be placed on hold. The information verified during the application process will be the final basis for determining the priority for the applicant. Should a priority change

be necessary, the applicant may be required to wait until their new priority is open for application before proceeding any further in the process.

**4.3.1 Priorities for Round 1 Funding**
Due to the limited funding available in the allocation, NMHC will accept applications in ninety (90) day increments to follow the prioritization and criteria outlined below.

Priority 1 applicants must meet the following criteria:

- Units that are Majorly/Severely Damaged. All units served must be reserved for LMI tenants; Landlords who offer properties to Housing Choice Voucher holders will have priority; and
- Rental Units with outstanding needs not met by insurance proceeds or other disaster recovery benefits

Priority 2 applicants must meet the following criteria:

- Units that are newly constructed, acquired after the storm(s), or to be acquired. All units served must be reserved for LMI tenants; Landlords who offer properties to Housing Choice Voucher holders will have priority; and
- Rental Units with outstanding needs not met by insurance proceeds or other disaster recovery benefits

**4.3.1.1 Deadlines for Round 1 Funding**
The application period for Round 1 of the Rental Rehabilitation, Reconstruction, and New Construction Program will be open for a period of thirty (30) days but no longer than sixty (60) with starting date to be announced at a later date.

**4.3.2 Priorities for Round 2 Funding**
NMHC recognizes that before the storm, the CNMI suffered from a shortage of affordable rental units. The Storms further reduced the limited long-term rental supply. In efforts to place more units into service, Round 2 is available if funds are remaining from Round 1.

Priority 1 applicants must meet the following criteria:

- Units that are Majorly/Severely Damaged not served in Round 1. All units served must be reserved for LMI tenants with a priority for Housing Choice Voucher holders; and
- Rental Units with unmet by insurance proceeds or other disaster recovery benefits.

Priority 2 applicants must meet the following criteria:

- Units acquired after the storm; or
- Units that were under construction at the time an application is submitted; and
- The award amount must be able to bring the unit to an occupancy level; and
- All units served must be reserved for LMI tenants with a priority for Housing Choice Voucher holders.

**4.3.2.1 Deadlines for Round 2 Funding**
The application period for Round 2 will be open for thirty (30) days but no longer than sixty (60) days, based on funding availability, starting date to be announced at a later date.

### 4.3.3 Priorities for Additional Rounds

As funding is limited, the NMHC will prioritize the Program rental units meeting the criteria outlined below. If funds, during the first two rounds, all funds are not obligated, the NMHC may open additional Rounds to match the Round 2 priorities and requirements.

### 4.3.4 Properties with an Owner-Occupied Unit

Properties with up to two (2) units where the LMI Landlord occupies one of the two accommodations will be eligible for funding under the Homeowner Reconstruction & Rehabilitation Program and subject to that program's requirements.

An owner-occupied unit will be eligible for repair if the Landlord's household qualifies as an LMI household. All units assisted by this program must be affordable and made available to LMI households. If the owner vacates their accommodations, the unit must then be made available to LMI households for the Affordability Period's remainder.

# 5 APPLICANT INTAKE

## 5.1 Outreach

For the Rental Rehabilitation, Reconstruction, and New Construction Program, the DR Housing Administrator and staff will develop and implement a detailed outreach plan. The outreach and communications efforts will identify eligible rental Landlords from all racial, ethnic, national origin, religious, familial status, the disabled, "special needs," and gender groups to provide opportunities to apply to the Program.

Program Marketing and Outreach will be conducted through widely available media outlets, and tasks may include:

- Advertisements in local media outlets, like newspapers or broadcast media, provide unique access for persons protected class under the Fair Housing Act.
- Flyers
- Town hall meetings
- Use of social media when appropriate

The outreach measures will make the Program accessible to the protected class under the Fair Housing Act by holding community meetings. Meetings will be held in buildings compliant with the Americans with Disability Act (ADA), providing sign language assistance, and providing special aids for the visually impaired when requested. Translation services will be available for all community meetings as well as advisory services.

Program marketing materials, advertisements, and Landlord materials will be presented in English, and in Chamorro or Carolinian as requested.

## 5.2 Application Intake

Once a Landlord has completed an application and it is submitted in the Program's system of record, he, she, or the entity is an applicant to the Program. From that point forward, applicants must abide by all Program policies and procedures outlined in this manual. All required documentation may be submitted either electronically or in person. All owners must be listed on the Program application. All owners must sign all program forms.

## 5.3 Applicant Communications

The Program will ensure that all applicants have updated information regarding the status of their application and award. The Program will use various methods of communication including but not limited to the following:

- Phone Calls
- Written correspondence (direct mailings, e-mail)
- Fax
- In-person meetings

## 5.4 Limited English (LEP)

The Northern Marianas Housing Corporation will take reasonable steps to ensure very low-, low-, and moderate-income persons, including persons with disabilities, the elderly, and persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in our CDBG-DR services, activities, programs and other benefits. The policy of NMHC is to ensure meaningful communication with interested clients. The policy also provides for communication of information contained in vital documents related but not limited to NMHC's CDBG-DR program, i.e., action plans, amendments to the action plan, citizen participation plans, etc. All interpreters,

translators and other aids needed to comply with this policy shall be provided without cost to the person being served, and clients and their families will be informed of the availability of such assistance free of charge.

### 5.5 Special Needs Applicants

Necessary accommodations will be made to ensure that eligible elderly persons and persons with special needs can successfully participate in the Program. These accommodations could include the use of American Sign Language, oral presentations of documents, and home visits by the Program staff if the applicant is unable to come to the intake center. All intake offices will provide barrier free access and accommodations for persons with disabilities. The rehabilitation or reconstruction of rental properties with tenants who have special needs will include any necessary physical adaptations.

### 5.6 Applicant Responsibilities

Applicants are advised that additional information may be required for the Program to properly calculate the assistance and Loan Amount. They should maintain all records, receipts, invoices, and other documentation related to any repairs, construction, or clean-up of the damaged properties. The Program reserves the right to request additional documentation and the applicant is obligated to be responsive to these requests to produce such documentation as requested. This obligation continues even after all repairs have been completed and all award funds have been disbursed.

Landlords are also required to provide all information requested by the Program on their tenants; including but not limited to name, contact information and current rent.

Applicants applying to the Program for assistance have the responsibility to keep the Program informed of current contact and ownership information. Applicants are responsible for actively participating in the process and providing access to their property for damage assessments, environmental testing, construction, and construction progress inspections. The Program will make every attempt to remain in contact with each applicant via phone, e-mail, and U.S. Postal Service written correspondence.

If an applicant demonstrates a pattern of unresponsiveness, the Program will institute a communication due diligence procedure, after which applicants will be notified that their continued participation in the Program may be in jeopardy. The non-responsive procedure includes all the following:

1. Three consecutive unreturned phone calls,
2. E-mail notification of attempted phone calls and request for applicant contact, and
3. U.S. Postal Service notification via certified mail with return receipt required.

If after the full succession of these communication attempts an applicant still fails to contact the Program within thirty (30) days of the U.S. Postal Service notification mail date, the applicant will be placed on an inactive status. The applicant will be notified by e-mail and certified mail that they are on an inactive status. If the applicant does not contact the Program within thirty (30) days of notification of inactive status, the applicant file will be withdrawn and administratively closed.

Applicants agree not to transfer the damaged property or any interest in the damaged property, whether voluntarily or involuntarily, until the rehabilitation or reconstruction to be performed under the Program has been completed.

# 6 ELIGIBILITY DETERMINATION

## 6.1 Applicant Eligibility Criteria

Eligible applicants shall be any individual, joint venture, partnership, limited partnership, trust, corporation, limited liability company, other legal entity, or any combination thereof which meets the requirements below:

a. Be organized on a for-profit or nonprofit basis, and

b. Preferably demonstrate experience relevant to owning and operating under a rental housing program (federal or private enterprise).

The Program will certify that each applicant and property meet the eligibility criteria as follows.

### 6.1.1 Ownership and Ownership Verification

Ownership of the property will be verified prior to an award or Loan Agreement execution. For properties with 2 or more rental units, one of which is an owner-occupied unit, the applicant must have been the owner of record at the time of the applicable storm. An individual with Power of Attorney (POA) for the owner may complete the application on the applicant's behalf.

In the case of properties, which have multiple owners, only one application can be submitted, listing all owners, and all owners will need to execute loan agreements. Properties owned by LLC or other ownership type, private or non-profit are eligible.

If Landlords own multiple eligible properties, they must submit multiple applications to the Program (one for each property). The Program may limit the number of units per Landlord due to limited funding and location. NMHC may consider awarding two or more units per landlord if the location is in proximity to schools, grocery stores, laundry facilities, etc. However, the landlord must demonstrate that they have the financial means to meet the debt service to NMHC.

When possible, the Program will validate applicant ownership of the damaged property using recognized third-party database services to expedite applicant processing. Ownership is verified by comparing property and application information with the names and addresses on the property records from the time of the storm and most recent information available.

If applicant ownership cannot be confirmed through third party data or in Round 2 where the property was acquired after the storm, applicants will be required to submit documentation to satisfy the ownership criteria. This documentation may include, but is not limited to, one of the following:

- Deed or official record for the property
- Rental property mortgagee documents
- Real property insurance policy
- Tax receipts or bill

Alternative forms of ownership documents may be considered:

- Life Estate Deed: must show the applicant as grantee of the damaged property (if transferred upon the death of another – death certificate of prior owner required)
- Probated Will\Court Ordered\Judgement granting applicant an ownership interest in the damaged property
- Divorce Decree: If ownership was obtained consequent to divorce the decree must specify the damaged property was granted to the applicant
- Other documentation that will be reviewed and considered on a case-by-case basis.

### 6.1.2 Property Eligibility Criteria

Properties must meet the following eligibility criteria:

- Close to neighborhood schools, grocery stores, and laundry facilities.
- Must be and must remain as full time, year-round rental during Affordability Period.
- Must have experienced major or severe damage from either Typhoon Mangkhut or Super Typhoon Yutu as a priority.
- Must be between one (1) and four (4) rental dwelling units. A rental dwelling unit is defined as having complete independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
- Mixed-income properties are eligible for assistance. Only units that will be rented to LMI tenants will be eligible for an Award. Awards will be based on the number of rent-restricted affordable housing units.
- Eligible mixed-use property containing both commercial/office uses (groceries, corner stores, etc.) and residential uses (primary residences, rental units, etc.) prior to the storm are eligible only for the residential components of the property. These rental properties will receive an award only for each affordable residential unit. When determining whether a commercial property is within the eligible number of units (one to twenty) the commercial units will not be considered in the number of units. Owner must demonstrate intent and financial capacity to complete code-compliant repairs of the entire property.
- Properties with units occupied by family members that were renting a unit prior to the storm event are eligible provided that the tenant is deemed to be a "bona fide" LMI tenant and the rent paid is market-based for LMI tenants.
- Contract for Deed (Land Contract): These contracts must be converted to sale and the Landlord must obtain a warranty deed to be eligible for the program.
- Single Room Occupancy (SRO) units. SRO units are residential properties that include multiple single room dwelling units where each unit is for occupancy by a single individual with shared kitchen and/or bathroom.

Properties in the following categories are <u>not</u> eligible:

- Structures or spaces for commercial uses prior to the storms, which will be converted to residential rental space.
- Second homes, vacation rentals and short-term rentals.
- Bankruptcy: Any property included in an open bankruptcy will not receive assistance from the Rental Rehabilitation and Reconstruction Program.
- RVs and houseboats are NOT eligible structures.
- Properties that are delinquent on taxes or mortgage payments and do not have an approved, verifiable payment plan in place are not eligible.

### 6.1.3 Unit Occupancy

After applying to the Program, the Landlord shall not rent any units identified on the application as vacant until a Certificate of Occupancy has been issued, and the Program has verified the income of potential tenants. Once this is complete, the Program will notify the Landlord that their unit can be occupied by the tenant they have identified. Properties that are currently occupied are eligible for assistance. Landlords will not be allowed to participate in the Program if a tenant was wrongfully evicted from the property.

## 6.2 Duplication of Benefits Review

Under the requirements of "The Robert T. Stafford Disaster Assistance and Emergency Relief Act" (42 USC 5121, et seq.), as interpreted and applied by HUD, the Program must consider certain aid received

by applicants or subsequent owners, when applicable, in determining the amount of assistance which can be granted. The Stafford Act prohibits any person, business concern, or other entity from receiving financial aid from CDBG-DR funding concerning any part of a loss resulting from a significant disaster and financial assistance under any other program or from insurance or any other source that has been provided to a Landlord. Sources of DOB compensation include funding assistance sources for structural damage and loss related to the disaster. **The Compliance Division will assist Landlords in completing a DOB analysis.**

Federal regulations require the NMHC to conduct a duplication of benefits (DOB) analysis to ensure that one (1) applicant does not receive more Federal funds than needed, and two (2) Program funds are used to meet a need that still exists after considering other funds received.

Duplication of Benefits (DOB) occurs when all the following occur:

(1) A beneficiary receives assistance from FEMA, NFIP, SBA, private insurance, or a charity and;

(2) The total assistance amount exceeds the need for a particular recovery purpose.

### 6.2.1 Sources of Potential Duplicative Assistance

DOB reviews are calculated on the whole property (not individual units). Owners that purchased the rental units after the storms must include evidence of when property hazard insurance was obtained, along with ownership and damage condition. The following sources of funding assistance provided for structural damage and loss that may be considered a DOB and under federal law must be deducted from the assistance provided:

- FEMA Individual Assistance for Structure Repair (IA) (for only the owner-occupied unit)
- FEMA National Flood Insurance Program (NIFP or increased Cost of Compliance (ICC)
- USDA disaster loans
- Private Insurance
- Small Business Administration (SBA) Loans
- Charity or any other funding source that may duplicate assistance

#### 6.2.1.1 FEMA Individual Assistance (FEMA IA owner's unit only)

The Program will verify the FEMA IA amount provided by the FEMA database. If an applicant can provide documentation demonstrating that the FEMA IA amount provided by the FEMA database includes non-structural related amounts, the documentation provided by the applicant will be used to adjust the FEMA IA payout amount. Payments for contents or other expenses that are not related to structural loss are not deducted from the applicant's award.

#### 6.2.1.2 National Flood Insurance Program (NFIP) and Increased National Cost of Compliance (ICC) Payments

The Program will verify if an NFIP claim payment was provided to an applicant using third party data. In the event of a match, the verified amount paid will be used to determine if a DOB exists and may be deducted from the amount the applicant is eligible to receive. Payments for contents or other expenses that are not related to structural loss are not deducted from the applicant's award.

#### 6.2.1.3 Private Insurance and Wind Insurance

All private insurance settlement amounts for loss to dwellings are considered a DOB and may reduce the amount of disaster assistance for which an applicant may be eligible. Private insurance payments for anything other than the damaged structure (contents, fences, storage sheds, etc.) are not deducted from the applicant's award.

Private Insurance and Wind Insurance Required Documentation:

- Validated external data-source information,
- Insurance Policy Declarations page, and
- Insurance award or claims letter (if applicable) and Insurance/Benefit Certification.

**6.2.1.4 Small Business Administration (SBA)**

HUD published a Federal Register Notice (76 FR 71060) on November 16, 2011, (DOB Notice), which clarifies duplication of benefits requirements for all active and future CDBG-DR grants. HUD also published additional guidance on July 25, 2013, entitled "HUD Guidance on Duplication of Benefit Requirements and Provision of CDBG-DR Assistance," to ensure that CDBG-DR assistance is necessary and reasonable even if it does not duplicate declined SBA loan assistance. Because the DOB Notice and the July 25, 2013, guidance do not address the unique circumstances that arise in the context of Unanticipated Assistance, this CPD Notice sets forth additional guidance for grantees.

Pursuant to FR 6066-N-01, February 9, 2018, if an applicant was approved for an SBA loan but did not draw down any of the loan, the loan may be considered exempt from the duplication of benefits calculation. If any amount has been drawn, the entire loan amount will be counted in the duplication of benefits calculation.

SBA required documentation (if applicable) includes the following:

- SBA third-party data set
- SBA loan documents (if applicable)

**6.2.1.5 Charity**

Charity required documentation (if applicable) includes the following:

- Documentation provided by a nonprofit or for-profit organization.

**6.2.2 Allowable Activities**

Any portion of DOB funds that has been determined to have been spent by the applicant on Allowable Activities, as defined below, will reduce the amount considered to be a DOB. The applicant will be responsible for accurately reporting the specific amounts spent on the Allowable Activities. Such activities include:

- Repair expenses to make the structure sufficiently safe and sanitary to be temporarily habitable, including emergency repairs
- Contractor fraud
- Forced mortgage payoffs
- Legal fees

**6.2.2.1 Contractor Fraud**

If an applicant was a victim of contractor fraud, the amount paid to the contractor will not be counted as a DOB. All the following documentation is required to allow the Program to determine if any amount paid to a Contractor can be excluded in the DOB calculation:

- Police report or complaint dated before the date of the application
- Proof of cancelled check (if applicable)
- Bank payment reflecting payment (if applicable)

- Contract between applicant and contractor, if applicable

Reported Contractor fraud will be verified through review of the police report and complaint. If no amount is included in the complaint, the applicant will complete an affidavit to accompany the complaint that lists an amount to reduce the DOB total. In scenarios where a police report, complaint, or contract, are not available, information provided by the applicant will be reviewed on a case-by-case basis.

**6.2.2.2 Forced Mortgage Payoff**

In the event an applicant's mortgage requires any insurance proceeds to be applied to reduce the lien balance, the mortgage holder (not the landlord) is considered to have legal control over those funds making the landlord legally obligated to use insurance proceeds for that purpose. Under these circumstances, the amount of the insurance proceeds required by the mortgage company to be applied to the mortgage balance will be excluded from the DOB calculation.

To be considered for exclusion, the applicant must provide a copy of the correspondence or letter from the mortgage company on company letterhead and signed by an authorized representative stating the applicant was required to use the disaster assistance funds for this purpose. This will demonstrate they were required to apply the insurance proceeds to their mortgage balance.

**6.2.2.3 Legal Fees**

- Legal fees/expenses incurred by the applicant due to litigation related to an Insurance policy claim for the named disaster will be excluded from the DOB calculation. To be considered for exclusion, an applicant must submit at least one of the following pieces of documentation:
- Evidence of payment to a legal firm (Attorney Fee and Expense Statement)
- Settlement agreement (if applicable)

The Program will review submitted documentation and verify if the amount was paid to the Attorney can be excluded and it reduces the DOB.

**6.2.3 Repair Expenses**

Applicants will be able to deduct from their DOB insurance, SBA, and FEMA amounts spent to repair their property due to damage by the Disaster.

Examples of allowable eligible repair expenses include the following:

- Structural repairs (roof, foundation, electrical, plumbing, and windows)
- Limited debris removal
- Mold remediation
- Labor, material, and equipment rental to repair the damaged residence (carpeting, cabinetry, flooring, fixtures, doors, walls, and ceilings) permanently or temporarily
- Demolition costs
- Installation of wells, cisterns, septic tanks, cisterns, electricity, HVAC, and plumbing
- Grading or leveling of property
- Rental of disposal and removal equipment (backhoes and dumpsters)
- Other costs or expenses associated with repairing, stabilizing, or reconstructing the property
- Tree/shrub removal if tree/scrub blocked access to the property or presented a safety hazard

The following more specific examples considered to be allowable activities:

- Tarps

- Building supplies
- Siding
- Paint
- Weather head
- Water heater
- Sewer/septic

Required repair expenses documentation may include the following:

- Receipts (if applicable)
- Paid invoices
- Validation by Construction Inspector

**6.2.3.1 Repair Expenses Verification Process**

A Program inspector must determine with reasonable assurance that any repairs claimed for DOB offset were made after the date of the event and will document confirmed repairs with a written assessment, cost estimate and photographs.

Copies of receipts that support repairs to the property may be provided to the Program to document eligible expenditures in support of the inspection. All receipts will be reviewed for fraud and/or post-dating.

Invalid receipts will not be included in cost of repairs. Applicants will be required to document repairs made to the property if a construction inspector is unable to validate the repairs on site.

**6.2.3.2 Calculating Duplication of Benefits**

If an applicant is receiving a rehabilitation award, then the full duplication of benefits will be accounted for at the time of the rehabilitation award calculation. The duplication of benefits check will be completed prior to the signing of the construction contract and again prior to the processing of the final draw of funds.

All unexpended duplication of benefits funding must be accounted for; the DOB process will be conducted multiple times throughout the process. Applicants participating in the Program must escrow enough to complete construction after application of the grant cap. (See Section 7.8)

Program applicants and subsequent owner must report all third-party assistance they have received towards repairing the damages to their rental property. In accordance with the Stafford Act, the Program will use the following framework to assure that any funds provided by the Program are not a DOB:

Step 1: Identify the total need for assistance (Work in Place + Estimated Cost to Repair).
Step 2: Identify all potentially duplicative assistance received or to be received.
Step 3: Deduct assistance determined to be duplicative.
Step 4: Determine the maximum eligible award (Step 1 minus Step 3).
Step 5: Determine the Program cap (if applicable).
Step 6: Determine the final Program award which cannot exceed the Program cap.

The DOB and Award Calculation template are provided in Appendix 14.2.

### 6.2.4 Subrogation

All duplicative funding received must be remitted to the Program, regardless of when it is received. If applicants receive additional funding for the same purpose as the Program award (permanent repair to storm damaged property) after the Program award is executed, the applicant is required to remit the additional funding to the Program. By accepting the award, applicants agree that they will remit any duplicative funds to the Program, whenever received.

## 6.3 Uniform Relocation Act (URA) Requirements

In keeping with the Uniform Relocation and Acquisition Policies Act of 1970 (URA), tenants occupying a unit that requires rehabilitation or reconstruction may be eligible for relocation assistance. The regulations implementing the URA are found at 49 CFR Part 24. The program will also consider the provision of temporary relocation benefits to resident owners under circumstances of extreme hardship. These will be considered on a case-by-case basis.

### 6.3.1 Qualifying for Relocation Assistance

Landlords are not entitled to benefits under the Uniform Relocation Act.
Pursuant to Public Law 105-117, undocumented persons that are not lawfully present in the United States are not eligible for relocation assistance unless such ineligibility would result in exceptional hardship to a qualifying spouse, parent, or child. All persons seeking relocation assistance will be required to certify that they are a United States citizen or national, or an alien lawfully present in the United States.

### 6.3.2 Temporary or Permanent Relocation

As determined by the Program and in compliance with applicable laws and regulations, tenants who must move from their residential rental unit permanently due to rehabilitation, demolition, or reconstruction, or temporarily while repair work is underway may be eligible for relocation benefits as defined under URA. At the time of application, Landlords will be asked to certify their units' status (occupied/vacant), along with names and contact information for all tenants, current rent rolls, and a copy of leases.

If tenants require temporary relocation while repairs are underway, the tenants must be permitted to return to and reoccupy their original units or other similar units on the same property upon completion of the work at rents that equal to the pre-temporary relocation rent or 30% of their income.

(URA Policy and Plan work in progress)

### 6.3.3 Certificate of Occupancy

After applying to the Program, the Landlord shall not rent any units identified on the application as vacant until a Certificate of Occupancy has been issued, and the Program has verified the income of potential tenants. Once income verification is complete, and if the tenant qualifies, the Program will notify the Landlord that their unit can be occupied by the tenant they have identified.

See URA Policy and Plan for more details.

### 6.3.4 Relocation Assistance Costs

The Program will determine if relocation assistance or other costs to comply with the URA are required. Costs associated with URA compliance will be paid for by the Program. The Program's Housing Division staff will ensure that all requirements of the Uniform Relocation Act are fully adhered to during construction and re-lease up.

### 6.3.5 Relocation Notifications

At the time of application, the Intake Program staff will be required to provide all tenants with a General Information Notice (GIN), advising them that the project has applied for federal assistance, but they are not to move out or take any action until they receive further notification.

If the applicant is determined to be eligible, then NMHC will see that all tenants must be served with a Notice of Non-Displacement or Notice of Permanent Displacement notice advising them of all their rights under URA.

The Landlord is responsible for ensuring that the Move-In Notice is provided to all tenants moving into applicable units once the application has been approved. Failure to do so may result in URA obligations for the Landlord, which will not be reimbursable with CDBG-DR funds.

The Program will ensure that all tenants are sent notifications required as part of URA compliance, at the time of Program application, NMHC will provide all tenants with a General Information Notice (GIN), advising them that the project has applied for federal assistance, but they are not to move out or take any action until they receive further notification. If the applicant is determined to be eligible, then the Program will serve all tenants with either a Notice of Non-Displacement or Notice of Permanent Displacement notice advising them of all their rights under URA. NMHC will ensure that the Move-In Notice is provided to all tenants moving into applicable units once the application for grant assistance has been approved.
The program will secure receipts for delivery of all notices and these will be retained in the tenant's file.

### 6.3.6 Failure to Comply with URA Requirements

If a Landlord refuses to allow the temporarily relocated tenants to return and reoccupy their former units or violates the requirements of the Uniform Relocation Act in other way (e.g., eviction, cash for keys), the Landlord will be declared ineligible for the program (if prior to loan/grant signing) or be considered in violation of their loan agreement (if violation is discovered post-loan/grant signing). In either event, the NMHC reserves the right to exercise all remedies as allowed in the recorded documents' the Landlord may be required to reimburse the Program for any temporary or permanent relocation expenses associated with any displaced tenants. NMHC may not release the retention until any and all tenant claims are resolved. These costs may include tenants' increased housing costs, moving expenses, and necessary out-of-pocket expenses.

## 6.4 Environmental Eligibility Review

All activities funded by CDBG-DR are subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), as well as to the HUD environmental review regulations at 24 CFR Part 58. The primary purpose of this Act is to protect and enhance the quality of our natural environment. The HUD environmental review process and all necessary consultations must be completed before any funds are committed and disbursed for eligible expenses. Thus, prior to the notice to proceed funding all construction types or acquisition, the Program will conduct an environmental review on each property, which includes a site inspection.

24 CFR Part 58 states that the Responsible Entity (RE); in this case, NMHC, may tier its environmental reviews and assessments to eliminate repetitive discussions of the same issues at subsequent levels of review. Tiering is appropriate when there is a requirement to evaluate a policy or proposal in the early

stages of development or when site-specific analysis or mitigation is not currently feasible, and a more narrow or focused analysis is better done later.

### 6.4.1 Site-Specific Tiered Environmental Review

The Program will follow a tiered Environmental Review process, which allows for an initial "broad" review of all environmental factors that will be shared by properties in each geographic area. Based on this broad review, the funds will be released for the Program activity contingent upon completing a "site specific" review once a potential property is identified and determined eligible. Site-specific Environmental Reviews will identify any above-ground hazards, flood plains, historic properties, and wetland issues when applicable. A site-specific Tier II review must be completed for each property prior to project bidding or taking any choice limiting actions on the proposed project site. For any property with more than four units, a Phase I environmental will be performed if required to comply with HUD environmental requirements.

Applicants will be given a "stop-work" notification from the Program at the time of the initial inspection/damage assessment is conducted. This requirement will be referred to as the "stop-work requirement." The Program staff will notify any applicant subject to the stop-work requirement. The applicant will sign an acknowledgment of the stop-work order. All ongoing work shall cease under this order.

### 6.4.2 Flood Insurance

### 6.4.2 Flood Insurance Requirements

If the damaged, reconstructed or replacement property is in a Special Flood Hazard Area, any insurable structure on any part of the property shall always be insured under a policy of flood insurance in the amount of the lesser of:

(1) the full insurable value of the structure as determined by the applicable property insurer, or

(2) the maximum amount available for the property under the National Flood Insurance Program or a successor program.

Evidence that the damaged property (or reconstructed property) is covered by any required flood insurance must be provided at or before the Loan Agreement Execution and again before the final disbursement of funding. A declaration sheet describing the Applicant's insurance company's coverage will be sufficient evidence to satisfy this requirement. If flood coverage is required but not available due to the damaged property's disrepair, applicants must submit a declination letter from the insurer before the Loan Agreement Execution. The applicant must also prove that he or she obtained flood insurance once construction has been completed prior to the final payment of grant dollars.

#### 6.4.2.1 Failure to Maintain Flood Insurance

Failure to maintain insurance in perpetuity may result in applicants being ineligible for future disaster relief. Upon the sale or transfer of the property, applicants will, on or before the date of such transfer. As part of the documents evidencing such transfer, notify all transferees in writing of the continuing obligation to maintain flood insurance on the property. If the applicants fail to provide such notice, applicants may be liable for future disaster assistance related to the property. All program applicants will be required to execute a covenant that will be recorded in the public records and will attach to the parcel.

### 6.4.3 Lead-Based Paint Risk Assessment

Based on the Construction Manager's determination that the property was constructed prior to 1978 and per 24 CFR 35.930(a), paint on all surfaces will be presumed to be regulated. Under 24 CFR

35.930(d) for residential properties receiving more than $25,000 per unit in Rehabilitation Assistance per the HUD definition, the Program will abate all lead-based paint hazards (soil-lead and dust-lead) and deteriorated paint identified during the Lead (Pb) Risk Assessment. A Lead (Pb) Risk Assessment is required to identify hazards in all target housing properties that are determined feasible for rehabilitation, including the damaged unit's interior/exterior surfaces and in common areas that service the unit. Projects receiving reconstruction are not required to be tested for lead hazards. Lead (Pb) Risk Assessments must be done by a HUD-certified risk assessor. Properties determined to contain lead-based paint will be subject to the clearance testing requirements of the HUD Regulations.

**6.4.4 Mold Assessment and Remediation**

Mold assessment consists of visual inspection only, performed by the Construction Manager or Inspector. Mold assessment or testing of the existing structure is not performed on reconstruction projects. If a visual inspection reveals the presence of mold, additional testing via a collection of bulk, swab, and air samples is not necessary unless recommended by the assessor or requested by the landlord and agreed to by the Construction Manager.

Visual inspection is the most crucial initial step in identifying a possible mold problem and determining remedial strategies. The extent of any water damage and mold growth should be visually assessed, and the affected building materials specified. A visual inspection should also include observations of hidden areas where damages may be present, such as crawl spaces, attics, and behind wallboard, to the extent feasible without destructive testing or removal of apparently undamaged building materials.

Remediation: Currently, there are no government standards pertaining to acceptable levels of indoor airborne mold spores and structures. Mold is present everywhere in the environment.

For all projects, identified moisture sources should be eliminated prior to further remediation. Post remediation dehumidification may be necessary to dry the remaining structural framing materials prior to any rehabilitation. In cases where this occurs, the Construction managers will incorporate the cost into the ECR. Areas where mold was or is identified as part of the Initial Site Inspection (ISI), the Walk Through, or construction will be required to be remediated by the builders. Materials harboring mold will be cleaned or replace.

**6.4.5 Asbestos Survey Requirement**

Following Federal and CNMI laws and regulations, a qualified asbestos inspector must perform a comprehensive building asbestos survey based on a thorough inspection to identify the location and condition of asbestos-containing materials (ACMS) throughout any structures. When present, small amounts of drywall, mud, floor time, mastic, etc. will be collected for sampling. Every effort will be made to collect the required samples in the least destructive manner possible. Presumed asbestos-containing materials (PACM) will be documented and recorded.

Proper removal and disposal of ACMs will be included in the ECR. ACMs that are friable or which will be disturbed or removed by renovation or demolition must be removed and disposed of according to federal and CNMI regulations by firms and individuals adequately licensed for the work. If asbestos should become apparent once construction begins, procedures compliant with CNMI and local abatement procedures as well as HUD and the Environmental Protection Agency (EPA) will be followed. The builder will be responsible for retaining a qualified asbestos inspector to assess suspected ACMs to be disturbed and identified after the execution of the contract. Costs for additional assessment and removal will be handled as a change order to the builder. All asbestos abatement shall be done in accordance with EPA requirements for air pollution prevention and OSHA requirements for worker

protection. The builder shall provide the Construction Manager with a copy of the Asbestos Waste Disposal Manifest for all ACMs removed from the site, as a condition precedent to final payment.

### 6.4.6 Environmental Inspection Request and Clearance

Once the initial feasibility is determined, each property is required to secure a Tier 2 Environmental Clearance. The Program will procure a third party to conduct environmental clearance. If the Environmental Contractor identifies significant issues that will limit the ability for an applicant to proceed with the reconstruction or rehabilitation of their property, the contractor will notify the Program of the specific concerns that will need to be addressed to secure environmental clearance. The Program will establish agreements and procedures as required to determine the quickest and most efficient ways to address environmental issues identified through the Tier 2 review process. See Environmental Policy and Procedures for details.

### 6.4.7 Section 106 Historic Review

All federally funded programs, including the CDBG-DR Program, are required by Section 106 of the National Historic Preservation Act of 1966 (16 USC 470f) to consider the effects of their actions on historic properties and afford the Advisory Council on Historic Preservation (ACHP) and the State Historic Preservation Officer (SHPO), a reasonable opportunity to comment on such actions.

A Section 106 Review will need to be completed prior to committing funds when the following thresholds are met:

- Properties that are 50 years old or older. There could be exceptions; check with the SHPO (located within the CNMI DCCA).
- Properties listed on or determined eligible for listing on the National Register of Historic Places (NRHP), including individual properties, are defined as "contributing resources" in a historic district, archaeological sites, and properties of significance to federally recognized Indian tribes and Native Hawaiian organizations.

### 6.4.8 Landlord Responsibilities

The damaged unit(s) will be rehabilitated or reconstructed to re-occupancy standards permitted by CNMI and local codes, as well as HUD HQS Standards. The funding will be based on damage assessments that use a standard grade of materials to determine the value of total repairs needed for each unit. If applicable, Green Building Retrofit Standards adopted by NMHC will be required to be incorporated into all specifications. The Program will not provide additional funding for costs related to the use of higher grade materials or rehabilitation or reconstruction of units that are not part of the affordability agreement. The Program will use standard grade materials for the repair or reconstruction of the eligible unit.

Regardless of whether the unit is rented as HCV or on Open Market:
The landlord must abide by Federal and CNMI fair housing laws and the non-discrimination requirements outlined in the Fair Housing Act.

The damaged structure or unit(s) will be rehabilitated or reconstructed to re-occupancy standards permitted by CNMI and local codes as well as HUD HQS Standards.

- The landlord must comply with HUD Lead Safe Housing Rule
- The landlord must comply with the Uniform Relocation Act (URA) requirements for tenant notifications (including notifications to new and existing tenants residing in adjacent or nearby undamaged/non-applicable units that may be affected by project construction),

temporary housing, and relocation assistance (including movement, storage, and security of the tenants' property and personal belongings) as determined by NMHC; and

- The landlord must arrange reasonable and timely access to the property for inspectors and contractors providing rehabilitation or reconstruction services as defined in the construction agreement as three to five business days.
- For properties with five or more units, broadband infrastructure must be included with the rehabilitation/reconstruction.
- For properties with eight or more units, a wage determination will be issued by NMHC and the prevailing wage rates as required by the Davis Bacon Act must be paid by all contractors. Other documentation is also required.

### 6.5 Damage Assessment and Inspections

The purpose of the Damage Assessment and Initial Site Inspection is to confirm existing site conditions and collect information about the project site to make property eligibility determinations and perform Tier 2 environmental reviews.

This section outlines the policy and procedures used when performing an initial site inspection, including Substantial Damage Data Collection, development of cost estimates for work incurred prior to application and work remaining, assessment of lead paint, asbestos, and mold hazards in the property.

The Program will utilize a tiered environmental review process outlined in the Program's Environmental Policy and procedures. Any significant findings will be referred to the Environmental Review Unit and consultants to address.

#### 6.5.1 Damage Assessment and Standard Grade Materials

The Program will use a standard grade of materials to determine the value of total repairs needed for each property. The Program will not provide additional funding for costs related to the use of higher-grade materials. The Program will use standard grade materials to calculate the estimated cost for the rehabilitation or reconstruction of an eligible property.

#### 6.5.2 Property Design for Reconstruction

Based on the number of bedrooms and the damaged property's existing footprint, the Construction Manager, A/E firm and builder will present allowable/recommended plan sets that meet the Program requirements (to include resilient and mitigation improvement designs that comply with the 2018 International Building Code, Tropical Energy Code, and Green Building Standards) and include footprints up to the current square footage. On a case-by-case basis, where the original foundation and infrastructure of the rental property remain, plans will be developed for that specific site.

Upgrades to finishes or material upgrades will not be permitted. The applicant will be allotted reasonable time to review materials and make final selections.

#### 6.5.3 Initial Site Inspection and Estimated Cost of Repair

The initial site inspection will include an assessment to determine the Estimated Cost of Repair (ECR) per the Program inspection protocols and program specifications. This inspection will result in a recommendation for one of the following:

- Reconstruction for units that are structurally unsafe to enter or that existing conditions are such that the cost to repair is not cost-effective or feasible. or

- Rehabilitation for units that are determined to be feasible for habitation after repairs are completed
- The ECR will identify quantities and scopes of work required to repair or replace storm-damaged items. It will bring the remainder of the structure to comply with Program standards and produce a high-level estimate for apparent repairs elevation is required to determine elevation costs.
- Determine the scope and quality of any repairs (Work in Place or WIP) completed by the applicant for use in the Duplication of Benefits determination. – Construction Inspector
- Perform assessments for deteriorated paint, lead-based paint hazards (i.e., dust-lead and soil-lead) and asbestos-containing materials (presumed or confirmed) – Environmental Assessment Firm.
- Collect all required data and information to complete the site-specific information for environmental reviews – CDBG-DR Housing Staff

The Program staff will provide the Program Manager documents and information collected during the application process or intake meeting including the property address along with a Right of Entry letter, Duplication of Benefits Questionnaire, and Landlord contact information.

The Program staff will contact the applicant to schedule an appointment for the initial site inspection, providing at least 72 hours advance notice. The Program will establish a Program wide protocol for addressing non-responsive applicants, which will be included in the Inspections Standard Operating Procedure (Inspections SOP). All communications and attempted communications will be documented in the system of record.

Staff conducting the initial inspection will collect sufficient data to determine the feasibility for rehabilitation and other key tasks. The damage assessor will collect information from the Landlord regarding damage as well as work that has been initiated or completed. He or she will conduct a room-by room inspection to document storm damage and identify any repairs needed to bring the rental property into compliance with construction specifications. The estimated cost to repair will also take into consideration HQS, Green Building and energy efficiency standards, and broadband infrastructure (if more than four units). The damage assessor will observe and document damages with notes and at a minimum of the following photos:

- Front elevation
- All other exterior elevations
- Interior photos of storm damage
- Interior photos of building code violations
- Adjacent exposures (backyard, Side yards, proximity of dwellings, and any outbuilding)
- Obvious environmental issues

### 6.5.4 Eligible Repair Costs

The Program will determine an eligible repair estimate using information from the inspection. The repair estimate will be valued based on economy-/standard-grade materials and industry- standard labor costs. If the contract between the applicant and contractor is based on higher standards than those assessed by the NMHC, the NMHC will use the value of the Program's assessment as the basis for the eligible repair estimate.

### 6.5.5 Ineligible Costs

For the following components, the Construction Managers/Damage Assessor will credit standard allowable costs (i.e., the costs used in the ECR estimate) when performing the Work in Place (WIP) assessment:

If the Landlord upgraded any of the above items or had upgraded materials in place before the storm, the inspector will assign standard costs for these items in the report. The timing of the upgrade is not relevant.

- Countertops
- Cabinetry
- Flooring
- Bathroom plumbing fixtures (tub, shower, sink, etc.)
- Windows
- Doors

Other items may have had "upgrades" such as trim or millwork, have been determined to be difficult to differentiate in the field. These items will be included as allowable standard costs.

Costs incurred for items listed below are ineligible. Costs for ineligible work will not be estimated during the WIP assessment. Ineligible items include, but are not limited to:

- Outbuildings (detached garages, sheds, etc.)
- Decorative landscaping and paving
- Outdoor sprinkler systems
- Pools and hot tubs
- Solar panels
- Decking beyond concrete pad (note: decking and stairs necessary to meet code requirements for ingress/egress are eligible costs). These costs will be priced in two components: 1) Eligible costs for minimal concrete pad and/or stairs as necessary to meet code requirements and 2) Ineligible costs for remaining deck,
- Fences
- Post storm additions (rooms added to original pre-storm structure)
- Outdoor showers
- Outdoor fireplaces

If there is a question whether a repair was made or not made, the damage assessor's professional opinion will be the deciding factor on whether the item should be indicated as validated. If the applicant lists a repair but it is obvious to the damage assessor that the repair has not been completed, the damage assessor will indicate that the repair of the item cannot be validated.

### 6.5.6 Selected Builders

The Construction Manager is responsible for managing the proper sequencing of construction projects for Landlords who have program assigned builders or landlord-selected builders to ensure proper controls are in place by the builder to adhere to the terms and conditions of the construction contract. The primary purpose of a Notice to Proceed (NTP) is to control the timing of the initiation of construction and avoid any construction project starting without the proper permit or authorization. Only the Construction Manager shall issue an NTP to the builder.

### 6.5.7 Development of Pre-qualified Architecture and Engineering Firms

The Program will develop a pool of pre-qualified architecture and engineering (A/E) firms for the purpose of developing plans and specifications for standard model properties in various layouts and sizes. The standard model properties will allow applicants options to select from for reconstructing

their properties. The Program will issue an RFQ to qualified interested firms to provide services under the instruction of the CDBG-DR Project Manager. The responses will be evaluated on qualifications, experience, references, and overall response to the RFQ.

On a case-by-case basis the Program may allow alternative designs and plans from the standard models in such cases the footprint and square footage will be equal to or less than previously existing rental units and plans must satisfy all following:

- Plans were developed prior to application to the program,
- Plans meet program requirements,
- Minimum design standards are achieved,
- Resilient design features to mitigate future storm impacts,
- Program construction specifications for new dwellings are satisfied,
- ENERGY STAR, Green Building, Tropical Energy Code, and broadband infrastructure requirements are achieved,
- Plans must be approved by the Building Safety Official,
- Design does not include upgrades or non-standard options or requirements, and
- Design does not include ineligible items.

**6.5.8 Development of Pre-qualified Builder Pool**

The Program will develop a pool of pre-qualified builders for the purpose of providing construction services required under the instruction of the CDBG-DR Project Manager. The Program will issue a Request for Qualifications (RFQ) to qualified interested builders. The responses will be evaluated on qualifications, experience, references, and overall response to the RFQ. Minimum requirements for builders will include:

- Holding current licenses and registration as required by the CNMI,
- Has not been debarred or suspended,
- In business or employed in a supervisory capacity providing similar construction services for a minimum of 5 years,
- Demonstrated experience providing work of similar scope and size,
- Financially solvent with sufficient capitalization to manage the number of projects to be assigned,
- Hold required licenses and certificate for lead paint and asbestos removal for residential, and construction or demonstrate subcontract/teaming ability with appropriately licensed team.

The Construction Manager will manage the Qualified Builder's capacity by monitoring financial capacity (based on bonding or financial limitations) and technical capacity. The Construction Managers will review the Qualified Builder's performance periodically and make recommendations to adjust the approved capacity of specific builders. The Program assign a builder to complete the reconstruction or rehabilitation of each project under the guidance of the CDBG-DR Project Manager.

The Construction Manager will actively manage the activities of the builders and will regularly review the responsiveness and performance of the builders in the Pool.

Builders will be reviewed for responsiveness to the pricing process and acceptance of assignments. Repeated failure on these aspects will result in limited future assignments or a probationary period without receiving additional assignments.

### 6.5.9 Builder Pricing for Rehabilitation Projects

The Construction Manager will secure pricing for each project by notifying the Program assigned builder of each line item identified in the Scope of Work for the project. The builder will need to submit a fair and reasonable cost proposal applying proposed unit pricing and proposed quantities for each line items of work, resulting in a Total Construction Cost.

### 6.5.10 Builder for Rehabilitation Projects and Scope Walkthrough

Upon assignment of a project through the mini-bid process, builders must attend a scope walk that is scheduled by the Construction Manager. The scope walk is performed to ensure that the Construction Manager and the builder agree to any required modification to the scope for the project that will be used to price the project. The scope walk is scheduled based on the Landlord's availability for complete access to the rental property. The Construction Manager must provide the Scope of Work with at least 48 hours of notice to the builder for the scheduled scope walk, and the builder must attend with subcontractors, if needed. The Construction manager will assign established pricing to each line items within the scope to derive the overall construction costs for the project.

### 6.6 ~~Pre-award Evaluation Assistance~~

~~As many properties experienced severe damages or remained open to the elements since the 2018 storms, the Program may opt to provide Pre-award Evaluation Assistance. The assistance provided will be minimal and temporary to allow the Program to conduct a valid assessment of the repairs required. Properties that are deemed unsafe to enter but, because of an unforeseen circumstance, the award process is delayed, remediation or mitigation assistance may be offered as activity delivery costs to allow the Program to complete the property's assessment.~~

~~The Pre-award Evaluation Assistance is separate from the loan agreement. Applicants who receive the pre-award assessment assistance are not automatically qualified for a loan through the Program. The loan determination is contingent on the eligibility of the property and landlord. Pre-Award Evaluation Assistance Notices will be signed by the landlord prior to receiving assistance. A template is provided in Appendix 14.5.~~

The Program will follow the Agency's guidance for the procurement of services to assist in the remediation or mitigation for the Pre-award Evaluation Assistance.

# 7 LOAN DETERMINATION

The Program determines the assistance and loan amount by calculating the estimated cost of repaired damages and/or total repairs needed based on the construction manager (with A/E consultant) approved damage assessment less the duplication of benefits an applicant received for the same purpose. New Construction or acquisition cost will also be reviewed for cost reasonableness. The Program then will consider the respective priority tiers, based on property occupancy status. For disabled applicants, a review and analysis of the cost reasonableness of any potential special accommodations, not in the standard repair estimate, may be made. Upon completion of the review and analysis of the cost, the applicant will receive a determination regarding inclusion of each item in the final repair estimate. Loan assistance is capped at $200,000 per eligible unit for rehabilitation and $250,000 per unit for reconstruction, new construction, or acquisition. Loan requirements can be found in the appendix as 14.5.

## 7.3 Award Calculation

The formula below is how the Program will calculate an applicant's award.

(1) Identify the total need for assistance prior to any assistance being provided
(2) Identify eligible cost of work completed prior to application, Work in Place (WIP)
(3) Identify all potentially duplicative assistance to be deducted out of completed work.
(4) Deduct assistance determined to be duplicative
(5) Identify eligible repair costs/need for prospective work.
(6) Determine maximum allowable CDBG-DR award (Lesser of Cap or cost of remaining work).

The Rental Rehabilitation, Reconstruction, and New Construction Program Award Calculation Template is provided in Appendix 14.2.

## 7.4 Review of Scope

Upon receipt of the environmental clearance and execution of the Loan Agreement, the Program staff will coordinate a scope of work meeting with the landlord. This meeting with the landlord involves a detailed review of the scope and budget for the reconstruction or estimated cost of repair, including elevation details (if applicable or feasible) and discussion of the next steps.

For projects that require reconstruction, the meeting to review scope will include the following, as appropriate

- Agreements will be executed with the builder who will initiate a house fit study including completing a site survey and assessing elevation requirements.
- Upon completion of the initial site survey, the Construction Manager will determine which reconstruction plans will be suitable for each site, ensuring that the plans reflect the number of bedrooms determined by the Program.
- The assigned A/E will prepare sample floor plan and street façade elevations with cost estimates for applicant review.
- The applicant will select which reconstruction prototype plans for the A/E firm and Builder to adapt specific to the survey.
- The builder will also have a copy of completed environmental clearance report, geotechnical survey report and site survey.
- The builder will also provide guidance on ADA or special needs requirements to be added as determined by the applicant and Program staff.
- For projects that require only rehabilitation, the meeting to review scope will also include the following as appropriate:

- The Construction Manager will review the federal contracting requirements with the landlord and will provide a contract amendment template for the landlord to incorporate into their contract with their selected builder.
- The Construction Manager will review the progress inspection process and the process for requesting payments.

The Construction Manager will review the restrictive covenants. The covenant will be removed at the end of the Affordability Period.

### 7.5 Loan Agreement and Escrow Account for Program

The Landlord/owner(s) signs a Loan Agreement with NMHC that obligates their total Loan award of CDBG-DR funds. CDBG-DR Special Counsel will be responsible for preparation of all Loan agreement documents. The legal counsel will assemble contracts with

(1) the applicant and NMHC;

(2) the awarded construction contractor and NMHC, the construction agreement to be executed between the Program applicants and assigned builders pertaining to the reconstruction, rehabilitation constructions activities.

### 7.6 Approvals and Funding Requests

Upon NMHC final determination of the funding award, Program staff will transfer all necessary documents for Loan signing, along with a closing checklist of what has been obtained and what is outstanding for NMHC review. NMHC will verify completeness and compliance then approve the file to move forward.

### 7.7 Escrow Agreements and Requirements

If the loan amount does not cover all associated costs, the Landlord will be required to escrow sufficient funds to complete all work prior to the initiation of construction. The CDBG-DR loans division in conjunction with the CDBG-DR Finance unit will manage escrow accounts and disburse funding accordingly.

### 7.8 Escrow Accounts

NMHC will act as agent for the CDBG-DR Program Loan Funds and for the funds provided by and/or for the benefit of the Landlord. The escrowed funds will be held in an account specifically targeted for the disaster recovery efforts, and thereafter into sub-accounts for each property. Prior to beginning construction, Landlords will be required to provide the required information to open an account (name, mailing address, property description, etc.) and sign the appropriate agreements.

The agreements set forth the terms and conditions of the escrow agreements, provisions related to the role and authority of the escrow agent and general conditions related to discharge of Escrow Agent, notice governing law and amendments to the agreements.

### 7.9 Loan Signing

Assistance for the rehabilitation, reconstruction, new construction, or acquisition of rental units will be provided in the form of a zero-interest loan and forgivable loan. Loan signing is conducted before any loan funds are paid on behalf of an applicant. At the loan signing, the Landlord(s) will execute all legal documents obligating and reserving the funding in the amount of the Rental Program Loan Agreement, based on the Program requirements. If the total development cost exceeds the amount of the total loan available (capped at $200,000 per unit for rehabilitation and $250,000 per unit for reconstruction, new construction, or acquisition), the owner will be required to escrow funds with NMHC sufficient to

complete the entire project. If escrow funds are required, the Landlord is required to make the funds available to the Program, which will create an escrow account before construction can begin. The funds are to be disbursed on a pro rata basis.

The Rental Program Loan Agreement requires the owner to certify to the truthfulness of the information that has been provided as follows:

- Rental Award Calculation, which explains how other resources determined to be a potential DOB were handled and how the award amount was calculated. The award will be calculated using the ECR:
- Flood Insurance Requirement, which informs the Landlord of the requirement to maintain flood insurance in perpetuity and pass that obligation on to the subsequent owners.
- Subrogation and Assignment Agreement, in which all Landlord/owner(s) agrees that any additional funds the Landlord/owner(s) may receive from potential DOB sources belongs to the Program.

The Rental Program Loan Agreement may also include a declaration of covenants and restrictions that the property owner(s) agrees to abide by.

# 8 CONSTRUCTION MANAGEMENT

The Program will manage the construction process through completion of the rental units on behalf of the rental Landlord. The Program desires to offer the most appropriate and cost-effective options for Landlords. It will procure design services as needed for the reconstruction or repair on a case-by-case basis. The Program will contract with a construction contractor and assign the contractor to the project. The Landlord will work with the design team and builders in the selection of standard finishes and fixtures.

If the rental property or certain units are determined to be substantially damaged, the Program funding will be used to reconstruct the property. Substantially damaged properties are those where the cost of rehabilitation makes this option unfeasible, as determined by local official or by the Program. Landlords who have already demolished their damaged structures must provide documentation of the structure type, square footage, and damage to the unit(s) caused by the storm. Applicants must also provide any notice of condemnation, substantial damage notification, or other issued notice of requirement to demolish. If the cost of repairs is determined to be less than the cost to reconstruct, the property will be repaired.

The Program will oversee the entire rehabilitation, reconstruction, new construction, or acquisition process from beginning to end.

It will utilize builders from the pre-qualified contractors' pool that has been established for the CDBG-DR projects. The Program will pay the loan proceeds directly to the construction contractor, based on Progress Inspections for work completed.

## 8.1 Notice to Proceed (NTP)

The HUD environmental review process and all necessary consultations must be completed before any funds are committed and disbursed for eligible expenses. Thus, prior to the issuance of a notice to proceed funding all construction types or acquisition, the Program will conduct an environmental review on each property, which includes a site inspection.

The NTP process is composed of four key tasks:

1. The Construction Manager gathers information and develops an NTP package.
1. The builder gathers necessary information and conducts activities to prepare for demolition (if needed) and construction initiation (e.g., obtains necessary permits).
2. Landlord deposits funding into escrow account (if required).
3. Upon confirmation of escrow (if required), Construction Manager issues NTP.

## 8.2 Procedures for Issuance of Notice to Proceed (NTP) When Demolition Not Required

The Construction Manager, if issuing any NTP when demolition is not required will follow the following procedures:

The Construction Manager with the assistance of the Housing Administrator or designee will gather information from the closing and develop a NTP package:

- Assemble the Loan Agreement Signing information into a complete package for the landlord to review
- Follow an NTP checklist to ensure all documents are present
- Submit the Loan package for review by the Compliance team
- Upload all documents into the system of record

The builder will gather necessary information for inclusion in the NTP Construction Package and takes necessary steps to initiate all construction work. After the contract execution the builder initiates the

administrative requirements to provide bonds, secure permits, disconnect utilities and have the landlord move out of the dwelling (if applicable). The Construction Manager will provide proof that the following NTP Conditions have been met:

- Valid performance and payment bonds have been submitted to the Program

For projects in excess of $100,000 construction value, the builder will provide an overall bonding letter to the Construction Manager, which will verify the bonding capacity and issue a copy of the bond to the Landlord. The copy of the bond will be provided to the Landlord before the NTP is issued.

- All insurance policies are active as required by the contract. Builder's Risk insurance to name NMHC as additionally insured.
- Zoning and land use approvals have been obtained.
- Utilities have been properly disconnected and retired.
- Contractor obtains construction permits.
- Landlord has moved out OR a contents removal plan has been agreed upon between the builder and the Landlord (for rehabilitation).
- Contractor holds all valid Registrations and Warranty Program Registrations.
- Any relocation of existing tenants has taken place pursuant to URA requirements.

The Construction Manager issues an NTP for rehabilitation, reconstruction, or new construction, based on project requirements. The NTP will be issued in writing using the appropriate form. The NTP will be provided in hard copy or a scanned version is e-mailed to the builder and the scanned version is uploaded into the Landlord's file.

**8.3 Procedure for Issuance of Notice to Proceed (NTP) Demolition Required**

When the property needs to be demolished prior to the start of reconstruction, if the local municipality will not issue zoning approval and building permits until the demolition is completed, the additional NTP steps listed below will be followed. All other NTP steps will remain. The NTP process in the section above are followed; however, the NTP is only issued for the demolition of the existing structure.

Once the builder satisfactorily completes demolition and gathers the necessary information for the NTP Package, the following procedures must be followed:

- The builder will obtain the required permits and ensure the appropriate zoning and land use approvals are obtained and submit all permits and any waste manifest (where asbestos abatement of the demolished structure is involved), required product/material submittal and the construction schedule.
- Upon receipt of all required documents, the Construction Manager will validate that the builder met all NTP conditions to proceed with new construction.

The Construction Manager issues the NTP in writing using the appropriate form in hard copy or by e-mailing the scanned version and will upload the scanned version into the applicant's file.

**8.4 Construction Process**

The Construction Manager's responsibilities include but not limited to maintaining and creating paperwork for assignments, overseeing contractor pre-construction meetings, and conducting on site progress inspections. The Construction Manager will upload the results of all progress inspections to the system of record currently used by NMHC and indicate pass/fail status to be used by staff for builder invoice and draw request processing. Submission of a draw request will trigger an inspection. The Program will monitor and track information concerning Landlord, progress through construction and draw request using the system of record.

### 8.5 Inspections

Builders are responsible for contacting the Construction Manager to request an onsite monthly inspection during construction to coincide with each draw request. Further details regarding interim and final inspections will follow standard operating procedures, which will include milestones required to be achieved for reconstructions, methodology for rehabilitation inspections, release of retainage, etc.

### 8.6 Draw Request Process

Builders contact the Construction Manager to schedule each monthly or progress inspection with Program Inspectors and DPW. Once the inspection is complete, the Program Inspector returns the necessary paperwork to the contractor. The contractor completes the draw request paperwork and delivers the draw request to the Program staff. The Program staff will upload the documents into the appropriate files and note the date of receipt in the System of Record. The Finance Department will review and approve the draw request and process payments according to the accounting policies and procedures. Payment will be issued to the builder within thirty (30) days from the date of the Construction Manager's approval of the draw request.

The Program will withhold 15% from each draw for retainage. Schedule for draw requests and the associated payments will be detailed in the construction agreements. NMHC will require monthly draw requests and inspections.

### 8.7 Change Orders

Change orders are issued when the initial agreed upon scope and/or pricing require modification. The builder must complete a Change Order Request Form. This form and all supporting documentation must be delivered to the Construction Manager to be approved by the Corporate Director and Landlord. Change orders are invoiced on the final draw only. The purpose of the change order is to communicate and record changes to the contract document, contract amount milestones and/or contract time. Landlord-initiated changes in scope of work will not be accepted after the contract closing unless the change is related to an accessibility issue that has developed since the time of closing.

The Construction Manager will notify the builder in writing of either approval or denial of the builder's proposed change order. No change order shall be deemed valid if it is not approved in writing.
Once the Change Order is deemed reasonable by the Construction Manager, the Construction Manager will transfer the change documents to the Program staff for recalculation of award amount. If the change results in a modification to the Loan agreement between the NMHC and the Landlord, the Loan agreement will be amended in addition to the construction agreement. Changes that result in a change to the Loan amount will require the Corporate Director's approval to modify the Loan agreement.

### 8.8 Construction Warranty

The builder must provide all warranties prior to the inspector signing a final inspection form. All warranties must meet the required warranty standards approved by the NMHC. Photographs of the construction work will be taken for documentation purposes. The Landlord will be provided instruction booklets and a warranty information binder with an acknowledgement form they have reviewed it with their builder.

### 8.9 Compliance Review

Once the Construction Manager has verified construction has been completed to occupancy and has completed all required documents, the application will be reviewed by the Compliance staff to confirm all program construction requirements are complete. They will confirm the required documentation is

complete in the file for applicable construction requirements, final inspection and verify that all payment requests have been properly disbursed, less retainage, when applicable. Upon confirmation that all applicable program requirements have been completed and appropriated documented, the Compliance staff will submit the file to the "Final Loan Reconciliation" stage to account for any changes in DOB and/or scope adjustments.

Using a program specific checklist, if the Compliance staff find a discrepancy and or determine that the file cannot pass QA/QC, they will reject the file and send it back for review by the Construction Manager. If the file passes QA/QC review, the staff then moves the file to Final Loan Reconciliation.

**8.10 Program Payments**

The Program makes payments to contractors based on work completed and inspected. Funds in escrow will be paid out on a pro rata basis. All payment terms will be defined in the Loan Agreement.
Once the permits have been issued for a specific site, the builder is expected to begin work on the project within (thirty) 30 days and is expected to submit draw requests for payment monthly.

The Building Contractor contacts the Construction Manager to schedule each progress inspection. Once the inspection is completed and items on the draw request confirmed based on the site inspection, the Building Contractor submits the payment document to the NMHC Construction Manager. The Construction Manager prepares an inspection report to accompany the Building Contractor's payment document for payment processing. Once the payment is in the system of record, the payment will be forwarded to the Housing Program staff for review and approval. Upon approval from the Housing Program staff, the Builder Contractor's payment request is forwarded to the Finance Unit for review, approval, and check processing in accordance with the financial policies and procedures.

The Program will withhold 15% from each draw for retainage excluding mobilization and any applicable gross receipt tax. Schedule of draw request and the associated payment will be detailed in the construction agreements. The Program will require that the construction manager submit a schedule of values for payment processing.

**8.11 Pre-Loan Closing**

The closing process is composed of four (4) key steps:
Construction Manager uploads the fully designed construction scope of work with backup supporting documentation into the System of Record used by NMHC.

The Program staff will prepare a final award calculation reflecting the updated construction price, determine escrow requirements and notify the Landlord of required funds for escrow.

The Construction Manager will schedule an appointment in coordination with the landlord and Program staff to:

A. Execute a Loan Agreement reflecting the final construction price,
B. Execute the Private Escrow Agreement to provide approval for disbursing funds out of the escrow account to the assigned builder.
C. Execute the Construction Agreement, indicating the final construction price reflecting any approved change orders, and
D. Review construction schedule, Landlord requirements and any other preparatory work to be ready for start of construction.

Upon execution of the required documents and the builder and Landlord satisfying all program requirements, the Construction Manager will issue a notice to proceed to initiate construction.

# 9 AFFORDABILITY PERIOD

Upon completion of construction, The Landlord is responsible for selecting and pre-qualifying eligible tenants throughout the affordability period. Thirty (30) days prior to construction closing, the Landlord and Program Staff will begin developing marketing plans. Sixty (60) days after the construction close-out date, the rental property must be leased to a low-to-moderate income household within the Fair Market Rates. Failure to lease the repaired program unit(s) to LMI tenant(s) at the Program's affordable rental schedules for a period of at least 1 year will result in default requiring repayment of the CDBG-DR funds.

## 9.1 Lease Requirements

All rental agreements must be submitted to the program for approval prior to execution. Once the agreement is executed, the Landlord must provide a copy to the program.
If the Landlords opt to use their current lease agreement template, a copy of the Program's Lease Addendum must be attached and signed by the Tenant and Landlord.

All rental agreements must be for a 12-month term or more. Any lease agreement executed for less than a year will not be recognized by the Program. The Landlord application will be turned over for recapture.

## 9.2 Income Limits

Rents for each Program unit will be calculated according to rent schedules considered affordable based on rents not exceeding the lesser of 30% of 80% of the AMI as calculated and as adjusted annually by HUD (see Appendix 12.3). Eligible tenants must earn no more than 80% of the AMI for the islands of Saipan, Tinian, or Rota in which they would reside. The income limits will be used for all households being evaluated for assistance; tenant and landlord alike.

The historic limits can also be found at: https://www.huduser.gov/portal/datasets/il.html
The program may use the HUD Calculator to assist with viewing a households income verification found at: https://www.hudexchange.info/incomecalculator/

## 9.3 Fair Market Rates

Income information will only be required at the beginning of the lease not if the lease is extended within the same household.

Rents may not exceed the Department of Housing and Urban Development's Fair Market Rates, as updated annually (see Appendix 14.4).

The historic rates can also be found at: https://www.huduser.gov/portal/datasets/fmr.html

## 9.4 Annual Rent Roll Review

Program staff will request an annual rent roll from each Landlord during their affordability period. The roll will provide tenant information: name and household composition. As the unit turns over, the Landlord is required to provide the program with information on the new tenant to including; name, household composition, income, race, ethnicity. Once approved by the Program the landlord may execute a lease.

## 9.5 Fair Housing Marketing Plan

To ensure compliance with federal and CNMI regulations, the Landlord must adopt the HUD's Affirmative Fair Housing Marketing Plan. The plan outlines the methodology for collecting

applications, the types of marketing performed, and the efforts to collect lease applications from the most disadvantaged populations. The Landlord should be advised to document their marketing efforts by saving advertisements, documenting interested tenants, and saving all lease applications for one (1) year after receiving the final program disbursement.

### 9.6 Property Listing Options

Landlords may opt to become an approved NMHC Housing Choice Voucher (HCV) Landlord or list the property on the open market to an approved LMI Household. In efforts to have the units rented to an eligible tenant within the time constraints, a Landlord may find it beneficial to list the property using both options.

#### 9.6.1 Housing Choice Voucher Program

Landlords must register with and be approved by the NMHC Housing Choice Voucher program. Landlords must comply with all HCV regulations, remain in good standing, and comply with all NMHC lease requirements (use the model lease and/or lease addendum). As the households renting under the HCV program are preapproved through NMHC's federal requirements, the Landlord will only be required to provide the HCV information and tenant occupancy data to the Program. On an annual basis, the Program will require that tenant occupancy data be submitted for all units assisted with CDBG-DR funds.

#### 9.6.2 Open Market

Landlords may list the property through Newspapers, Publications, Radio, TV, Online, Social Media or other mediums. Landlords may only rent units to households that have been income verified as meeting the LMI household criteria by the Program. Landlord-Tenant leases will need to be approved by the Program prior to execution. Annual and periodic monitoring will be conducted to ensure compliance.

### 9.7 Affirmative Fair Housing Marketing Plan

For properties with five or more units, the Affirmative marketing requirements at 24 CFR 200 Subpart M, 24 CFR 200.620, and 24 CFR 200.625 shall apply. Any property with five (5) or more units will be required to develop an Affirmative Fair Housing Marketing Plan for the assisted units. The template provided https://www.rd.usda.gov/files/IL_935-2a-HUD.pdf (Form HUD935.2A (01//2011) can be used by owners to detail how they will go about marketing the affordable units, to whom, using what types of media, persons responsible for marketing, and the demographics of the target area for marketing activity.

### 9.8 Tenant Race and Ethnicity Reporting

In accordance with HUD's criteria for race and ethnicity reporting, the Program will provide a Tenant Race and Ethnicity Reporting form to all active Landlords. Landlords will be required to provide the form to all existing and new tenants for the assisted unit(s) as a part of their lease package.
Tenant Race and Ethnicity forms shall be returned by the owner to the Program with the lease and shall be placed in the file of the applicant. Any forms returned with no selected race and/or ethnicity, and/or, are returned with a checkbox for the "I choose not to provide this information" will be documented as a no response to the Race and Ethnicity categories.

### 9.9 ADA Accessible Units

If the property has an ADA accessible unit, the Landlord must first offer the unit to an eligible tenant with a disability or special needs prior to allowing other tenants to lease the ADA accessible unit. The ADA accessible unit must rent for the same price as a comparable unit participating in the Program.

**9.10 Property Maintenance and Upkeep**

Periodically, and at least once a year, NMHC staff will conduct an HQS inspection of all assisted units and verify occupancy of all tenants. The landlord is required to maintain a decent, safe, and sanitary unit. The Program will not be responsible for any after the closeout of the initial repair. The Landlord is required to address any concerns or inquires within a timely manner.

Regardless of whether the unit is rented as HCV or on Open Market:

- Landlord must abide by Federal and CNMI fair housing laws and the nondiscrimination requirements outlined in the Fair Housing Act;
- The damaged structure or unit(s) will be rehabilitated or reconstructed to occupancy standards permitted by CNMI and local codes as well as HUD HQS Standards.
- Landlord must comply with HUD Lead Safe Housing Rule;
- Landlord must comply with the Uniform Relocation Act (URA) requirements for tenant notifications (including notifications to new and existing tenants residing in adjacent or nearby undamaged/non-applicable units that may be affected by project construction), temporary housing, and relocation assistance (including movement, storage, and security of all tenant property and personal belongings) as determined by NMHC; and
- Landlord must arrange reasonable and timely access to the property for inspectors and contractors providing rehabilitation or reconstruction services as defined in construction agreement as three to five business days.
- For properties with five or more units, broadband infrastructure must be included with the rehabilitation/reconstruction.
- For properties with eight or more units, a wage determination will be issued by NMHC and prevailing wage must be paid to all contractors. Other documentation is also required.

## 10 FINAL LOAN RECONCILIATION AND CLOSEOUT

Once the file has passed Compliance, the file will undergo a Final Loan Reconciliation. This review will include a final DOB review and incorporate any final scope adjustments. The Compliance and Monitoring will send the Landlord a letter indicating any changes to the Loan award. The applicant must return a signed copy of the Final Loan Reconciliation within thirty (30) days.

If the applicant owes funds back to the Program, an accounts receivable will be opened, and the file will not move forward until the requested funds are repaid to the Program. If a final payment or retainage payment is owed to the applicant, then upon receipt of the signed Final Loan Reconciliation, final payment or retainage payment will be issued to the applicant.
After any disbursement or over-disbursement reconciliations, the file is ready for final closeout and archive.

NMHC will process the removal of the Declaration of Covenants and Restrictions at the time that the affordability period concludes. The covenant to obtain and retain flood insurance will remain in perpetuity.

Applicant is notified in this correspondence that he/she no longer has any obligation to the Program. The applicant is instructed to keep all receipts and documentation for at least five (5) years in the event their file is audited or reviewed. Once complete, the file will move to Application Archival status.

# 11 PROGRAM ADMINISTRATION AND CROSS CUTTING FEDERAL REQUIREMENTS

## 11.1 Program Administration

The NMHC will utilize the CDBG-DR Housing Division to complete application intake, eligibility determination, award determination and procure construction management. Construction will be conducted by the licensed, bonded, and insured contractors that are identified as eligible to participate in the pool of contractors for housing programs.

## 11.2 Overview of Cross Cutting Federal Requirements

The NMHC Rental Rehabilitation, Reconstruction, and New Construction Program will comply with applicable federal, state, and local requirements, including but not limited to:

- HUD Lead Safe Housing Rule
- National Environmental Policies Act (NEPA)
- Housing Quality Standards (HQS)
- Most current International Residential Building Code (IRC)
- Most current International Building Code (IBC)
- International Energy Code
- Tropical Code
- EPA Energy Star Program (if applicable)
- HUD Community Planning and Development (CPD) Green Building Retrofit Checklist
- Section 504 of the Rehabilitation Act of 1973
- Architectural Barriers Act
- 24 CFR Part 570 and 2 CFR Part 200 for Necessary and Reasonable Requirements Cost Principals
- Davis-Bacon and Related Acts (DBRA) requirements for properties with eight (8) or more units.

## 11.3 Recapture

Recapture ensures that the benefits provided by the CDBG-DR funds remain available for future LMI households. A recapture provision is triggered if a Landlord that benefited from CDBG-DR funds to repair their rental units or constructs or acquires units chooses to sell or divest from the property or is delinquent on the loan payments for a period of more than 120 days during the Affordability Period. The Landlord will be required to pay back all or part of the original CDBG-DR loan, typically using proceeds in the sales transaction. Upon good cause showing, a landlord may be approved for payment assistance relief such as deferred payments of up to six (6) months. Payments must commence after the six (6) months deferment period.

The term "recapture" can also refer to the requirement for a Landlord to pay back funds, if the owner used the funds for inappropriate activities, failed to spend them by an agreed-upon deadline, or otherwise failed to comply with requirements of the Program.

- The amount to be recaptured is dependent on the amount of the loan and the number of months remaining in the affordability period.
- Landlord may be required to repay all, or a portion of the funds received. The reasons for recapture include, but are not limited, to the following:
- Failure to maintain good standing throughout the affordability period;
- Failure to lease units to Low to Moderate Income Households;
- Failure to lease under the HUD Fair Market Rates;
- Failure to maintain a Decent, Safe, and Sanitary unit;
- Using the units for short-term or vacation rentals;

- Providing false or misleading information to the Program;
- Withdrawal from the Program prior to completion of the project;
- Does not complete construction at no fault of the Program;
- Non-compliance with the approved scope of work in a manner that would make the rental property ineligible (e.g., did not comply with lead paint abatement requirements); and/or
- Failure to report the receipt of additional insurance, SBA, FEMA, non-profit assistance and/or any other duplication of benefits received after award; and
- Failure to respond to correspondences from the Program in timely manner.

**11.4 Prevention of Fraud, Waste and Abuse**

This policy applies to any irregularity, or suspected irregularity, involving employees as well as consultants, vendors, contractors, sub-recipients, sub-grantees, applicants or outside agencies doing business with employees of such agencies, and/or any other parties with a business relationship with NMHC.

Fraud is an intentional, wrongful act to obtain either money or some other advantage or benefit from government programs. Fraud includes theft, embezzlement, false statements, illegal commissions, kickbacks, conspiracies, obtaining contracts through collusive arrangements, and similar devices.

Waste is an appropriate action or omission by those with controls over government resources that result in taxpayers not receiving reasonable value for money in connection with any government funded activities. Waste relates primarily to mismanagement, inappropriate actions, and inadequate oversight.

Abuse is an administrative violation of judiciary, court unit, or organization regulation that impairs effective and efficient operations. The violation may result in federal losses, or denial or reduction of lawfully authorized federal benefits to participants.

**11.4.1 Actions that Constitute Fraud, Waste and Abuse**

This Fraud, Waste, and Abuse Prevention Policy is established to facilitate the development of controls that will aid in the detection and prevention of fraud against the Agency in the administration of all NMHC programs and the Agency's internal procurement. Some actions constituting fraud are as follows:

- Any dishonest or fraudulent act;
- Misappropriation of funds, securities, supplies, or other assets;
- Impropriety in the handling or reporting of money or financial transactions;
- Profiteering because of insider knowledge of the Agency's activities;
- Disclosing confidential and proprietary information to outside parties;
- Accepting or seeking anything of material value from contractors, vendors, or persons providing services/materials to the Agency.
- Destruction, removal, or inappropriate use of records, furniture, fixtures, and equipment; and/or
- Any similar or related irregularity.

It is the intent of the Agency to promote consistent organizational behavior by providing guidelines and assigning responsibility for the development of controls and conduct of investigations. Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of service, position/title, or relationship to the Agency.

### 11.5 Management Responsibility

Management is responsible for the effectiveness and efficiency of operations, including the protection of Agency assets from fraud, waste, and abuse. Management has the responsibility for the implementation of internal controls to deter and detect fraud. In addition, it is responsible for assisting in the deterrence and detection of fraud, waste, and abuse by examining and evaluating the adequacy and the effectiveness of the Agency's systems of internal control, commensurate with the extent of the potential risk in the various segments of the organization. Management has primary responsibility for the request for investigation of fraudulent acts committed by or against the Agency.

Management is responsible for the detection and prevention of fraud, misappropriations, and other irregularities. Each member of the management team will be familiar with the types of improprieties that might occur within his or her area of responsibility and will be on alert for any indication of irregularity.

### 11.6 Role of Internal Auditor

NMHC has designated the Internal Auditor, to serve as the department's Accountability Officer. Any irregularity that is detected or suspected must be reported immediately to the Internal Auditor who coordinates all investigations with the Legal Department, and other affected areas both internal and external. The Internal Auditor has a specific role in detecting fraud, waste and abuse which is itemized as follows:

- To support management in its effort to establish a culture that emphasizes and encourages sound moral ethics, honesty, objectivity, and integrity;
- To assist management with the evaluation of internal controls used to detect and mitigate fraud and to make recommendations to strengthen internal controls;
- To evaluate the organizational risk for fraud and pursue fraud investigations;
- To assess the effectiveness of the control environment, its processes and procedures that mitigate the occurrence of fraud on an ongoing and continuous basis;
- To make recommendations to management for improvement of the areas that represent a risk for fraud;
- To maintain an open line of communication with the Corporate Director and the Board of Directors to facilitate the reporting of all fraudulent activities or areas that present a risk of fraud;
- To investigate incidences of fraud and to report such occurrences to the Governor.

### 11.7 Fraud Risk Management

To establish an effective system of internal control, program audit and evaluation processes that provide assurances and safeguards concerning disbursement of all CDBG-DR funds, the Internal Auditor and Compliance Division, in conjunction with other departmental personnel, will conduct a thorough and comprehensive enterprise-wide risk assessment. The risk-assessment will serve as the basis for the audit and compliance plans, which will address the following:

(1) Audit of paper application files for anomalies through risk-based sampling;
(2) Evaluate and test selected internal controls, including any IT-related controls;
(3) Deliver training to all staff responsible for monitoring or administering all funds that will focus on identification of risk factors, identification of fraud indicators, and the implementation of a system of internal control that provides reasonable assurances that funds are being administered in accordance with law, code, and policy. The training sessions will emphasize that sound internal controls require the efforts of all departmental personnel, not only auditors and compliance staff;

(4) Ensure that anti-fraud brochures and posters that include a fraud tip-line to the agency are distributed and prominently displayed throughout the agency's offices in the CNMI, satellite offices and construction sites;
(5) Liaise with applicable Federal and CNMI law enforcement authorities concerning the disbursement of federal and local funds;
(6) Implement a comprehensive and effective compliance program that includes investigative protocols, whistleblower procedures, and a process to refer matters to local authorities;
(7) Ensure that the Agency's auditing, monitoring and evaluation process effectively mitigates the risk of fraud, waste and abuse and the disbursement of funds is transparent to all stakeholders;
(8) Establish a Quality Assurance mechanism to ensure all federal and local reporting of funds are accurate and timely;
(9) Develop and implement policies and procedures to assist in ensuring that program requirements are met, including preventing a duplication of benefits, and measures to detect and prevent fraud, waste abuse and mismanagement of funds; and
(10) Comply with Federal, CNMI laws, and DRGR requirements.

**11.7.1 Fraud Training and Awareness**

Comprehensive fraud training for all employees will occur on a regular schedule through training seminars, online webinars, conference calls, or other means and will be repeated periodically to keep employees alert to the potential for fraud. Fraud, waste, and abuse training is designed to meet the following objectives:

- To help establish a sound anti-fraud culture.
- To educate employees about fraud, what to look for, and how to report it.
- To heighten employee awareness, which increases the likelihood that fraud, waste, and abuse will be reported.
- To send a message that the Agency is proactively looking for fraud, that dishonest acts will be detected, and that perpetrators will be held accountable and punished.

**11.7.1.1**

**11.8 Commitment to Confidentiality and Anonymity**

The Agency will attempt to ensure that anonymity of the reporter is maintained. When you report, please remember the following concerning confidentiality and anonymity:

- Even if you report anonymously, once the report has been made and the investigation begins, your coworkers or others who are familiar with the situation you are reporting may still be able to guess your identity.
- Whether you report anonymously or not, the Agency will treat your report confidentially. It is not possible to guarantee absolute confidentially in all circumstances. In certain cases, disclosure to others inside or outside the Agency may be required by law.

**11.9 Whistleblower Protection**

Retaliation against an employee who in good faith filed a report of alleged fraud, waste, or abuse or who participated in an investigation is a violation of this Policy.

**11.10 Conflict of Interest**

All Applicants and Program staff are required to make a full disclosure to the Program of any interests, relationships, and holdings, which could potentially result in a conflict of interest. Potential conflicts of interest may include relationships with neighbors, acquaintances, friends, family members, and other members of the community. As soon as one is aware of a potential conflict, they are required to

immediately notify Program management staff. Program management staff will ensure project team members do not process or interact with applications where the potential conflicts of interest exist.

This separation of responsibility will ensure an unbiased approach to the processing of all applications and final eligibility determinations. The goal is for every citizen to have confidence their application is being processed with expedient efficiency and integrity. In the event a potential or actual conflict is reported, the Program Manager will review the circumstances in depth and be responsible for determining the course of action to be taken if a conflict is found to exist. If a team member has any doubt as to whether a current or prior relationship poses a potential conflict of interest, they should escalate the matter to Program management for guidance.

# 12 APPEALS AND CONSTRUCTION GRIEVANCE PROCESS

## 12.1 Appeals

The Program will implement a thorough process for Landlord appeals. The appeals process will be documented and posted on the CDBG-DR website. Program staff will provide Appeal Forms and detailed instructions on how to file an appeal to all Landlords as part of their initial discussions of the Program. The appeal process will also be detailed in all award letters or letters communicating ineligibility.

Applicants can file an appeal for one or more of the following reasons:

- Program
- Eligibility Determination,
- Award calculation, prior to execution of the Loan Agreement,
- Duplication of Benefits components,
- Scope of Work,
- Work in Place (WIP), or
- Estimated Cost of Repairs (ECR).

Applicants may not appeal policies that have been approved and incorporated by the Program, such as the Program's process for assessing the value of materials eligible under the Program. In addition, applicants are not allowed to appeal the award amount after loan execution. Furthermore, statutory, and regulatory requirements and guidelines may not be appealed.

When an appeal is filed, the entire file will undergo a review. The review will not be limited to the issue for which the appeal was filed. This may result in a positive or negative change to the status of the file or amount of the award.

Applicants may file an appeal by completing the Appeal Form from their Program staff. The Program staff can assist if the applicant in completing the form.

An applicant must submit a formal Appeal Form within one of the following time limits:

(1) Thirty (30) days from the date of the Award Letter or Ineligibility Letter or 30 days from receipt of the Scope of Work, WIP, ECR, etc.

The Appeals Committee will be made up of Program Managers such as the Compliance Manager, Project Manager, Program Manager, and Finance Manager.

The Appeals Committee will log all appeals received, including the date received and the appeal's reason. The appeal form with all supporting documentation will be uploaded into the System of Record. The Appeals Committee will review the appeal and determine within thirty (30) days of their receipt of the formal Appeal Form. After the Appeal Committee reviews the case, a letter with the Final Determination is issued to the applicant. If the determination is in their favor and an award has been increased, then a new award letter will be sent to the applicant. The Appeals Committee's decision is final.

## 12.2 Construction Complaints and Grievances Resolution

Applicants may file a report with the Program if they have issues with the reconstruction or rehabilitation work. They may not follow the approved scope or an issue with the workmanship's quality. Reports should be promptly submitted as stated in the award agreement to correct the issue early in the construction process and not slow down the project's completion. Applicants may not file

a complaint or grievance after the sign-off of final construction payments. Reports must be filed to the case manager in writing and should include the following information to expedite resolution:

- A detailed explanation of the grievance
- Photos of work if applicable
- Damaged address and applicant name and contact information
- Desired Remedy Requested;
- Previously contacted individuals concerning complaint

Upon the receipt of a complaint, a timely, substantive written response will be provided within the established time of fifteen (15) working days, as per 24 C.F.R. § 91.115(h).

# 13 RECORDS MANAGEMENT

NMHC Housing Division Staff (including contractors) will comply with 24 CFR Part 5.2, Compliance with the Privacy Act, which requires the safeguarding of personally identifiable information by:

- Minimizing the use of PII on program documents and records.
- Providing access to PII only to those who require it for official business.
- Securing PII appropriately for paper or electronic forms.
- Training for data security and compliance with the Privacy Act will be provided to all employees and contractors as part of their onboarding process.

In accordance with HUD regulations, as a grantee and recipient of CDBG-DR funds, NMHC follows the records retention as cited in 2 CFR Part 200.333-337, which includes financial records, supporting documents, statistical records and all other pertinent records are maintained for five years after closeout of the Loan between HUD and NMHC. NMHC established requirements in its loan agreement and contractor agreements for compliance with all HUD cross cutting requirements outlined in 2 CFR 200 Appendix II, including record keeping requirements.

Owners are advised that additional information may be required to properly calculate the Loan Amount and that Owners shall maintain all records, receipts invoices and other documentation related to any repairs, construction, or clean-up of the damaged rental property for no less than five years from the date of the Loan agreement.

## 13.1 Internal Reporting

Any employee who has knowledge of fraud, waste, or abuse, or who has good reason to suspect that such conduct has occurred, shall adhere to the procedures outlined below.

When suspected fraudulent activity, waste, or abuse is observed by, or made known to, an employee, the employee shall immediately report the activity to the Internal Auditor. An employee may also report fraudulent activity, waste, or abuse via the Fraud Hotline. The employee shall not make any attempt to investigate the suspected activity prior to reporting it. An employee shall not destroy, or allow to be destroyed, any document or record of any kind that the employee knows may be relevant to a past, present, or future investigation. An employee must be able to provide adequate information to support an investigation. Mere speculation does not suffice. The report must be made in good faith. An employee who knowingly makes a false or bad faith complaint will be subject to disciplinary and/or legal action.

## 13.2 External Reporting

The Agency cannot compel citizens and customers (non-employees) to report suspected instances of fraud, waste, or abuse. However, the Agency strongly encourages them to do so by calling the Office of the Public Auditor or via the Office of the Public Auditor's (OPA) website.

The Internal Auditor can inquire with the OPA and follow through on complaints and tips received. The Internal Auditor is exposed to key processes throughout the organization and as such maintains an open line of communication with the Corporate Director and the Board of Directors of NMHC to facilitate the reporting of all fraudulent activities and/or areas that present a risk for fraud. Decisions will be made on a case-by-case basis for incidences of fraud, waste and abuse that may need referral to NMHC's Legal Counsel and/or the Office of the Inspector (OIG) for further action. The legal department shall recommend to the Internal Auditor whether the matter should be considered fraud, waste, or abuse and if so, the matter should be referred to the OIG at 1-800-347-3735 or via email at hotline@hudoig.gov.

# 14 APPENDIX

## 14.1 Duplication of Benefits Notification Template

**NORTHERN MARIANAS HOUSING CORPORATION**
P.O. BOX 500514, Saipan, MP 96950-0514
Email: nmhc@nmhc.gov.mp
Website: http://www.nmhcgov.net

Tels: (670) 234-9447
234-6866
234-7670
Fax: (670) 234-9021

Date
Application ID
Applicant Name
Damaged Property Address:
City, State, Zip

Re: Duplication of Benefits Notification

Dear insert applicant name,

Thank you for participating in the Northern Marianas Housing Corporation CDBG-DR Rental Rehabilitation, Reconstruction, and New Construction Program ("Program").

The Program staff has reviewed your application for previous assistance received and have determined there is a duplication of benefit (DOB). In accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act, this Program cannot provide housing benefits to an application that received duplicative assistance under any other program, insurance policy or source of funding.

As a result of the previously received assistance, there is now a duplication of benefit:

| |
|---|
| **Total Previous Assistance Received** |
| Total Offsets of Assistance Received |
| **Duplication of Benefit Amount** |

**Total Previous Assistance Received**

| |
|---|
| *FEMA* |
| *NFIP* |
| *SBA Home* |
| *SBA Business* |
| *ICC* |
| *Charitable Organizations* |
| *Private Insurance* |
| *Other* |
| *Total Assistance Received* |

## 14.2 Award Calculation Template

Northern Marianas Housing Corporation
Community Development Block Grant - Disaster Recovery Program
P.O. Box S00514
Saipan, MP 96950

# CLIENT BUDGET FORM

Check one: New | Revision (if revision, complete revision number and date) | LMI | UN

Revision Number: | Revision Date:

| SECTION I: CUENT INFORMATION | | | | SECTION II: GRANT AWARD INFORMATION | |
|---|---|---|---|---|---|
| Client Name: | | | | CDBG-DR Grant | |
| Property Address | | | | Client Number: | |
| Island: | | | | Start Date: | |
| Units: | 1 | MaxAward | $ 50,000.00 | Estimated End Date: | |

| SE TION III: Contractor(s) Assigned | | |
|---|---|---|
| | | |
| | | |
| | | |

CONSTRUCTION TYPE: (Select One)
RRRNA-New Construction or Acquisition
★ RRRNA-Rental Rehabilitation or Reconstruction
Estimated Duration | Days

| SECTIION IV: BUDGET | BUDGETED ACCOUNT | REVISION 1 | REVISION 2 | REVISION 3 | TOTAL BUDGET |
|---|---|---|---|---|---|
| Escrow | | | | | |
| DOB | | | | | |
| Buy-In (Exceeds Cap) | | | | | |
| Buy-In (Associated Fees) | | | | | |
| TOTAL ESCROW | | | | | |
| DirectCost | | | | | |
| Construction | | | | | |
| Environmental Remediation (Asbestot/Lead) | | | | | |
| Total DirectCost | | | | | |
| Mobilization | | | | | |
| Activity Dellvery (ADC) | | | | | |
| Construction - Architectural Drawings | | | | | |
| Construction - Permitting and Fees | | | | | |
| Environmental - Assessments (Multi-family) | | | | | |
| Environmental - Testing | | | | | |
| Environmental - Clearance | | | | | |
| Relocation - Rent Delta | | | | | |
| Relocation - Moving | | | | | |
| Relocation - Storage | | | | | |
| Relocation - Associated Fees | | | | | |
| Affordability Period - Recordation Fees | | | | | |
| Legal Fees (Membership) | | | | | |
| Tota Activity Delivery Cost | | | | | |
| Total Project Cost | | | | | |
| Total CDBG-DR Funding | | | | | |
| | | | | | |
| Total | | | | | |

SECTION V: Comments

Housing Supervisor or Specialist: _____ Print Name _____ Date _____
Signature: _____

DR Housing Administrator: _____ Print Name _____ Date _____
Signature: _____

Finance Manager: _____ Print Name _____ Date _____
Signature: _____

Corporate Director: _____ Print Name _____ Date _____
Signature: _____

## 14.3 Income Limits

[Effective April 1, 2020]

# FY 2021 Income Limits Documentation System

HUD.gov HUD User Home Data Sets Fair Market Rents Section 8 Income Limits MTSP Income Limits HUD LIHTC Database

### FY 2021 Income Limits Summary

**Selecting any of the buttons labeled "Explanation" will display detailed calculation steps for each of the various parameters.**

| FY 2021 Income Limit Area | Median Family Income Explanation | FY 2021 Income Limit Category | Persons in Family 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|---|---|---|---|---|---|---|---|
| **Northern Mariana Islands** | $29,400 | Very Low (50%) Income Limits ($) Explanation | 16,000 | 18,300 | 20,600 | **22,850** | 24,700 | 26,550 | 28,350 | 30,200 |
| | | Extremely Low Income Limits ($)* Explanation | 9,600 | 11,000 | 12,350 | **13,700** | 14,800 | 15,900 | 17,000 | 18,100 |
| | | Low (80%) Income Limits ($) Explanation | 25,650 | 29,300 | 32,950 | **36,600** | 39,550 | 42,500 | 45,400 | 48,350 |

## 14.4 Fair Market Rates

[Effective October 1, 2020]

# FY 2021 Fair Market Rent Documentation System

### The Final FY 2021 Northern Mariana Islands FMRs for All Bedroom Sizes

| Final FY 2021 & Final FY 2021 FMRs By Unit Bedrooms | | | | | |
|---|---|---|---|---|---|
| Year | Efficiency | One-Bedroom | Two-Bedroom | Three-Bedroom | Four-Bedroom |
| FY 2021 FMR | $509 | $586 | $772 | $1,105 | $1,337 |
| FY 2020 FMR | $480 | $560 | $737 | $1,063 | $1,281 |

## 14.5 Loan Package

**PERSONAL FINANCIAL STATEMENT**

As of _____, 2021

Name: _____ Employed By: _____

Position: _____ Age: _____ Spouse: _____

If employed less than one (1) year, Previous Employer: _____

| ASSETS | DOLLARS | CENTS | LIABILITIES | DOLLARS | CENTS |
|---|---|---|---|---|---|
| Cash in bank _____ | | | Notes Payable _____ | | |
| _____ | | | _____ | | |
| _____ | | | _____ | | |
| Accounts Receivable-Good | | | _____ | | |
| Stocks and Bonds (Schedule B) | | | Accounts Payable _____ | | |
| Notes Receivable - Good | | | _____ | | |
| _____ | | | Taxes Payable | | |
| Cash Surrender Value Life Insurance | | | Contracts Payable _____ | | |
| Autos _____ | | | _____ | | |
| _____ | | | _____ | | |
| Real Estate (Schedule A) | | | Real Estate Indebtedness (Schedule A) | | |
| Other Assets (Describe) | | | Other Liabilities (Describe) | | |
| 1 _____ | | | 1 _____ | | |
| 2 _____ | | | 2 _____ | | |
| 3 _____ | | | 3 _____ | | |
| 4 _____ | | | 4 _____ | | |
| 5 | | | **TOTAL LIABILITIES** | | |
| | | | **NET WORTH** | | |
| **TOTAL ASSETS** | | | **TOTAL** | | |

| ANNUAL INCOME | DOLLARS | CENTS | ANNUAL EXPENDITURES (Exclude Ordinary Living Expense) | DOLLARS | CENTS |
|---|---|---|---|---|---|
| Salary | | | Real Estate payment(s) | | |
| Salary (wife or husband) | | | Rent | | |
| Securities Income | | | Income Taxes | | |
| Rentals | | | Insurance Premiums | | |
| Other (describe) | | | Property Taxes | | |
| 1 | | | Other (describe-include installment) | | |
| 2 | | | 1 | | |
| 3 | | | 2 | | |
| 4 | | | 3 | | |
| 5 | | | 4 | | |
| TOTAL INCOME | | | TOTAL EXPENDITURES | | |
| Less: Total Expenditures NET CASH INCOME | | | | | |

**Schedule A**
**Real Estate** (attach additional sheet if necessary)

| Location and Size Incl. Desc. Of Land & Structure | Title Held in Name | Current Value | Amt. Of Mortgage | With Whom | Maturity Date | Monthly Payment | Monthly Income |
|---|---|---|---|---|---|---|---|
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

**Schedule B**
**Stocks and Bonds** (attach additional sheet if necessary)

| Name of Issuing Corporation and Type of Security | No. of Shares or Face Value of Bond | Pledged? | Value Per Share | Total Value | Registered In Name of |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |

The undersigned certifies that the above statement (or in lieu thereof, the attached statement, as the case may be) and supporting, both printedand written, give a full, true, and correct statement of the financial condition of the undersigned as of the date indicated.

Signature

Date

## FINANCIAL STATEMENT

**Name** _____

**Address:** _____

_____**Proprietorship** _____**General Partnership** _____**Limited Partnership** _____**Corporation**

**BALANCE SHEET AS OF** _____

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Cash on Hand | $ | $ | | Notes Payable to Banks | | $ | |
| Cash with Bank | $ | | | Secured | $ | | |
| | $ | | | Unsecured | $ | | |
| Accounts Receivable - Trade | | $ | | Notes Payable Others | | $ | |
| Current | $ | | | | $ | | |
| Past Due, less than 90 days | $ | | | | $ | | |
| Past Due, more than 90 days | $ | | | | $ | | |
| **Total Accounts Receivable:** | $ | | | Accounts Payable: | | $ | |
| Less Reserve for Bad Debts | $ | | | Current | $ | | |
| Notes Receivable | | $ | | Past Due | $ | | |
| Inventory: | | $ | | Due Officers, Employee Relatives | | $ | |
| $ | | | | Accrued Payroll, Interest, Taxes etc. | | $ | |
| $ | | | | | | | |
| Stocks and Bonds (Schedule A) | | $ | | Dividends Payable | | $ | |
| Due from Subsidiaries and/or Affiliates | | $ | | | | | |
| Other Current Assets (itemize) | | $ | | Due Within 1 year on Mortgages | | | |
| | $ | | | and Deferred Debt | | $ | |
| | $ | | | | $ | | |
| | $ | | | | $ | | |
| **TOTAL CURRENT ASSETS** | | $ | | **TOTAL CURRENT LIABILITIES** | | $ | |
| Land (itemized on Schedule B) | | $ | | Real Estate Mortgage Payable: | | $ | |
| Leaseholds (itemized on Schedule B) | | $ | | | $ | | |
| Buildings and Improvements | $ | $ | | | $ | | |
| Less Depreciation | $ | | | | $ | | |
| Machinery & Equipment | $ | $ | | Chattel Mortgages | | $ | |
| Less Depreciation | $ | | | Contracts Payable | | $ | |
| Furniture, Fixture & Other | $ | $ | | | $ | | |
| Less Depreciation | $ | | | | | | |
| **TOTAL LAND, BUILDING, EQUIPMENT** | | | | **TOTAL DEBT** | | $ | |
| Due from Officers and Employees | | $ | | Reserve for Depreciation | | $ | |
| Notes Receivable (slow) | | $ | | | | | |
| Unexpired Insurance | | $ | | Reserve for Doubtful Receivables | | $ | |
| Prepaid and Deferred items | | $ | | | | | |
| Cash Value Life Insurance | | $ | | | | | |
| $ | | | | | | | |
| $ | | | | | | | |
| | | | | **NET WORTH** | | $ | |
| **TOTAL ASSETS** $ | | | | **TOTAL LIABILITIES AND NET WORTH** $ | | | |

CONTINGENT LIABILITY: As Endorser $_____As Guarantor $_____On Letters of Credit $_____

Other (explain) $ _____

**PROFIT AND LOSS STATEMENT**

Fiscal Year Ending:_____or Months Ending: _____

| | | | |
|---|---|---|---|
| NET SALES | $ | OPERATING PROFIT (forwarded) | |
| LESS COST OF GOODS SOLD: | | Less Extraneous Expenses | |
| Beginning InventoryPlus | $ | Balance | |
| Purchases | $ | Plus Other Income: | |
| Balance | | Rent $ | |
| Less Ending Inventory | $ | Other | |
| Total Cost of Goods Sold: | $ | $ | |
| | | Total Other Income: | |
| **GROSS PROFIT** | $ | **NET PROFIT** | $ |
| Salaries paid (exclude partners)General & | $ | RECONCILIATION OF NET WORTH | |
| Administrative | $ | Net Worth at close | |
| Rent | $ | last fiscal period | $ |
| Interest | $ | Plus: Net Profit (above) $ | |
| Depreciation Bad | $ | Other Credits $ | |
| Debt Other | $ | Total Other Profits: $ | |
| $ | | | |
| $ | | **TOTAL PROFITS:** $ | |
| **TOTAL OPERATING EXPENSE:** | $ | Less: Dividends or | |
| | | Withdrawals $ | |
| | | Other Debits $ | |
| | | Total Withdrawals: $ | |
| **OPERATING PROFITS** | $ | **NET WORTH** | $ |

Note: Partners' salaries should be shown as withdrawals

**Schedule A** **DESCRIPTTION OF STOCKS AND BONDS ON BALANCE SHEET**

| No. of Shares | Corporate Name | Cost | Market Value | Pledged? |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

**Schedule B** **DESCRIPTION OF REAL ESTATE LISTED ON BALANCE SHEET**

| Location | Title in Name of | Cost Land | Cost Improvements | Depreciation | Present Value | If Leasehold Give Expiration | Encumbrance Balance | Encumbrance To Whom |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

For the purpose of procuring a loan, the undersigned submit(s) the foregoing as a full, true and correct statement of his/their financial condition on thedate hereof. The undersigned agree(s) to notify you immediately, in writing, of any material change in financial condition from that set forth above, and in the absence of such notice or of a new and full written statement, the foregoing may be considered as a continuing and substantially correct statement of the financial condition of the undersigned at the time of any loan made by you, it being expressly agreed that any application by the undersigned for a loan in the absence of such notice or new statement shall constitute a representation that the foregoing statement, if again made at the time of such application, would then be true.

_____
Signature of person preparing application if other than applicant

_____
Signature of Applicant

_____
Title

**FINANCIAL STATEMENT ESTIMATED INCOME AND EXPENSES**

(Show total for first 12 months)

**FOR THE YEAR:** _____ **NAME:** _____

| **MONTH** | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Sales | | | | | | | | | |
| Less: | | | | | | | | | |
| Cost of Merchandise Sold or | | | | | | | | | |
| Cost of Materials Used | | | | | | | | | |
| **Gross Profit** | | | | | | | | | |
| Less Expenses: | | | | | | | | | |
| Salaries (exclude owner) | | | | | | | | | |
| Rent: Property | | | | | | | | | |
| Equipment | | | | | | | | | |
| Repairs and Maintenance | | | | | | | | | |
| Telephone and Utilities | | | | | | | | | |
| Supplies - Administrative | | | | | | | | | |
| Auto and Truck Expense | | | | | | | | | |
| Advertising | | | | | | | | | |
| Accounting and Legal | | | | | | | | | |
| Bad Debts | | | | | | | | | |
| Taxes and Licenses | | | | | | | | | |
| Depreciation | | | | | | | | | |
| Insurance | | | | | | | | | |
| Interest | | | | | | | | | |
| Office Expense | | | | | | | | | |
| Seeds | | | | | | | | | |
| Fertilizers | | | | | | | | | |
| Insecticides | | | | | | | | | |
| Feeds | | | | | | | | | |
| Fuel | | | | | | | | | |
| Other Expenses | | | | | | | | | |
| **Total Expenses** | | | | | | | | | |
| Net Profit | | | | | | | | | |
| Less Owner's Withdrawal | | | | | | | | | |
| Amt Available for Loan Payment | | | | | | | | | |
| Less Loan Payment (principal) | | | | | | | | | |
| **Balance Retained by Business** | | | | | | | | | |

_____ Date

_____ Signature of preparer if other than applicant

_____ Signatu

## Bank Information

Name of Lead Bank and Contact Person: _____

Phone Number: _____ Email Address: _____

## Anticipated Uses and Sources of All Project Funds

Sources include the loan you are requesting from NMHC CDBG-DR plus any other financing that will go into the project, including but not Limited to bank financing and owner cash. Uses include equipment purchases, working capital, inventory, construction cost, etc.
The total sources must equal the total uses.

| Sources(s) | Amount($) | Use(s) | Amount($) |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| Total: | | Total: | |

## Existing and Projected Employment

| Number of Existing Employees | | | | Projected Job Creation | | | | |
|---|---|---|---|---|---|---|---|---|
| | | | | Year One | | Year Two | | |
| Full time | Part Time | Woman | Minorities | Full Time | Part Time | Full Time | Part Time | Total created |
| | | | | | | | | |

## Please Answer the Following Questions (Check box that applies)

| | Yes | No |
|---|---|---|
| Has the company, any officer, subsidiary or affiliate of your company been involved in an bankruptcy or Insolvency proceedings or in any lawsuits, in the last 36 months, or on parole or probation, or convicted of a crime? *If yes, please provide details as a separate exhibit* | ☐ | ☐ |
| Does the company, owner(s), or member of Management Team have a controlling interest in other businesses? *If yes, please provide their names and relationship with your company along with a current balance sheet and Income statement for each as a separate exhibit* | ☐ | ☐ |
| Does your company buy from, sell to, or use the services of any concern in which owner(s), shareholder(s) or member(s) of the management team have a significant financial interest? *If yes, please provide details as a separate exhibit* | ☐ | ☐ |

**I certify that I am in compliance with all laws, regulations, ordinances, and order of public authorities applicable to it; and that I am not in default under the terms and conditions of any grant or loan agreements, leases, or financing arrangements with any other creditors; that the Northern Marianas Housing Corporation Community Development Block Grant – Disaster Recovery (CDBG-DR) and its agent is authorized to obtain a credit check on any principal or business associated with this application for the purposes of determining credit worthiness; and I have disclosed and will continue to disclose any occurrence or event that could have an adverse material impact on the project. (Adverse material impact includes but is not limited to lawsuits, criminal or civil actions, bankruptcy proceedings, regulatory intervention or inadequate capital to complete the project); and I furthermore certify that to the best of its knowledge and belief, the information being submitted to the CDA, and its agent is true and correct;**

| | | |
|---|---|---|
| Print Name | Title | Date |
| Signature | Social Security # | Date |
| Print Name | Title | Date |
| Signature | Social Security # | Date |

## BUSINESS PLAN

**INSTRUCTIONS:** As a requirement, please submit a Business Plan using the following general format.

---

### I. EXECUTIVE SUMMARY

Name of Business and Business Goals and Objectives.

### II. DESCRIPTION OF THE ENTERPRISE

Describe your proposed rental project and give a summary detailing why your project will work and how it will contribute to the CNMI's rental housing shortage. Include your background and experience that is relevant to the business. Also include the future outlook and prospects for the business.

### III. MANAGEMENT, KEY PERSONNEL AND OTHER STAFF

Describe who will manage the business; who are the key people, what are their work experience; how will you pay them.

### IV. BUSINESS LOCATION

How is your business property located in relation to schools, grocery shops, laundry facilities, etc.? Give advantages and disadvantages of the location. Include a sketch of the land and its parcel number.

### V. COMPETITION

Who are your competitors? What makes your business unique? What need does yourbusiness fulfill? What does your business solve?

### VI. MARKET/ CUSTOMERS

Describe the type of tenants you are targeting.

### VII. PRICE & PRICING STRATEGY

How much will you be charging for tenant rent?

### VIII. ADVERTISING AND PROMOTION

How will you let the community know about your unit(s)?

# NORTHERN MARIANAS HOUSING CORPORATION

**Community Development Block Grant – Disaster Recovery (CDBG-DR) Division**

P.O. BOX 500514, Saipan, MP 96950-0514

Email: cnmi-cdbg-dr@nmhcgov.net

Website: http://www.cnmi-cdbgdr.com

Tels: (670) 233-9447
233-9448
233-9449
233-9450
Fax: (670) 233-9452


## CDBG-DR Direct Loan Program

**Details:**

- Applicants may request up to $200.000 **(for repairs for rehabilitation per rental unit)**
- Applicants may request up to $250.000 **(to complete the rebuild of destroyed units not feasible to be rehabilitated or new construction of housing (units) or acquisition of units)**
- Loan Interest Rate: Interest-free (75% of total cost) and forgivable loan (25% of total cost) to rental property owners with one (1) to four (4) units
- Terms:
  - Rehabilitation or Reconstruction, affordability period to Low-to-Moderate Income (LMI) household is ten (10) years with 30-year term
  - New Construction or Acquisition, affordability period to Low-to-Moderate Income (LMI) is fifteen (15) years with 30-year term
- Locations: Northern Mariana Islands: Saipan, Tinian, Rota & Northern Islands.

**Available options for securing the loan:**

- Collateral: (*All appropriate business assets, personal guarantees and personal assets necessary to collateralize the loan*)
- Co-signor: Applicants with a **debt-to-income ratio above 55% must have a co-signor** with a good debt-repayment history and sufficient income/work history, etc.

**Application Requirements:**

- Fill out a CDBG-DR Rental Loan Application (hard copies available at the CDBG-DR office or download from CDBG-DR website www.cnmi-cdbgdr.com.
- Complete Business Plan (see sample template attached)
- Provide Business Financial Statements and Tax returns and filings for the past 2 years (existing business)
- Provide BGRT for past 12 months (existing business)
- Interim business financial statement not older than 90 days (existing business)
- Projections (at least one year) (including a day one balance sheet for start-up businesses)
- Personal Financial Statements— (for principals with 50% or more ownership and personal tax returns for the past 2 years)
- Collateral: All appropriate business assets, personal guaranties and personal assets necessary to collateralize the loan.
- Certification of No Benefits/Subrogation Agreement
- FEMA Applicant Information Request Form
- All land documents pertaining to the property in which loan funds will be used to improve
- Information obtained via above items must comply to existing _____
- $14 credit check fee for each applicant

**Contact Information:**

**Name:** _____ **Title:** _____ **Email:** _____

**Contact Number:** _____

**"NMHC is an equal employment and fair housing public agency"**


**Tinian Field Office**
Tel: (670)433-9213

**CDBG-DR Office**
Tel: (670)233-9447/9448/9449

**Rota Field Office**
Tel: (670)532-9410

# NORTHERN MARIANAS HOUSING CORPORATION

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## CERTIFICATION OF NO BENEFITS

I/We, _____ and _____, hereby certify that I/we have not received FEMA Assistance, Insurance, Flood Insurance, SBA Loan, Private Non-Profit and/or other funds related to Typhoon Mangkhut and Super Typhoon Yutu. **"Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. §§ 287, 1001 and 31 U.S.C. § 3729."**

_____ _____

Applicant Signature Date

_____ _____

Authorized Representative Signature Date

## SUBROGATION AGREEMENT

The NMHC CDBG-DR Program reserves the right (if necessary) to recapture funds in order to ensure compliance with the CDBG-DR regulations regarding any duplication of benefits. Therefore, the eligible applicant must agree to repay any funds that were determined to be duplicative by signing this Subrogation Agreement. The Subrogation Agreement will assign the NMHC CDBG-DR Program future rights to reimbursement of all payments received under any policy of casualty or property damage insurance or under any reimbursement or relief program related to or administered by the Federal Emergency Management Agency (FEMA) for physical damage to the applicant(s) rehabilitated and/or reconstructed principal place of business.

As a recipient of CDBG-DR funds, I/we, _____ and _____ understand and acknowledge that these CDBG-DR funds are funds of last resort, and I/we agree to return to the Northern Marianas Housing Corporation CDBG-DR Program, any additional disaster assistance funds received subsequent to CDBG-DR and in excess of disaster related needs for the rehabilitation and/or reconstruction activity funded.

_____ _____

Applicant Signature Date

_____ _____

Authorized Representative Signature Date

# NORTHERN MARIANAS HOUSING CORPORATION

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I/We, _____, hereby consent to the disclosure of the information collected and maintained by FEMA filed under my application number FEMA DR-_____ - CNMI, to the Northern Marianas Housing Corporation (NMHC).

Specifically, I/We consent to have my entire FEMA Disaster Program application file, or any part thereof, disclosed to NMHC for the purposes of providing additional disaster assistance.

Additionally, I/We consent to have NMHC and its agents speak on my behalf to FEMA and/or represent me before FEMA. This consent is made pursuant to and consistent with 28 U.S.C. § 1746.
I declare, under penalty of perjury, that the foregoing is true and correct.

_____ _____
Applicant Name or Authorized Representative Date

_____ _____
Signature FEMA Registration Number

Current Address (if different than damaged home):_____

Damaged Business Address:_____

Area Code & Phone Number:_____

Place of Business:_____

In accordance with the Privacy Act of 1974, the Northern Marianas Housing Corporation (NMHC) CDBG-DR Program requests that the Federal Emergency Management Agency (FEMA) provide the NMHC CDBG-DR Program with information relating to applications for disaster assistance that FEMA received within the Commonwealth of the Northern Mariana Islands (CNMI) for FEMA disaster event number(s) FEMA-DR-_____-_____.

The NMHC CDBG-DR Program would like to assist property owners under programs to be made available by the NMHC including its Community Development Block Grant Disaster Recovery (CDBG-DR) Program.

The information received from FEMA will be used to determine outstanding needs, to properly calculate and determine eligibility for programs, and to prevent a duplication of benefits in determining eligibility for assistance.

Additionally, the information will ensure that the citizens of CNMI do not violate any laws and regulations that would require repayment of certain benefits received.

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## CDBG-DR RENTAL LOAN APPLICATION

### Applicants Name and Contact Information

Date of Submission: _____

Company Name: _____

Date established: _____

Loan Amount: _____

Term: _____

Use of Funds: _____

### Type of Company/Organization

- ☐ Sole Proprietorship
- ☐ Non-Profit Organization
- ☐ S Corporation
- ☐ C Corporation
- ☐ Partnership
- ☐ LLC
- ☐ LLP

Company Mailing Address: _____

Company Physical Address: _____

Contact Person: _____ Title: _____

Contact's Address: _____

Telephone number: _____ Tax ID# _____

Email Address: _____ Website: _____

**Management Information** (owner(s), officer(s), director(s), & shareholder(s) who own 50% or more shares of the company)*

| Name | Title | % Ownership | Minority Owner | Woman Owner |
|---|---|---|---|---|
| | | | ☐ | ☐ |
| | | | ☐ | ☐ |
| | | | ☐ | ☐ |
| | | | ☐ | ☐ |

***Personal financial statements** and **tax returns** are required for those with 50% or greater ownership interest. CDBG-DR and/or its agents reserve the right to obtain **credit bureau reports** on any business or individual in connection with this application.

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# NORTHERN MARIANAS HOUSING CORPORATION

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## CDBG-DR Loan Application Checklist

**PLEASE NOTE**

**Individual applicants/co-applicants** must be U.S. Citizens or U.S. Nationals with 2 years residency in the CNMI.
**For Corporations,** majority owners (owning majority of shares) must be U.S. Citizens or U.S. Nationals with 2 years residency in the CNMI.
**For LLCs,** all members possessing ownership in the company must be U.S. Citizens or U.S. Nationals with 2 years residency in the CNMI.

| Sole Proprietorships | | Partnerships | | Corporations | | LLCs | |
|---|---|---|---|---|---|---|---|
| Completed Application (Signed) | | Completed Application | | Completed Application | | Completed Application | |
| Photo ID | | Photo ID's of Partners | | Photo ID's of Principals | | Photo ID's of Members | |
| Business Plan | | Business Plan | | Business Plan | | Business Plan | |
| BGRTs | | Business Financial Statement (2 Years) | | Business Financial Statement (2 Years) | | Business Financial Statement (2 Years) | |
| Interim Business Financial Statement | | Interim Business Financial Statement | | Interim Business Financial Statement | | Interim Business Financial Statement | |
| Personal Financial Statement | | Personal Financial Statement (Partners) | | Personal Financial Statement (Principals with ownership > 20%) | | Personal Financial Statement (Members with ownership > 50%) | |
| Individual Income Tax Returns (2 Years) | | Individual Income Tax Returns (2 Years) | | Individual Income Tax Returns (2 Years) | | Individual Income Tax Returns (2 Years) | |
| 2 Most Recent Check Stubs | | 2 Most Recent Check Stubs | | 2 Most Recent Check Stubs | | 2 Most Recent Check Stubs | |
| Business License (If Established) | | BGRT for 1 Year (If Established) | | BGRT for 1 Year (If Established) | | BGRT for 1 Year (If Established) | |
| $14 Credit Check Fee | | Business License | | Business License | | Business License | |
| **Collateral Documents** | | Partnership Agreement | | Certificate of Incorporation | | Certificate of Organization | |
| Deed for Property | | $14 Credit Check Fee (For Each Partner) | | Articles of Incorporation | | Articles of Organization | |
| Map to Property Location | | **Collateral Documents** | | Organizational Minutes | | Operating Agreement | |
| Pictures of Property | | Deed for Property | | Bylaws | | Annual LLC Report | |
| | | Map to Property Location | | Annual Corporate Report | | Resolution to Borrow | |
| | | Pictures of Property | | Resolution to Borrow | | $14 Credit Check Fee (For Each Member) | |
| | | | | $14 Credit Check Fee (For Each Principal) | | **Collateral Documents** | |
| | | | | **Collateral Documents** | | Deed for Property | |
| | | | | Deed for Property | | Map to Property Location | |
| | | | | Map to Property Location | | Pictures of Property | |
| | | | | Pictures of Property | | | |

**Financial business projection must show enough sales/income to cover the monthly loan payment. If any, what type of security or collateral would be offered to secure the loan?**

## 14.6 Pro Forma Consultation

Applicant # Application Year

Property Island

Pro Forma Consultation

| Property Descritption | FMR | Unites # | Rent Rate | Less utility Allowance | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Year 7 | Year 8 | Year 9 | Year 10 | Year 11 | Year 12 | Year 13 | Year 14 | Year 15 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Efficiency | | | | | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| 1 Bedroom | | | | | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| 2 Bedroom | | | | | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| 3 Bedroom | | | | | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| 4 Bedroom | | | | | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| | | | | | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |

| Property Expenses | Unit Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Administrative | | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| Maintenance | | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| Operating | | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| Subtotal | | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |

| Taxes & insurance | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Real estate taxes | | | | | | | | | | | | | | | |
| Insurance | | | | | | | | | | | | | | | |
| Other Taxes, Licenses, Fees | | | | | | | | | | | | | | | |
| Subtotal | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |

| Reserves | Unit Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Replacement Reserve | | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| Operating Reserve | | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| Subtotal | | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |

| | Totals | Totals | Totals | Totals | Totals | Totals | Totals | Totals | Totals | Totals | Totals | Totals | Totals | Totals | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Cashflow before Debt Service | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| Cashflow after Debt Service | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |

## 14.7 Recapture: Repayment Schedule

1-4 Units Fifteen (15) Year Affordability Repayment Schedule

| | Month | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Year | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| 1 | 180 | 179 | 178 | 177 | 176 | 175 | 174 | 173 | 172 | 171 | 170 | 169 |
| 2 | 168 | 167 | 166 | 165 | 164 | 163 | 162 | 161 | 160 | 159 | 158 | 157 |
| 3 | 156 | 155 | 154 | 153 | 152 | 151 | 150 | 149 | 148 | 147 | 146 | 145 |
| 4 | 144 | 143 | 142 | 141 | 140 | 139 | 138 | 137 | 136 | 135 | 134 | 133 |
| 5 | 132 | 131 | 130 | 129 | 128 | 127 | 126 | 125 | 124 | 123 | 122 | 121 |
| 6 | 120 | 119 | 118 | 117 | 116 | 115 | 114 | 113 | 112 | 111 | 110 | 109 |
| 7 | 108 | 107 | 106 | 105 | 104 | 103 | 102 | 101 | 100 | 99 | 98 | 97 |
| 8 | 96 | 95 | 94 | 93 | 92 | 91 | 90 | 89 | 88 | 87 | 86 | 85 |
| 9 | 84 | 83 | 82 | 81 | 80 | 79 | 78 | 77 | 76 | 75 | 74 | 73 |
| 10 | 72 | 71 | 70 | 69 | 68 | 67 | 66 | 65 | 64 | 63 | 62 | 61 |
| 11 | 60 | 59 | 58 | 57 | 56 | 55 | 54 | 53 | 52 | 51 | 50 | 49 |
| 12 | 48 | 47 | 46 | 45 | 44 | 43 | 42 | 41 | 40 | 39 | 38 | 37 |
| 13 | 36 | 35 | 34 | 33 | 32 | 31 | 30 | 29 | 28 | 27 | 26 | 25 |
| 14 | 24 | 23 | 22 | 21 | 20 | 19 | 18 | 17 | 16 | 15 | 14 | 13 |
| 15 | 12 | 11 | 10 | 9 | 8 | 7 | 6 | 5 | 4 | 3 | 2 | 1 |
| 16 | No Recapture | | | | | | | | | | | |

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**OFFICE OF THE SECRETARY**

| | | |
|---|---|---|
| In Re Matter of: | ) | Labor Case No. 20-016 |
| | ) | Secretary Appeal No. 21-002 |
| Raul P. Doce, | ) | |
| | ) | |
| Appellant, | ) | **FINAL AGENCY DECISION** |
| | ) | |
| v. | ) | |
| | ) | |
| The Rose Empire Corporation, | ) | |
| | ) | |
| Appellee. | ) | |
| | ) | |

## I. INTRODUCTION

On May 27, 2020, Appellant filed a complaint for unpaid wages. On June 24, 2020, the matter was referred to Enforcement for further investigation. Enforcement investigated the claims and allegations by both parties. On December 3, 2020, Enforcement filed a written determination recommending payment of $250 in wage discrepancy issues and dismissal of claims outside the six-month statute of limitations. On March 2, 2021, an administrative hearing was scheduled and held. On April 5, 2021, the Administrative Hearing Office issued an Administrative Order entering judgment in favor of Appellant in the amount of $250.

On April 20, 2021, Appellant filed a timely notice of appeal to contest the Administrative Order or Decision after Labor Case No. 20-016. Appellant argues that the Administrative Hearing Office's decision was based on erroneously suppressed evidence and he is entitled to more money. Respondent did not file a written response and the undersigned does not find oral arguments necessary. Based upon a review of the record and applicable law, the Administrative Hearing Office's decision issued on April 5, 2021 is **AFFIRMED**.

## II. LEGAL STANDARD

"An appeal is commenced by filing a notice of appeal on the standard form provided by the Department and payment of the fee . . ." NMIAC 80-20.1-490(a). "The record before the Secretary consists of the complaint, pleadings filed, exhibits, and order of the hearing officer." NMAIC § 80-20.1-490(c). "When the Secretary is exercising jurisdiction over appeals from final orders of the Administrative Hearing Office, the Secretary shall have all the powers and responsibilities of

a hearing officer. No hearing or oral argument on an appeal is required." NMIAC 80-20.1-490(d). "In a review on appeal, the Secretary may restrict review to the existing record, supplement the record with new evidence, hear oral argument, or hear the matter de novo pursuant to 1 CMC §§ 9109 and 9110. Upon completion of review, the Secretary shall affirm, reverse or modify the findings, decision, or order of the hearing office." NMIAC § 80-20.1-490 (e).

## III. DISCUSSION

Here, Appellant argues that the Administrative Hearing Office's Order was based on an erroneously suppressed evidence that would have otherwise altered the decision. For that reason, Appellant requests unpaid wages in the total amount of $3,378.60, an Order directing the employer to provide Appellant with a 2020 W-2,[1] and a written transcript of the labor hearing held on March 2, 2021.[2] For the reasons stated below, the undersigned finds the Administrative Hearing Office's decision was proper.

**1. Appellant fails to meet their burden on appeal.**

First, as a preliminary matter, the undersigned notes that Appellant's Notice of Appeal is deficient in that it fails to identify why the Administrative Hearing Officer's decision to suppress the handwritten document was incorrect. "It is a general rule of practice that legal arguments should be supported by law and analysis . . . . An issue is insufficiently developed if it is raised in a conclusory manner, or when the overall analysis of the issue is so lack as to shift the burden of research and argument to the reviewing court." 42 Com. Reg. 044123 (September 28, 2020) (internal citations omitted). It is beyond the reviewing court's duties to have to guess or construct parties' arguments. *See* 41 Com. Reg. 041761 (May 28, 2019). For that reason, arguments that are not fully developed shall be deemed waived.

The Appellant does not meet his or her burden on appeal by simply disagreeing with the prior decision and relitigating issues discussed on the record. Instead, Appellant must show why the decision to admit or suppress proposed evidence was incorrect under the applicable law. In this case, Appellant disagrees with the decision and ignores the applicable law. The undersigned

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[1] This request is not appropriate on appeal. The tax issues were not part of the underlying complaint and the CNMI Department of Labor does not have jurisdiction with respect to tax issues or disputes involving W2s.

[2] This request is not appropriate on appeal. Upon review, Appellant was not denied a recording but is unwilling or unable to pay the applicable fee. Pursuant to NMIAC § 80-20.1-635(q), a tape or recording of the labor hearing is available upon payment of the $75.00. If Appellant would like the transcript or recording, he must pay the applicable fee.

further notes that Appellant did not object or preserve an objection to the suppression of evidence during the Administrative Hearing. Accordingly, Appellant fails to meet their burden to show that the Administrative Hearing Office's decision was incorrect.

**2. The Commonwealth Rules of Evidence preclude admission of the handwritten timesheets.**

A party must provide or present evidence, in accordance with the applicable law, to support their claim. "The Commonwealth Rules of Evidence are generally applicable to adjudicative proceedings before the Administrative Hearing Office." NMIAC § 80-20.1-480 (e). However, "[s]trict adherence to the formal rules of evidence shall not be necessary, and the hearing officer shall make appropriate accommodations for pro se litigants." *Id.* While most formal rules can be waived, the Administrative Hearing Officer must limit evidence that is irrelevant, duplicative, or untrustworthy. This requires the Administrative Hearing Office to thoroughly evaluate proposed exhibits and make certain credibility determinations based on the Commonwealth Rules of Evidence. Pursuant to Commonwealth Rules of Evidence, hearsay is an out of court statement offered to prove the truth of the matter asserted. NMI R. Evid. 801. Hearsay is not admissible unless there is a specific exception under a Commonwealth statute, Commonwealth Rules of Evidence, or other rules prescribed by the Commonwealth Supreme Court. NMI R. Evid. 802.

This case implicates the recorded recollection exception to the hearsay requirement. A recorded recollection is "[a] record that: (A) is on a matter the witness once knew about but now cannot recall well enough to testify fully and accurately; (B) was made or adopted by the witness when the matter was fresh in the witness's memory; and (C) accurately reflects the witness's knowledge." Here, the Appellant's handwritten timesheets were properly suppressed because it does not meet the recorded recollection standard. First, the handwritten timesheets were made in preparation for the hearing, rather than contemporaneously in time. This seriously affects the reliability and credibility of the document. Second, the handwritten timesheets are "hearsay within hearsay" [3] because they were compiled for the hearing based on illegible notes made in Appellant's calendar. And third, upon review, the handwritten timesheets had several inconsistencies with the official timesheets created and submitted by Appellant.[4]

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[3] "Hearsay within hearsay is not excluded by the rule against hearsay if each part of the combines statements conforms with an exception to the rule." NMI R. Evid. 805.

[4] Under the Commonwealth Rules of Evidence 803(6), an exception to hearsay exists for business records—such as official timesheets.

Accordingly, the undersigned finds that the Appellant's handwritten timesheets did not satisfy the recorded recollection exception to hearsay rule. Considering above, the reason and rationale to suppress the handwritten time sheets were proper.

## IV. CONCLUSION

Accordingly, pursuant to NMIAC § 80-20.1-490(e), the Administrative Hearing Officer's decision is **AFFIRMED**.

This Order constitutes a **FINAL AGENCY DECISION**. In the event a party aggrieved by this Order would like to dispute or contest this decision, said party may seek judicial review with the CNMI Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms, filings fees, and filing deadlines for judicial review will be as established by the applicable law and court rule.

So ordered this **21st** day of May, 2021.

**VICKY BENAVENTE**
Secretary of Labor

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

| | | |
|---|---|---|
| **In Re the Matter of:** | ) | **Labor Case No. 20-023** |
| Chin-Shan Hsieh, | ) | |
| Complainant, | ) | **ADMINISTRATIVE ORDER** |
| v. | ) | |
| New Plus Trading Corporation, | ) | |
| Respondent. | ) | |

## I. INTRODUCTION

This matter came for a continuation of the Prehearing Conference on April 9, 2021 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Complainant Chin Shan Hsieh ("Complainant") was present and represented by an authorized representative Samson Hsieh. Respondent New Plus Trading Corporation ("Respondent") was present and represented by an authorized representative Xiaowen "Cindy" Ye and Attorney Samuel Mok. The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho and Investigator Arlene Rafanan. The hearing was facilitated by Interpreter Brandon Doggett.

## II. BACKGROUND

On August 5, 2020, Complainant filed a labor complaint alleging claims for unpaid wages, unlawful termination, and forgery of documents. Respondent did not file a response or answer to the allegations. On August 20, 2020, the matter was referred to Enforcement for further investigation. As a product of their investigation, Enforcement submitted a determination on November 17, 2020. Therein, Enforcement noted several contested allegations and found issues with respect to unpaid wages. Ultimately, Enforcement recommended a prehearing conference for the parties to clarify and establish their claims. The parties contest the Department's determination.

During the Prehearing Conference, the undersigned heard oral arguments with respect to the parties' motion filings. On February 9, 2021, Respondent filed a Motion to Dismiss and Memorandum of Law in Support ("Respondent's Motion to Dismiss").[1] Therein, Respondent argued that the Complaint should be dismissed for lack of subject matter jurisdiction and failure to state a claim within the statute of limitations. On February 24, 2021, Complainant filed Complainant's Memorandum in Opposition to Respondent's Motion to Dismiss and Reply to Respondent's Memorandum of Law ("Complainant's Opposition"). Therein, Complainant failed to respond to the substantive arguments as to lack of subject matter jurisdiction and failure to state a claim within the statute of limitations. Instead, Complainant provides a narrative of allegations in an attempt to prove their claim. On March 8, 2021, Respondent filed a Reply to Opposition ("Respondent's Reply"). On March 12, 2021, Complainant filed Complainant's Memorandum in Opposition to Respondent's Reply and Motion to Modify Prehearing Scheduling Order ("Complainant's Opposition to Reply").[2] Subsequently, on April 5, 2021, Complainant filed an untimely Motion for Summary Judgment.

## III. DISCUSSION

Here, Complainant alleges forgery and is filing a case for unpaid wages, unlawful termination. Notably, Complainant fails to identify any CNMI labor law or regulation that shows Complainant's termination was unlawful. Moreover, the Complainant seeks damages for unpaid wages outside the six-month statute of limitation.

### 1. Complainant's Motion for Summary Judgment fails to meet the legal standard.

Motions for summary judgment are permissible under NMIAC § 80-20.2-130(c). Summary judgment is appropriate when "[n]o genuine issue of material fact exists as to the subject matter of which the movant asserts and the movant is entitled to disposition as a matter of law as to the subject matter of the movant's assertion." NMIAC § 80-20.2-130(c)(2)(i).

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[1] Pursuant to the Order Continuing Prehearing Conference issued on January 15, 2021., parties were advised that "[a]ny and all permissible motion filings shall be filed and served on or before **February 8, 2021**, close of business." Order at 1. However, Respondent filed their Motion to Dismiss and Memorandum of Law in Support one day later. Although untimely, the Complainant inherently waived objections to timeliness by filing a response or opposition to the substantive issues. Moreover, the undersigned finds it would be inappropriate to ignore the merits of legal arguments over technical issues about being one day late.

[2] Notably, a second opposition is not a permissible filing. *See* NMIAC § 80-20.2-130 (allowing only motions, oppositions to motions, and replies); *see also* Order Continuing Prehearing Conference at 1. Accordingly, the undersigned declines to entertain arguments made in the Complainant's Opposition to Reply.

"It is a general rule of practice that legal arguments should be supported by law and analysis .... An issue is insufficiently developed if it is raised in a conclusory manner, or when the overall analysis of the issue is so lack as to shift the burden of research and argument to the reviewing court." 42 Com. Reg. 044123 (September 28, 2020) (internal citations omitted). For that reason, arguments that are not fully developed are deemed waived.

Here, Complainant's Motion for Summary Judgment was filed two months after the filing deadline and only days before the prehearing conference. Due to its untimely nature, the undersigned declined to entertain oral arguments. Upon review, the undersigned finds Complainant's Motion for Summary Judgment fails to meet the legal standard, stated above. There are a number of contested allegations in the complaint and Complainant's Motion for Summary Judgment does nothing to alleviate those points of contention. For example, there are contested issues about the date of termination, circumstances leading to the termination, whether the termination was unlawful, and the merits of the unpaid wages claim. Considering these genuine issues of material fact, Complainant's Motion for Summary Judgment fails to satisfy the legal standard for summary judgment.

**2. The Administrative Hearing Office does not have jurisdiction with respect to the alleged forgery.**

With respect to employment disputes of foreign nationals, "[t]he Administrative Hearing Office shall have original jurisdiction to resolve all actions involving alleged violations of the labor and wage laws of the Commonwealth ...." 3 CMC § 4942.[3] The Employment Rules and Regulations further provide:

> The Administrative Hearing Office shall have jurisdiction over complaints filed with the Administrative Hearing Office by **U.S. Citizens, CNMI permanent residents or U.S. permanent residents**, and agency complaints filed by the Department, with respect to violations of the requirements of job preference and workforce participation pursuant to the Commonwealth Employment Act of 2007, as amended, and other violations of labor laws application in the Commonwealth. ...

[3] "While the language in Section 4942 is broad, a full reading of the Public Law 15-108 clearly demonstrates that this provision is with respect to employment of foreign nationals and adjudication of employment disputes of said foreign nationals." 43 Com. Reg. 045473 (Mar. 28, 2021)

> The Administrative Hearing Office shall have jurisdiction over complaints filed with the Administrative Hearing Office by **foreign national workers,**[4] and agency complaints filed by the Department, with respect to violations of Commonwealth law and regulations regarding employment and other labor laws applicable in the Commonwealth. …
>
> The Administrative Hearing Office shall have jurisdiction over complaints filed with the Administrative Hearing Office by other **nonimmigrant aliens**[5] with respect to violations of Commonwealth law and regulations regarding employment.

NMIAC § 80-20.1-450(b)(1)-(3) (emphasis added).

As demonstrated above, the Administrative Hearing Office has limited jurisdiction with respect to labor complaints. The alleged forgery is not a violation of labor laws enforced by the CNMI Department of Labor. Furthermore, allegations of scams, domestic disputes, assault and battery, and threats of deportation are not matters regulated by labor laws within this Office's jurisdiction. Accordingly, the Administrative Hearing Office does not have jurisdiction over the forgery claim and above-stated allegations and should be dismissed.

**3. Complainant fails to state a claim for unlawful termination.**

In this case, Complainant alleges that "[his] employment status was secretly and unlawfully removed while traveling for a family medical emergency."[6] Specifically, Complainant alleges he was informed of the termination via "WeChat" text message on May 14, 2020 but allegedly forged documents purport that the termination was effective February 20, 2020. Complainant further alleges that he was terminated for not fulfilling his duties or being present on Saipan.

As a preliminary matter, the undersigned notes that the Complainant fails to allege how or why his termination was unlawful based on the applicable laws. It is beyond the reviewing court's duties to have to guess or construct parties' arguments—even when they are *pro se* or unrepresented by counsel. *See* 41 Com. Reg. 041761 (May 28, 2019).

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[4] "'Foreign national worker' means a person who is not a United States citizen, a United States permanent resident, a CNMI permanent resident, or an immediate relative of the United States citizen or a United States permanent resident, or an immediate relative of a CNMI permanent resident, and who entered the CNMI as a nonimmigrant prior to November 28, 2010 for the declared purpose of being employed in the Commonwealth." NMIAC § 80-20.1-080(k).

[5] "'Nonimmigrant alien' means a person described in Section 101(a)(15) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)." NMIAC § 80-20.1-080(p).

[6] Complaint Letter at 1.

During the Administrative Hearing, Complainant explained that he believes his termination was unlawful because he was not given proper notice of the termination. While it is good business judgment to provide terminated employees with notice of the termination, it is important to note that not all business decisions in the labor market are regulated by the CNMI Department of Labor. Upon further review, the undersigned finds that there is no showing that the termination was unlawful because there is no CNMI labor law that mandates a specific amount of notice or method of notice under the circumstances of this case. Specifically, (1) there is no written employment contract limiting termination or requiring a certain method or amount of notice; (2) the notice requirements under CNMI law are only with respect to reductions in force for business closures;[7] and (3) there is no showing that this termination was in retaliation to filing a complaint.[8] Based on the evidence provided and applicable law, Complainant fails to state a claim for which relief can be granted and should be dismissed.

**4. The claim for unpaid wages is partially time-barred.**

Pursuant to 3 CMC § 4962, "[n]o labor complaint may be filed more than six months after the date of the last-occurring event that is the subject of the complaint, except in cases where the actionable conduct was not discoverable upon the last-occurring event." "If a complaint is not timely filed, the hearing office ***shall*** dismiss the complaint with prejudice." NMIAC § 80-20.1-465(e). Emphasis added. "The hearing officer may, after notice and an opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds to be without merit." 3 CMC § 4947.

On August 5, 2020, Complainant filed the above-captioned labor case alleging unpaid wages in the amount of $69,000 USD. Based on the filings, Complainant worked as a Board of Director and Secretary of New Plus Trading at a monthly salary of $1,200 but was never paid since August 2015. Payment was allegedly due at the end of each month yet Complainant waited approximately five years to file a complaint for unpaid wages.

After notice and opportunity to be heard, the undersigned finds that the allegations in this complaint partially fall outside the six-month statute of limitations from the date of filing a complaint. The unpaid wages claim accrued from September 2015 to May 14, 2020. However,

[7] *See* 3 CMC § 4937; *see also* NMIAC § 80-20.1-240.
[8] *See* NMIAC § 80-20.1-455(l).

six months from the August 5, 2020 filing limits the recoverable claim to February 5, 2020. In accordance with 3 CMC § 4962, any claims arising before February 5, 2020 is time-barred and shall be dismissed.

## IV. CONCLUSION

In conclusion, Complainant's Motion for Summary Judgment is **DENIED**. Moreover, Respondent's Motion to Dismiss, is **GRANTED, IN PART**, consistent with the following:

1. Complainant's Claim for Forgery is **DISMISSED** for lack of jurisdiction;
2. Complainant's Claim for Unlawful Termination is **DISMISSED** for failure to state a claim; and
3. Complainant's Claim for Unpaid Wages is **PARTIALLY DISMISSED** for failure to file within the six-month statute of limitations. All claims arising on or before February 5, 2020 shall be considered time-barred.

Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[9]

So ordered this **24th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[9] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

| | | |
|---|---|---|
| **In Re the Matter of:** | ) | **Labor Case No. 20-039** |
| Habibur Rahman, | ) | |
| Complainant, | ) | **ORDER OF DISMISSAL** |
| v. | ) | |
| Scott Builders Construction, Inc., | ) | |
| Respondent. | ) | |

This matter came for an Order to Show Cause Hearing on May 5, 2021 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Complainant Habibur Rahman ("Complainant") was present and self-represented. Respondent Scott Builders Construction, Inc. ("Respondent") was present and represented by Operations Manager Oscar Erni and Accountant Rachel Macabanti. The hearing was facilitated by Interpreter Manzurul Alam.

On November 5, 2020, Complainant filed a labor complaint alleging unpaid wages based on allegations that Respondent failed to provide work. Further, Complainant is requesting Respondent return fees paid for processing a CW-1 petition that was subsequently denied and taxes deducted from wages. On November 23, 2020, Respondent filed an answer denying the Complainant's allegations. On December 2, 2020, this matter was referred to the Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") for further investigation. On March 23, 2021, Enforcement filed a written determination finding no violation and recommending dismissal. Thereafter, Complainant was ordered to show cause why his claims should not be dismissed for failure to state a claim and lack of jurisdiction.

Pursuant to 3 CMC § 4947(a), "the hearing office may, after notice and an opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds to be without merit." Based on the discussion below, the undersigned finds that dismissal is appropriate.

With respect to the issue of jurisdiction, the CNMI statute and Employment Rules and Regulations define jurisdiction with respect to claims by U.S. Citizens, CNMI permanent residents or U.S. permanent residents, foreign national workers, and nonimmigrant aliens. *See* 3 CMC § 4942; *see also* NMIAC § 80-20.1-450(b)(1)-(3). Notably, this office does not have jurisdiction with respect to labor violations involving illegal employment relationships. 43 Com. Reg. 045473 (Mar. 28, 2021); *See* Pub. L. 15-108, § 2 ("It is the intent of the Legislature that this Act shall not apply to persons admitted to the Commonwealth as tourists, or to persons employed illegally."). During the Administrative Hearing, Complainant was unable to show that he was legally authorized to work. Further, Respondent admitted to employing Complainant without proper work authorization. Accordingly, Complainant has failed to establish jurisdiction.

With respect to Complainant's failure to state a claim, there is no CNMI law or regulation awarding wages for an employer's failure to provide work. Moreover, there is no CNMI law or regulation requiring the return of processing fees and tax deductions.[1] Accordingly, Complainant has failed to state a claim upon which relief can be granted.

In consideration of above, the undersigned finds dismissal is warranted. Accordingly, pursuant to 3 CMC § 4947(a), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[2]

So ordered this **10th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] Notably, the Interim Final Rules regarding Commonwealth Transitional Only Workers were promulgated and enforced by the US Department of Labor and Department of Homeland Security. These regulations are not within the CNMI Department of Labor's jurisdiction. Also, tax issues may be appropriately disputed before to the Department of Finance's Division of Revenue and Tax.

[2] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | **Labor Case No. 20-040** |
| Mohammad Arman, | |
| Complainant, | **ORDER OF DISMISSAL** |
| v. | |
| Scott Builders Construction, Inc., | |
| Respondent. | |

This matter came for an Order to Show Cause Hearing on May 5, 2021 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Complainant Mohammad Arman ("Complainant") was present and self-represented. Respondent Scott Builders Construction, Inc. ("Respondent") was present and represented by Operations Manager Oscar Erni and Accountant Rachel Macabanti. The hearing was facilitated by Interpreter Manzurul Alam.

On November 5, 2020, Complainant filed a labor complaint alleging unpaid wages based on allegations that Respondent failed to provide work. Further, Complainant is requesting Respondent return fees paid for processing a CW-1 petition that was subsequently denied and taxes deducted from wages. On November 23, 2020, Respondent filed an answer denying the Complainant's allegations. On December 2, 2020, this matter was referred to the Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") for further investigation. On March 23, 2021, Enforcement filed a written determination finding no violation and recommending dismissal. Thereafter, Complainant was ordered to show cause why his claims should not be dismissed for failure to state a claim and lack of jurisdiction.

Pursuant to 3 CMC § 4947(a), "the hearing office may, after notice and an opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds to be without merit." Based on the discussion below, the undersigned finds that dismissal is appropriate.

With respect to the issue of jurisdiction, the CNMI statute and Employment Rules and Regulations define jurisdiction with respect to claims by U.S. Citizens, CNMI permanent residents or U.S. permanent residents, foreign national workers, and nonimmigrant aliens. *See* 3 CMC § 4942; *see also* NMIAC § 80-20.1-450(b)(1)-(3). Notably, this office does not have jurisdiction with respect to labor violations involving illegal employment relationships. 43 Com. Reg. 045473 (Mar. 28, 2021); *See* Pub. L. 15-108, § 2 ("It is the intent of the Legislature that this Act shall not apply to persons admitted to the Commonwealth as tourists, or to persons employed illegally."). During the Administrative Hearing, Complainant was unable to show that he was legally authorized to work. Further, Respondent admitted to employing Complainant without proper work authorization. Accordingly, Complainant has failed to establish jurisdiction.

With respect to Complainant's failure to state a claim, there is no CNMI law or regulation awarding wages for an employer's failure to provide work. Moreover, there is no CNMI law or regulation requiring the return of processing fees and tax deductions.[1] Accordingly, Complainant has failed to state a claim upon which relief can be granted.

In consideration of above, the undersigned finds dismissal is warranted. Accordingly, pursuant to 3 CMC § 4947(a), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[2]

So ordered this **10th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] Notably, the Interim Final Rules regarding Commonwealth Transitional Only Workers were promulgated and enforced by the US Department of Labor and Department of Homeland Security. These regulations are not within the CNMI Department of Labor's jurisdiction. Also, tax issues may be appropriately disputed before to the Department of Finance's Division of Revenue and Tax.

[2] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | ) | **Labor Case No. 20-041** |
| Abul Kalam Azad, | ) | |
| Complainant, | ) | **ORDER OF DISMISSAL** |
| v. | ) | |
| Scott Builders Construction, Inc., | ) | |
| Respondent. | ) | |

This matter came for an Order to Show Cause Hearing on May 5, 2021 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Complainant Abul Kalam Azad ("Complainant") was present and self-represented. Respondent Scott Builders Construction, Inc. ("Respondent") was present and represented by Operations Manager Oscar Emi and Accountant Rachel Macabanti. The hearing was facilitated by Interpreter Manzurul Alam.

On November 5, 2020, Complainant filed a labor complaint alleging unpaid wages based on allegations that Respondent failed to provide work. Further, Complainant is requesting Respondent return fees paid for processing a CW-1 petition that was subsequently denied and taxes deducted from wages. On November 23, 2020, Respondent filed an answer denying the Complainant's allegations. On December 2, 2020, this matter was referred to the Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") for further investigation. On March 23, 2021, Enforcement filed a written determination finding no violation and recommending dismissal. Thereafter, Complainant was ordered to show cause why his claims should not be dismissed for failure to state a claim and lack of jurisdiction.

Pursuant to 3 CMC § 4947(a), "the hearing office may, after notice and an opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds to be without merit." Based on the discussion below, the undersigned finds that dismissal is appropriate.

With respect to the issue of jurisdiction, the CNMI statute and Employment Rules and Regulations define jurisdiction with respect to claims by U.S. Citizens, CNMI permanent residents or U.S. permanent residents, foreign national workers, and nonimmigrant aliens. *See* 3 CMC § 4942; *see also* NMIAC § 80-20.1-450(b)(1)-(3). Notably, this office does not have jurisdiction with respect to labor violations involving illegal employment relationships. 43 Com. Reg. 045473 (Mar. 28, 2021); *See* Pub. L. 15-108, § 2 ("It is the intent of the Legislature that this Act shall not apply to persons admitted to the Commonwealth as tourists, or to persons employed illegally."). During the Administrative Hearing, Complainant was unable to show that he was legally authorized to work. Further, Respondent admitted to employing Complainant without proper work authorization. Accordingly, Complainant has failed to establish jurisdiction.

With respect to Complainant's failure to state a claim, there is no CNMI law or regulation awarding wages for an employer's failure to provide work. Moreover, there is no CNMI law or regulation requiring the return of processing fees and tax deductions.[1] Accordingly, Complainant has failed to state a claim upon which relief can be granted.

In consideration of above, the undersigned finds dismissal is warranted. Accordingly, pursuant to 3 CMC § 4947(a), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[2]

So ordered this **10th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] Notably, the Interim Final Rules regarding Commonwealth Transitional Only Workers were promulgated and enforced by the US Department of Labor and Department of Homeland Security. These regulations are not within the CNMI Department of Labor's jurisdiction. Also, tax issues may be appropriately disputed before to the Department of Finance's Division of Revenue and Tax.

[2] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | ) | **Labor Case No. 20-042** |
| Rubel Hossain, | ) | |
| Complainant, | ) | **ORDER OF DISMISSAL** |
| v. | ) | |
| Scott Builders Construction, Inc., | ) | |
| Respondent. | ) | |

This matter came for an Order to Show Cause Hearing on May 5, 2021 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Complainant Rubel Hossain ("Complainant") was present and self-represented. Respondent Scott Builders Construction, Inc. ("Respondent") was present and represented by Operations Manager Oscar Erni and Accountant Rachel Macabanti. The hearing was facilitated by Interpreter Manzurul Alam.

On November 5, 2020, Complainant filed a labor complaint alleging unpaid wages based on allegations that Respondent failed to provide work. Further, Complainant is requesting Respondent return fees paid for processing a CW-1 petition that was subsequently denied and taxes deducted from wages. On November 23, 2020, Respondent filed an answer denying the Complainant's allegations. On December 2, 2020, this matter was referred to the Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") for further investigation. On March 23, 2021, Enforcement filed a written determination finding no violation and recommending dismissal. Thereafter, Complainant was ordered to show cause why his claims should not be dismissed for failure to state a claim and lack of jurisdiction.

Pursuant to 3 CMC § 4947(a), "the hearing office may, after notice and an opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds to be without merit." Based on the discussion below, the undersigned finds that dismissal is appropriate.

With respect to the issue of jurisdiction, the CNMI statute and Employment Rules and Regulations define jurisdiction with respect to claims by U.S. Citizens, CNMI permanent residents or U.S. permanent residents, foreign national workers, and nonimmigrant aliens. *See* 3 CMC § 4942; *see also* NMIAC § 80-20.1-450(b)(1)-(3). Notably, this office does not have jurisdiction with respect to labor violations involving illegal employment relationships. 43 Com. Reg. 045473 (Mar. 28, 2021); *See* Pub. L. 15-108, § 2 ("It is the intent of the Legislature that this Act shall not apply to persons admitted to the Commonwealth as tourists, or to persons employed illegally."). During the Administrative Hearing, Complainant was unable to show that he was legally authorized to work. Further, Respondent admitted to employing Complainant without proper work authorization. Accordingly, Complainant has failed to establish jurisdiction.

With respect to Complainant's failure to state a claim, there is no CNMI law or regulation awarding wages for an employer's failure to provide work. Moreover, there is no CNMI law or regulation requiring the return of processing fees and tax deductions.[1] Accordingly, Complainant has failed to state a claim upon which relief can be granted.

In consideration of above, the undersigned finds dismissal is warranted. Accordingly, pursuant to 3 CMC § 4947(a), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[2]

So ordered this **10th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] Notably, the Interim Final Rules regarding Commonwealth Transitional Only Workers were promulgated and enforced by the US Department of Labor and Department of Homeland Security. These regulations are not within the CNMI Department of Labor's jurisdiction. Also, tax issues may be appropriately disputed before to the Department of Finance's Division of Revenue and Tax.

[2] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | ) | **Labor Case No. 20-043** |
| Kamal, | ) | |
| Complainant, | ) | **ORDER OF DISMISSAL** |
| v. | ) | |
| Scott Builders Construction, Inc., | ) | |
| Respondent. | ) | |

This matter came for an Order to Show Cause Hearing on May 5, 2021 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Complainant Kamal ("Complainant") was present and self-represented. Respondent Scott Builders Construction, Inc. ("Respondent") was present and represented by Operations Manager Oscar Erni and Accountant Rachel Macabanti. The hearing was facilitated by Interpreter Manzurul Alam.

On November 5, 2020, Complainant filed a labor complaint alleging unpaid wages based on allegations that Respondent failed to provide work. Further, Complainant is requesting Respondent return fees paid for processing a CW-1 petition that was subsequently denied and taxes deducted from wages. On November 23, 2020, Respondent filed an answer denying the Complainant's allegations. On December 2, 2020, this matter was referred to the Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") for further investigation. On March 23, 2021, Enforcement filed a written determination finding no violation and recommending dismissal. Thereafter, Complainant was ordered to show cause why his claims should not be dismissed for failure to state a claim and lack of jurisdiction.

Pursuant to 3 CMC § 4947(a), "the hearing office may, after notice and an opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds to be without merit." Based on the discussion below, the undersigned finds that dismissal is appropriate.

With respect to the issue of jurisdiction, the CNMI statute and Employment Rules and Regulations define jurisdiction with respect to claims by U.S. Citizens, CNMI permanent residents or U.S. permanent residents, foreign national workers, and nonimmigrant aliens. *See* 3 CMC § 4942; *see also* NMIAC § 80-20.1-450(b)(1)-(3). Notably, this office does not have jurisdiction with respect to labor violations involving illegal employment relationships. 43 Com. Reg. 045473 (Mar. 28, 2021); *See* Pub. L. 15-108, § 2 ("It is the intent of the Legislature that this Act shall not apply to persons admitted to the Commonwealth as tourists, or to persons employed illegally."). During the Administrative Hearing, Complainant was unable to show that he was legally authorized to work. Further, Respondent admitted to employing Complainant without proper work authorization. Accordingly, Complainant has failed to establish jurisdiction.

With respect to Complainant's failure to state a claim, there is no CNMI law or regulation awarding wages for an employer's failure to provide work. Moreover, there is no CNMI law or regulation requiring the return of processing fees and tax deductions.[1] Accordingly, Complainant has failed to state a claim upon which relief can be granted.

In consideration of above, the undersigned finds dismissal is warranted. Accordingly, pursuant to 3 CMC § 4947(a), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[2]

So ordered this **10th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] Notably, the Interim Final Rules regarding Commonwealth Transitional Only Workers were promulgated and enforced by the US Department of Labor and Department of Homeland Security. These regulations are not within the CNMI Department of Labor's jurisdiction. Also, tax issues may be appropriately disputed before to the Department of Finance's Division of Revenue and Tax.

[2] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | ) | **Labor Case No. 21-001** |
| De-Xin Xu, | ) | |
| Complainant, | ) | **ORDER OF DISMISSAL** |
| v. | ) | |
| Imperial Pacific International (CNMI), LLC, | ) | |
| Respondent. | ) | |

This matter came for an Order to Show Cause Hearing on May 12, 2021 at 9:00 a.m. at the Administrative Hearing Office. Complainant De-Xin Xu ("Complainant") departed the CNMI and failed to appear. Respondent Imperial Pacific International (CNMI), LLC ("Respondent") failed to designate a representative to participate in the hearing and failed to appear. The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho.

Despite effective service of process and adequate notice, both parties failed to appear. In consideration of the parties' failure to participate in the investigative and legal proceedings, the parties have clearly abandoned this case. Accordingly, pursuant to NMIAC § 80-20.1-485(b), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[1]

So ordered this **12th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | ) | **Labor Case No. 21-002** |
| Chang Jui Wu, | ) | |
| Complainant, | ) | **ORDER OF DISMISSAL** |
| v. | ) | |
| Imperial Pacific International (CNMI), LLC, | ) | |
| Respondent. | ) | |

This matter came for an Order to Show Cause Hearing on May 12, 2021 at 9:00 a.m. at the Administrative Hearing Office. Complainant Chang Jui Wu ("Complainant") departed the CNMI and failed to appear. Respondent Imperial Pacific International (CNMI), LLC ("Respondent") failed to designate a representative to participate in the hearing and failed to appear. The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho.

Despite effective service of process and adequate notice, both parties failed to appear. In consideration of the parties' failure to participate in the investigative and legal proceedings, the parties have clearly abandoned this case. Accordingly, pursuant to NMIAC § 80-20.1-485(b), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[1]

So ordered this **12th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | **Labor Case No. 21-003** |
| Shuen Dau Lee, | |
| Complainant, | **ORDER OF DISMISSAL** |
| v. | |
| Imperial Pacific International (CNMI), LLC, | |
| Respondent. | |

This matter came for an Order to Show Cause Hearing on May 12, 2021 at 9:00 a.m. at the Administrative Hearing Office. Complainant Shuen Dau Lee ("Complainant") departed the CNMI and failed to appear. Respondent Imperial Pacific International (CNMI), LLC ("Respondent") failed to designate a representative to participate in the hearing and failed to appear. The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho.

Despite effective service of process and adequate notice, both parties failed to appear. In consideration of the parties' failure to participate in the investigative and legal proceedings, the parties have clearly abandoned this case. Accordingly, pursuant to NMIAC § 80-20.1-485(b), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[1]

So ordered this **12th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | **Labor Case No. 21-004** |
| Ming-Yu Shin, | |
| Complainant, | **ORDER OF DISMISSAL** |
| v. | |
| Imperial Pacific International (CNMI), LLC, | |
| Respondent. | |

This matter came for an Order to Show Cause Hearing on May 12, 2021 at 9:00 a.m. at the Administrative Hearing Office. Complainant Ming-Yu Shin ("Complainant") departed the CNMI and failed to appear. Respondent Imperial Pacific International (CNMI), LLC ("Respondent") failed to designate a representative to participate in the hearing and failed to appear. The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho.

Despite effective service of process and adequate notice, both parties failed to appear. In consideration of the parties' failure to participate in the investigative and legal proceedings, the parties have clearly abandoned this case. Accordingly, pursuant to NMIAC § 80-20.1-485(b), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[1]

So ordered this **12th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | ) | **Labor Case No. 21-005** |
| Ying Hai Hsieh, | ) | |
| Complainant, | ) | **ORDER OF DISMISSAL** |
| v. | ) | |
| Imperial Pacific International (CNMI), LLC, | ) | |
| Respondent. | ) | |

This matter came for an Order to Show Cause Hearing on May 12, 2021 at 9:00 a.m. at the Administrative Hearing Office. Complainant Ying Hai Hsieh ("Complainant") departed the CNMI and failed to appear. Respondent Imperial Pacific International (CNMI), LLC ("Respondent") failed to designate a representative to participate in the hearing and failed to appear. The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho.

Despite effective service of process and adequate notice, both parties failed to appear. In consideration of the parties' failure to participate in the investigative and legal proceedings, the parties have clearly abandoned this case. Accordingly, pursuant to NMIAC § 80-20.1-485(b), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[1]

So ordered this **12th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | ) | **Labor Case No. 21-006** |
| Tung-Yi Su, | ) | |
| Complainant, | ) | **ORDER OF DISMISSAL** |
| v. | ) | |
| Imperial Pacific International (CNMI), LLC, | ) | |
| Respondent. | ) | |

This matter came for an Order to Show Cause Hearing on May 12, 2021 at 9:00 a.m. at the Administrative Hearing Office. Complainant Tung-Yi Su ("Complainant") departed the CNMI and failed to appear. Respondent Imperial Pacific International (CNMI), LLC ("Respondent") failed to designate a representative to participate in the hearing and failed to appear. The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho.

Despite effective service of process and adequate notice, both parties failed to appear. In consideration of the parties' failure to participate in the investigative and legal proceedings, the parties have clearly abandoned this case. Accordingly, pursuant to NMIAC § 80-20.1-485(b), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[1]

So ordered this **12th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | ) | **Labor Case No. 21-007** |
| Chuan-Cheng Kuo, | ) | |
| Complainant, | ) | **ORDER OF DISMISSAL** |
| v. | ) | |
| Imperial Pacific International (CNMI), LLC, | ) | |
| Respondent. | ) | |

This matter came for an Order to Show Cause Hearing on May 12, 2021 at 9:00 a.m. at the Administrative Hearing Office. Complainant Chuan-Cheng Kuo ("Complainant") departed the CNMI and failed to appear. Respondent Imperial Pacific International (CNMI), LLC ("Respondent") failed to designate a representative to participate in the hearing and failed to appear. The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho.

Despite effective service of process and adequate notice, both parties failed to appear. In consideration of the parties' failure to participate in the investigative and legal proceedings, the parties have clearly abandoned this case. Accordingly, pursuant to NMIAC § 80-20.1-485(b), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[1]

So ordered this **12th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | **Labor Case No. 21-008** |
| Hao-Wei Chen, | |
| Complainant, | **ORDER OF DISMISSAL** |
| v. | |
| Imperial Pacific International (CNMI), LLC, | |
| Respondent. | |

This matter came for an Order to Show Cause Hearing on May 12, 2021 at 9:00 a.m. at the Administrative Hearing Office. Complainant Hao-Wei Chen ("Complainant") departed the CNMI and failed to appear. Respondent Imperial Pacific International (CNMI), LLC ("Respondent") failed to designate a representative to participate in the hearing and failed to appear. The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho.

Despite effective service of process and adequate notice, both parties failed to appear. In consideration of the parties' failure to participate in the investigative and legal proceedings, the parties have clearly abandoned this case. Accordingly, pursuant to NMIAC § 80-20.1-485(b), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[1]

So ordered this **12th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | **Labor Case No. 21-009** |
| Ping-Tse Chen,<br><br>Complainant,<br><br>**v.**<br><br>Imperial Pacific International (CNMI), LLC,<br><br>Respondent. | **ORDER OF DISMISSAL** |

This matter came for an Order to Show Cause Hearing on May 12, 2021 at 9:00 a.m. at the Administrative Hearing Office. Complainant Ping-Tse Chen ("Complainant") departed the CNMI and failed to appear. Respondent Imperial Pacific International (CNMI), LLC ("Respondent") failed to designate a representative to participate in the hearing and failed to appear. The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho.

Despite effective service of process and adequate notice, both parties failed to appear. In consideration of the parties' failure to participate in the investigative and legal proceedings, the parties have clearly abandoned this case. Accordingly, pursuant to NMIAC § 80-20.1-485(b), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[1]

So ordered this **12th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | **Labor Case No. 21-010** |
| Wun Jhong You,<br>Complainant,<br>v.<br>Imperial Pacific International (CNMI), LLC,<br>Respondent. | **ORDER OF DISMISSAL** |

This matter came for an Order to Show Cause Hearing on May 12, 2021 at 9:00 a.m. at the Administrative Hearing Office. Complainant Wun Jhong You ("Complainant") departed the CNMI and failed to appear. Respondent Imperial Pacific International (CNMI), LLC ("Respondent") failed to designate a representative to participate in the hearing and failed to appear. The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho.

Despite effective service of process and adequate notice, both parties failed to appear. In consideration of the parties' failure to participate in the investigative and legal proceedings, the parties have clearly abandoned this case. Accordingly, pursuant to NMIAC § 80-20.1-485(b), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[1]

So ordered this **12th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | ) | **Labor Case No. 21-011** |
| Yong-Te Ou, | ) | |
| Complainant, | ) | **ORDER OF DISMISSAL** |
| **v.** | ) | |
| Imperial Pacific International (CNMI), LLC, | ) | |
| Respondent. | ) | |

This matter came for an Order to Show Cause Hearing on May 12, 2021 at 9:00 a.m. at the Administrative Hearing Office. Complainant Yong-Te Ou ("Complainant") departed the CNMI and failed to appear. Respondent Imperial Pacific International (CNMI), LLC ("Respondent") failed to designate a representative to participate in the hearing and failed to appear. The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho.

Despite effective service of process and adequate notice, both parties failed to appear. In consideration of the parties' failure to participate in the investigative and legal proceedings, the parties have clearly abandoned this case. Accordingly, pursuant to NMIAC § 80-20.1-485(b), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[1]

So ordered this **12th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | **Labor Case No. 21-012** |
| Chien Nan Chen, | |
| Complainant, | **ORDER OF DISMISSAL** |
| v. | |
| Imperial Pacific International (CNMI), LLC, | |
| Respondent. | |

This matter came for an Order to Show Cause Hearing on May 12, 2021 at 9:00 a.m. at the Administrative Hearing Office. Complainant Chien Nan Chen ("Complainant") departed the CNMI and failed to appear. Respondent Imperial Pacific International (CNMI), LLC ("Respondent") failed to designate a representative to participate in the hearing and failed to appear. The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho.

Despite effective service of process and adequate notice, both parties failed to appear. In consideration of the parties' failure to participate in the investigative and legal proceedings, the parties have clearly abandoned this case. Accordingly, pursuant to NMIAC § 80-20.1-485(b), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[1]

So ordered this **12th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | **Labor Case No. 21-013** |
| Jie Yin Cheng, | |
| Complainant, | **ORDER OF DISMISSAL** |
| v. | |
| Imperial Pacific International (CNMI), LLC, | |
| Respondent. | |

This matter came for an Order to Show Cause Hearing on May 12, 2021 at 9:00 a.m. at the Administrative Hearing Office. Complainant Jie Yin Cheng ("Complainant") departed the CNMI and failed to appear. Respondent Imperial Pacific International (CNMI), LLC ("Respondent") failed to designate a representative to participate in the hearing and failed to appear. The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho.

Despite effective service of process and adequate notice, both parties failed to appear. In consideration of the parties' failure to participate in the investigative and legal proceedings, the parties have clearly abandoned this case. Accordingly, pursuant to NMIAC § 80-20.1-485(b), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[1]

So ordered this **12th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | **Labor Case No. 21-014** |
| Sen Wai Lai,<br>Complainant,<br>v.<br>Imperial Pacific International (CNMI), LLC,<br>Respondent. | **ORDER OF DISMISSAL** |

This matter came for an Order to Show Cause Hearing on May 12, 2021 at 9:00 a.m. at the Administrative Hearing Office. Complainant Sen Wai Lai ("Complainant") departed the CNMI and failed to appear. Respondent Imperial Pacific International (CNMI), LLC ("Respondent") failed to designate a representative to participate in the hearing and failed to appear. The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho.

Despite effective service of process and adequate notice, both parties failed to appear. In consideration of the parties' failure to participate in the investigative and legal proceedings, the parties have clearly abandoned this case. Accordingly, pursuant to NMIAC § 80-20.1-485(b), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[1]

So ordered this **12th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | ) | **Labor Case No. 21-015** |
| Kuan-Neng Liao, | ) | |
| Complainant, | ) | **ORDER OF DISMISSAL** |
| v. | ) | |
| Imperial Pacific International (CNMI), LLC, | ) | |
| Respondent. | ) | |

This matter came for an Order to Show Cause Hearing on May 12, 2021 at 9:00 a.m. at the Administrative Hearing Office. Complainant Kuan-Neng Liao ("Complainant") departed the CNMI and failed to appear. Respondent Imperial Pacific International (CNMI), LLC ("Respondent") failed to designate a representative to participate in the hearing and failed to appear. The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho.

Despite effective service of process and adequate notice, both parties failed to appear. In consideration of the parties' failure to participate in the investigative and legal proceedings, the parties have clearly abandoned this case. Accordingly, pursuant to NMIAC § 80-20.1-485(b), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[1]

So ordered this **12th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | **Labor Case No. 21-016** |
| Wen Hao Huang,<br>Complainant,<br>v.<br>Imperial Pacific International (CNMI), LLC,<br>Respondent. | **ORDER OF DISMISSAL** |

This matter came for an Order to Show Cause Hearing on May 12, 2021 at 9:00 a.m. at the Administrative Hearing Office. Complainant Wen Hao Huang ("Complainant") departed the CNMI and failed to appear. Respondent Imperial Pacific International (CNMI), LLC ("Respondent") failed to designate a representative to participate in the hearing and failed to appear. The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho.

Despite effective service of process and adequate notice, both parties failed to appear. In consideration of the parties' failure to participate in the investigative and legal proceedings, the parties have clearly abandoned this case. Accordingly, pursuant to NMIAC § 80-20.1-485(b), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[1]

So ordered this **12th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | **Labor Case No. 21-017** |
| Yong-Yuan Yang, | |
| Complainant, | **ORDER OF DISMISSAL** |
| v. | |
| Imperial Pacific International (CNMI), LLC, | |
| Respondent. | |

This matter came for an Order to Show Cause Hearing on May 12, 2021 at 9:00 a.m. at the Administrative Hearing Office. Complainant Yong-Yuan Yang ("Complainant") departed the CNMI and failed to appear. Respondent Imperial Pacific International (CNMI), LLC ("Respondent") failed to designate a representative to participate in the hearing and failed to appear. The Department's Enforcement, Compliance, and Monitoring Section ("Enforcement") was present and represented by Acting Director Jeffrey Camacho.

Despite effective service of process and adequate notice, both parties failed to appear. In consideration of the parties' failure to participate in the investigative and legal proceedings, the parties have clearly abandoned this case. Accordingly, pursuant to NMIAC § 80-20.1-485(b), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[1]

So ordered this **12th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[1] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| **In Re the Matter of:** | ) | **Labor Case No. 21-019** |
| Roberto T. Mostajo III, | ) | |
| Complainant, | ) | **ORDER OF DISMISSAL** |
| v. | ) | |
| CJ Corporation, | ) | |
| Respondent. | ) | |

This matter came for an Order to Show Cause Hearing on May 13, 2021 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Complainant Roberto T. Mostajo III ("Complainant") failed to appear.[1] Respondent CJ Corporation ("Respondent") was present and represented by President Consuelo Bernardo. The hearing was facilitated by Interpreter Rochelle Tomokane.

"The hearing officer may, after notice and an opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds to be without merit." 3 CMC § 4947. Here, Complainant alleges a claim for unpaid wages in the amount of $2,386.40 for work arising in 2018 and 2019, a violation of the CNMI Employment Preference statute, and the return of the processing fees from his denied CW-1 petition. Based on the filings and Enforcement's determination, the matter was scheduled for an Order to Show Cause hearing as to whether the case should be dismissed for failure to state claim.

Pursuant to 3 CMC § 4962, "[n]o labor complaint may be filed more than six months after the date of the last-occurring event that is the subject of the complaint, except in cases where the actionable conduct was not discoverable upon the last-occurring event." "If a complaint is not timely filed, the hearing office ***shall*** dismiss the complaint with prejudice." NMIAC § 80-20.1-

[1] Pursuantto NMIAC § 80-20.1-485(b), dismissal is appropriate when the Complainant fails to appear for a scheduled hearing. Despite effective service of proper and adequate notice, Complainant failed to appear.

465(e). Emphasis added. Here, Complainant's claim for unpaid wages accrued in 2018 and 2019. However, Complainant did not file their claim until 2021, past the six-month statute of limitations. Accordingly, Complainant's claim for unpaid wages is time-barred and must be dismissed.

Generally, the employment preference law requires CNMI employers to give preferential employment opportunities to U.S. citizens, U.S. permanent residents, and CNMI permanent residents. 3 CMC §§ 4521 et. seq.;[2] *see also* NMIAC § 80-20.1-220.[3] Complainant does not provide any factual allegations to support a claim for employment preference. Moreover, considering that Complainant is a Commonwealth Only Transitional Worker, he does not have standing to initiate a claim for employment preference. Accordingly, Complainant's claim for a violation of the employment preference law has no merit.

Accordingly, pursuant to 3 CMC § 4947, this complaint is hereby **DISMISSED**, with prejudice. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[4]

So ordered this **13th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[2] "A ***citizen or CNMI permanent resident or U.S. permanent resident*** who is qualified for a job may make a claim for damages if an employer has not met the requirements of 3 CMC § 4525, the employer rejects an application for the job without just cause, and the employer employs a person who is not a citizen or CNMI permanent resident or U.S. permanent resident for the job." 3 CMC § 4528(a) (emphasis added).

[3] "Employers shall give qualified citizens, CNMI permanent residents, and U.S. permanent residents preference over foreign national worker, transitional worker, or other nonimmigration aliens."

[4] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| In Re Matter of: | ) | **PUA Case No. 21-0058** |
| Miyoung Park, | ) | |
| Appellant, | ) | **ADMINISTRATIVE ORDER** |
| v. | ) | |
| CNMI Department of Labor, Division of Employment Services-PUA, | ) | |
| Appellee. | ) | |

## I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on March 12, 2021 at 10:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Miyoung Park ("Appellant") was present and self-represented. Appellant was assisted by Korean translator Seong Bin Lee. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by Labor Certification Worker Dennis Cabrera and PUA Coordinator Janica Lizama. There were no other witnesses who gave testimony at the hearing.

Exhibits:

1. Exhibit 1: Determination (mail date November 24, 2021);
2. Exhibit 2: Appellant's Appeal Form (dated February 11, 2021);
3. Exhibit 3: Appellant's Letter (dated February 11, 2021);
4. Exhibit 4: Copy of Email from NMI Portal;
5. Exhibit 5: Copy of Appellant's Passport;
6. Exhibit 6: Appellant's Letter to Secretary of Labor (dated December 29, 2020);
7. Exhibit 7: Appellant's Application Snapshot;
8. Exhibit 8: Employers' Letter Regarding Work Hour Reduction;
9. Exhibit 9: Appellant's paystubs from March 16, 2020 to December 20, 2020;

10. Exhibit 10: Claimant's Message Center Summary and Email of Janica Lizama;

11. Exhibit 11: Email from Tanya Saures regarding Call Log for Appellant;

For the reasons stated below, the Department's Determination dated November 24, 2020 is **AFFIRMED**. Claimant is not eligible for benefits for the period of August 09, 2020 to December 26, 2020.

## II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")[1] and Federal Pandemic Unemployment Compensation ("FPUC").[2] On March 29, 2020, the CNMI Government executed an agreement with the US Secretary of Labor to operate the PUA and FPUC program in accordance to applicable law.[3] On December 27, 2020, the Continued Assistance for Unemployed Workers Act of 2020 ("Continued Assistance Act") amended and created new provisions of said federal unemployment insurance programs, which, among other things, extended the PUA and FPUC programs to March 13, 2021.[4] On March 11, 2021, the American Rescue Plan Act of 2021 ("ARPA") extended the programs to September 6, 2021. The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI. The CNMI Department of Labor Administrative Hearing Office has been designated to preside over first level appeals of the aforesaid programs.

Upon review of the records, the appeal was not timely filed. Accordingly, jurisdiction is not established.

## III. PROCEDURAL HISTORY & ISSUE

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department emailed the

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[1] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[2] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[3] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.
[4] *See* Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A ("Continued Assistance for Unemployed Workers Act of 2020" or "Continued Assistance Act").

disqualifying determination on November 17, 2021, with a mail date of November 24, 2020. The Department's determination found that Appellant was not eligible to receive PUA effective August 08, 2020 to December 26, 2020 because the Department found that Appellant failed to provide documentation to show she was a CNMI resident. On February 11, 2021, Appellant filed a request to appeal the Disqualifying Determination. As stated in Notice of Hearing, the issues on appeal are: (1) whether the Appeal is timely filed; (2) whether Appellant is eligible for PUA and (3) whether there are any overpayments necessitating the return of PUA funds in this case.

## IV. FINDINGS OF FACT

In consideration of the evidence provided and credibility of witness testimony, the undersigned issues the following findings of fact:

1. Prior to the pandemic, Appellant was employed as an Operations Manager at Seven Twelve Enterprise, Inc. ("Employer"), located in Chalan Kanoa, Saipan. Prior to COVID-19, Appellant generally worked 40 hours per week for the hourly rate of $17.63 per hour.[5]
2. Due to the COVID-19 pandemic, Appellant's hours were reduced to 30 hours every two weeks, from March 16, 2020 to December 20, 2020.[6]
3. On August 16, 2020, Appellant filed an online application to claim PUA and FPUC benefits. Appellant was assisted by her husband Hakshon Kang and her assistant Amalia Guanlao. In the application, Appellant certified the following:
    a. That she experienced a reduction in work hours as a result of the COVID-19 pandemic;
    b. That her primary email address was miyoungpark675@gmail.com;
    c. That her preferred notification method was through email notification; and
    d. That all of the information submitted to the Department was true and complete.[7]
4. On November 10, 2020, PUA Coordinator Janica Lizama emailed Appellant requesting for proof of identification, employment certification and employment authorization. Appellant was given 48 hours to comply with PUA Coordinator's request. Appellant did not respond to PUA Coordinator's request for documents.[8]

[5] Exhibit 7.
[6] Exhibit 9.
[7] Exhibit 7.
[8] Exhibit 10.

5. On November 17, 2020, the Department, pursuant to Appellant's request, emailed Appellant the Determination, disqualifying Appellant from receiving PUA benefits effective August 09, 2020 to December 26, 2020.[9] The Determination found that the Appellant was ineligible to receive benefits because she failed to submit documents showing that she was a CNMI resident.
6. On December 29, 2020, Appellant, her husband and her assistant visited the PUA office to submit a request for reconsideration relative to Appellant's weekly certification. In her request Appellant stated that she was unable to open her files online.[10] Appellant was not advised by PUA during her visit that she was disqualified to receive PUA benefits.
7. Although Appellant requested to have all PUA notifications sent to her email address, Appellant claims that miyoungpark675@gmail.com is her email address but she does not use it.
8. Appellant was not able to access the portal until February 10, 2021, after she requested for and received a new password from the PUA office.
9. On February 11, 2021, Appellant filed the present Appeal claiming that she did not have access to the online portal due to an invalid password.
10. On February 25, 2021, PUA Coordinator Lizama reviewed the claimant's call log from year 2020 and found no evidence of Appellant calling the PUA office. The only record of calls received from Appellant to PUA were phone calls made on February 10, 2021 and February 11, 2021.[11] PUA Coordinator Lizama also reviewed Appellant's message center summary and found that the Disqualifying Determination was uploaded to Appellant's online portal on November 17, 2020.[12]

## V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

**1. This appeal is not timely filed.**

Generally, an appeal should be filed within ten days after the Notice of Determination was issued or served to the claimant. However, the Department may extend the period to thirty days

[9] Exhibit 1.
[10] Exhibit 6.
[11] Exhibit 11.
[12] Exhibit 10.

by a showing of good cause.[13] Good cause means: (1) illness or disability; (2) keeping an appointment for a job interview; (3) attending a funeral of a family member; and (4) any other reason which would prevent a reasonable person from complying as directed.[14]

Here, the Department issued the disqualification and delivered it to Appellant's online portal on November 17, 2020. Pursuant to Appellant's request, the disqualification was also sent to Appellant's email address at miyoungpark675@gmail.com on the same date. However, Appellant claims that she did not receive her Disqualifying Determination because she was locked out of the portal and she does not use her miyoungpark675@gmail.com email address.

On December 29, 2020, over a month after receiving the determination by email, Appellant visited the Department to advise the PUA office that she was locked out of the portal. Despite such notice, the Department did not personally advise Appellant about the Disqualifying Determination during her visit. Appellant eventually received a new password and gained access to the portal on February 10, 2021. Appellant filed this appeal on February 11, 2021.

Based on the testimony and evidence presented, the undersigned finds that Appellant did not have good cause for filing her appeal late. The undersigned appreciates the difficulty Appellant experienced in accessing the portal. Moreover, the undersigned recognizes Appellant's initiative to request for a new password from the Department. However, the undersigned finds that the Department did provide the notice of disqualification, via e-mail to Appellant, pursuant to Appellant's request. Although the Department was advised by Appellant on December 29, 2020, that she was locked out of the online portal, Appellant did not advise the Department until the day of this hearing that she did not use her email address at miyoungpark675@gmail.com.

For the Department, they had no reason to assume that Appellant did not use the stated email address. First, Appellant, who was assisted by her husband and assistant, provided the email address on her online application. Second, Appellant admitted that miyoungpark675@gmail.com is her email address but that she does not use it. Finally, Appellant self-certified on her online application that all of the information submitted to the Department was true and complete. Therefore, the Department reasonably relied on Appellant's representation and delivered her Disqualifying Determination via email. Appellant should have known that such delivery would

[13] HI. Rev. Statute § 383-38(a).
[14] HAR § 12-5-81(j).

be made to the email address stated in her online application. Accordingly, the undersigned finds that Appellant did not have good cause to file late.

For failure to show good cause, Appellant's filing deadline remains at 10 days. Based on the applicable timeline, Appellant's filing is untimely. Further, because Appellant's appeal is untimely, the Department's Determination is final and remaining issues are moot.

## VI. CONCLUSION

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Determination is **AFFIRMED**;
2. The Appellant is **INELIGIBLE** to receive PUA benefits for the weeks of August 09, 2020 to December 26, 2020.

If a party is aggrieved by this Order and would like to contest the decision, he or she must submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The written request should be supported by legal, factual, or evidentiary reasons to reopen the decision. The written request must be submitted to the Administrative Hearing Office, either in person at 1357 Mednilla Avenue, Capitol Hill Saipan MP 96950 or via email at hearing@dol.gov.mp.

In the event a request to reopen the decision is granted, the matter shall be scheduled for a subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms, filings fees, and filing deadlines for judicial review will be as established by the applicable law and court rule.

So ordered this 26th day of April, 2021.

/s/
**JOEY P. SAN NICOLAS**
*Pro Tem* Administrative Hearing Officer

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| In Re Matter of: | ) | **PUA Case No. 21-0064** |
| Adly N. Titus, | ) | |
| Appellant, | ) | **ADMINISTRATIVE ORDER** |
| v. | ) | |
| CNMI Department of Labor, Division of Employment Services-PUA, | ) | |
| Appellee. | ) | |

## I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on March 16, 2021 at 1:30 p.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Adly N. Titus ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by Labor Certification Worker Dennis Cabrera and PUA Coordinator Suvanna Sablan. There were no other witnesses who gave testimony at the hearing.

Exhibits:

1. Exhibit 1: Determination (mail date February 15, 2021);
2. Exhibit 2: Appellant's Appeal Form (dated February 19, 2021);
3. Exhibit 3: Appellant's Initial Application;
4. Exhibit 4: Appellant's Application Snapshot;
5. Exhibit 5: Notice of Furlough dated June 18,2020;
6. Exhibit 6: Copy of Appellant's Social Security Card and Driver's License;
7. Exhibit 7: Request for Separation Action (dated June 24, 2020);
8. Exhibit 8: Verification of Partial Unemployment Status; and
9. Exhibit 9: Department Case Notes.

For the reasons stated below, the Department's Determination dated February 15, 2021 is **AFFIRMED**. Claimant is not eligible for benefits for the period of June 14, 2020 to December 26, 2020.

## II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")[1] and Federal Pandemic Unemployment Compensation ("FPUC").[2] On March 29, 2020, the CNMI Government executed an agreement with the US Secretary of Labor to operate the PUA and FPUC program in accordance to applicable law.[3] On December 27, 2020, the Continued Assistance for Unemployed Workers Act of 2020 ("Continued Assistance Act") amended and created new provisions of said federal unemployment insurance programs, which, among other things, extended the PUA and FPUC programs to March 13, 2021.[4] On March 11, 2021, the American Rescue Plan Act of 2021 ("ARPA") extended the programs to September 6, 2021. The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI. The CNMI Department of Labor Administrative Hearing Office has been designated to preside over first level appeals of the aforesaid programs.

Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is established.

## III. PROCEDURAL HISTORY & ISSUE

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued a Disqualifying Determination, with a mail date of February 15, 2021. The Department's determination found that Appellant was not eligible to receive PUA effective June 14, 2020 to

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[1] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[2] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[3] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.
[4] *See* Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A ("Continued Assistance for Unemployed Workers Act of 2020" or "Continued Assistance Act").

December 26, 2020 because Appellant failed to provide weekly certifications. On February 19, 2021, Appellant filed a request to appeal the Disqualifying Determination. As stated in the Notice of Hearing, the issues on appeal are: (1) whether Appellant is eligible for PUA and (2) whether there are any overpayments necessitating the return of PUA funds in this case.

## IV. FINDINGS OF FACT

In consideration of the evidence provided and credibility of witness testimony, the undersigned issues the following findings of fact:

1. Prior to the pandemic, Appellant was employed as a General Laborer at AM Group, LLC ("Employer"), located in Saipan. Appellant generally worked 40 hours per week for the hourly rate of $7.50 per hour. Appellant started working at Employer on February 05, 2020.[5]
2. Due to the COVID-19 pandemic, Employer furloughed Appellant effective June 22, 2020.[6] After two weeks, Employer recalled Appellant to work. On October 18, 2020, Appellant was furloughed again by Employer and since then has been unemployed.
3. On September 28, 2020, Appellant filed his online application to claim PUA and FPUC benefits.
4. In the application, Appellant certified that he was responsible to read the PUA Benefit Rights Information Handbook and any other official written material provided to him regarding any benefit program.
5. Pursuant to the PUA Benefit Rights Information Handbook, claimants must self-certify on a weekly basis that he or she is able and available to work, except that Claimant is unable or unavailable due to a COVID-19 related reason. Moreover, Claimant must submit weekly Claim and Income certifications to request payment of benefits while unemployed.
6. February 12, 2021, PUA Coordinator Suvanna Sablan determined that because Appellant failed to submit his weekly certifications, Appellant was disqualified from receiving PUA and FPUC benefits.

[5] Exhibit 5.
[6] Exhibit 6.

7. On February 19, 2021, Appellant filed the present appeal claiming that he was never informed by the Department what documents he was required to file to receive PUA benefits.[7]
8. Appellant testified that he knew he was required to submit weekly certifications, but Appellant failed to do so because he lacked transportation.
9. PUA and FPUC benefits were not issued to Appellant.

## V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

**1. The Department's disqualification for Appellant's failure to provide supporting documents was proper.**

Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136), the terms and conditions of the law of the applicable jurisdiction in which an individual would be paid PUA benefits, applies to the processing of the PUA claims. This includes determinations related to failure to report as directed provisions. For the PUA Program in the CNMI, the applicable provisions of the State of Hawaii will apply to adjudicating a claimant's failure to report as directed. Under Haw. Code R. § 12-5-81(i-j), a claimant is required to respond or complete an action as directed by the agency or Department. This includes reporting to appointments scheduled by the agency and/or requests to provide information or documents. If a claimant fails to respond as directed, he or she is not eligible for benefits in the affected week, unless good cause is shown for the failure. The standard of "good cause" is generally considered to include exigent circumstances or those beyond the control of the claimant such as illness, and/or other reasons which would prevent a reasonable person from complying as directed.[8]

Appellant was required, pursuant to the Benefit Rights Information Handbook, to self-certify each week that he is able and available to work, except that he is unable due to COVID-19. Moreover, Appellant must complete, sign, and submit claim certifications on a weekly basis to request payment of benefits while unemployed. Based on the testimony and evidence presented,

[7] Exhibit 2.
[8] Haw. Code R. § 12-5-81(j).

the undersigned finds that Appellant failed 1) to self-certify that he was able and available to work, except that he is unable due to COVID-19 and 2) to file weekly claim certifications.

Since there were no weekly certifications submitted, Appellant failed to meet the reporting requirements and disqualification under Haw. Code R. § 12-5-81(i-j) was warranted. The undersigned is not convinced that Appellant's inability to submit his weekly certification was out of his control. First, since Appellant already submitted his application via the online portal, Appellant could have used the same method to file his weekly certifications. Secondly, given the amount of time between his application submission in September 2020, and the determination in February 2021, Appellant had ample time to seek an alternate means of transportation to submit his weekly certifications to the Department. Accordingly, the Department's disqualification for Appellant's failure to submit weekly certifications was proper. Appellant is not eligible for PUA benefits.

**2. An overpayment did not occur.**

"Benefits shall be paid promptly in accordance with a determination, redetermination, or decision or appeal."[9] However, "[a]ny individual who has received any amount as benefits . . . to which the individual was not entitled shall be liable for the amount unless the overpayment was received without fault on the part of the recipient and its recovery would be against equity and good conscience."[10] Fault[11] is defined as:

> (A) A material statement made by the individual which the individual knew or should have known to be incorrect; or
> (B) Failure to furnish information which the individual knew or should have known to be material; or
> (C) Acceptance of a payment which the individual either knew or reasonably could have been expected to know was incorrect.

Based on federal guidance, "contrary to equity and good conscience" is tantamount to placing an individual below the poverty line and taking away basic necessities to live. In evaluating equity and good conscience,[12] the factors to consider include, but are not limited to:

> (A) Whether notice of a redetermination was given to the claimant, as required ...

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[9] HRS § 383-43.
[10] HRS § 383-44.
[11] HRS 12-5-83.
[12] *Id.*

(B) Hardship to the claimant that the repayment may impose; and
(C) The effect, if any, that the repayment will have upon the fulfillment of the objectives of the program.[13]

Here, Appellant did not receive PUA and/or FPUC benefits from the Department. Therefore, an overpayment did not occur in this case.

## VI. CONCLUSION

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Determination is **AFFIRMED**;
2. The Appellant is **INELIGIBLE** to receive PUA benefits for the weeks of June 14, 2020 to December 26, 2020.

If a party is aggrieved by this Order and would like to contest the decision, he or she must submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The written request should be supported by legal, factual, or evidentiary reasons to reopen the decision. The written request must be submitted to the Administrative Hearing Office, either in person at 1357 Mednilla Avenue, Capitol Hill Saipan MP 96950 or via email at hearing@dol.gov.mp.

In the event a request to reopen the decision is granted, the matter shall be scheduled for a subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms, filings fees, and filing deadlines for judicial review will be as established by the applicable law and court rule.

So ordered this 6th day of May, 2021.

/s/
**JOEY P. SAN NICOLAS**
*Pro Tem* Administrative Hearing Officer

[13] PUA benefits were designed to be a critical lifeline for qualifying individuals facing a financial crisis amidst a pandemic. PUA is not an excuse to refuse suitable work. PUA is not free or unencumbered money. Issues of fraud and overpayments are of great consequence that jeopardizes the integrity of the program and availability of funds for eligible or qualified individuals.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

| | | |
|---|---|---|
| In Re Matter of: | ) | **PUA Case No. 21-0088** |
| | ) | |
| Hiroshi Yamamoto | ) | |
| | ) | |
| Appellant, | ) | **ADMINISTRATIVE ORDER** |
| | ) | |
| v. | ) | |
| | ) | |
| CNMI Department of Labor, Division of Employment Services-PUA, | ) | |
| | ) | |
| Appellee. | ) | |

## I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on May 4, 2021 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Hiroshi Yamamoto ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by Labor Certification Worker Dennis Cabrera, PUA Coordinator Zachary Taitano and PUA Coordinator Audrey Castro. There were no other witnesses who gave testimony during the hearing.

Exhibits:

1. Exhibit 1: Copy of Appellant's Initial Paper Application submitted July 9, 2020;
2. Exhibit 2: Copy of Appellant's Application Snapshot inputted August 26, 2020;
3. Exhibit 3: Copy of Appellant's Weekly Certifications for week beginning March 15, 2020 to week ending May 9, 2020;
4. Exhibit 4: Copy of Department's Disqualifying Determination dated February 25, 2021;
5. Exhibit 5: Copy of Department's Notice of Overpayment dated April 27, 2021;
6. Exhibit 6: Copy of Appellant's Request to File an Appeal and letter filed March 2, 2021;

7. Exhibit 7: Copy of Notice of Hearing issued March 2, 2021;
8. Exhibit 8: Copy of Amended Notice of Hearing issued March 23, 2021;
9. Exhibit 9: Second Amended Notice of Hearing issued March 30, 2021;
10. Exhibit 10: Copy of Rubin Corporation Business Licenses issued October 28, 2019;
11. Exhibit 11: Copy of Appellant's 2019 Monthly Business Gross Revenue Tax Returns (Filings from January through December);
12. Exhibit 12: Copy of Appellant's 2020 Monthly Business Gross Revenue Tax Returns (Filings from January through September and December);
13. Exhibit 13: Furlough Notice dated March 31, 2020;
14. Exhibit 14: Copy of Appellant's Passport, Drivers License, and Visa; and
15. Exhibit 15: Copy of SAVE Response initiated April 23, 2021.

For the reasons stated below, the Department's Determination dated February 25, 2021 is **AFFIRMED**. Claimant is not eligible for benefits for the period of March 15, 2020 to March 13, 2021. The CNMI Department of Labor's Notice of Overpayment, dated April 27, 2021, is **AFFIRMED**. Appellant was overpaid in the total amount of $21,270 and is entitle to a waiver of repayment for the entire amount of overpayment.

## II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")[1] and Federal Pandemic Unemployment Compensation ("FPUC").[2] On December 27, 2020, the Continued Assistance for Unemployed Workers Act of 2020 ("Continued Assistance Act") amended and created new provisions of said federal unemployment insurance programs, which, among other things, extended the PUA and FPUC programs to March 13, 2021.[3] On March 11, 2021, the American Rescue Plan Act of 2021 ("ARPA") extended the programs to September 6, 2021. The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI in

[1] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[2] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[3] *See* Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A ("Continued Assistance for Unemployed Workers Act of 2020" or "Continued Assistance Act").

accordance to applicable law.[4] The CNMI Department of Labor Administrative Hearing Office has been designated to preside over appeals of agency decisions.

Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is established.

## III. PROCEDURAL HISTORY & ISSUES

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued a Disqualifying Determination on February 25, 2021. On March 2, 2021, Appellant filed a request to appeal the Disqualifying Determination. After the matter was scheduled for a hearing and pursuant to the Disqualifying Determination, the Department issued a Notice of Overpayment on April 27, 2021. As stated in the Second Amended Notice of Hearing, the issues on appeal are: (1) whether Appellant is eligible for PUA; and (2) whether an overpayment occurred and funds should be returned.

## IV. FINDINGS OF FACT

In consideration of the evidence provided and credibility of witness testimony, the undersigned issues the following findings of fact:

1. On June 17, 2020, the Department launched the PUA and FPUC programs.
2. Appellant is self-employed[5] as the President of Rubin Corporation[6] on Rota. Due to the economic impact of COVID-19 and lack of customers, Rubin Corporation experienced a significant reduction in revenue.[7] As a result, Appellant was furloughed.[8]
3. On July 9, 2020, Appellant submitted a paper application for unemployment assistance under the PUA and FPUC programs administered by the Department.[9] On August 26, 2020, the Department inputted Appellant's paper application into the online PUA portal.[10]

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[4] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.
[5] *See* Exhibits 1-2.
[6] *See* Exhibits 10-12.
[7] *Compare* Exhibits 11-12.
[8] Exhibit 13.
[9] Exhibit 1.
[10] Exhibit 2.

Subsequently, Appellant submitted weekly certifications towards his PUA and FPUC claims for unemployment benefits.[11]

4. In his applications,[12] Appellant self-certified under penalty of perjury that:
   a. He is an Alien/Refugee lawfully admitted to U.S.;
   b. That his employment was affected as a direct result of a COVID-19 because his place of employment was closed;
   c. His employment was affected since March 16, 2020; and
   d. He is able and available to work.
5. Upon further review of Appellant's supporting documents, the Department found that Appellant is a non-immigrant with an E-2 Investor Visa.[13]
6. On February 25, 2021, the Department issued a determination disqualifying Appellant from PUA and FPUC benefits from March 15, 2020 to March 13, 2021 because they found that Appellant was not a US Citizen, Non-citizen National, or Qualified Alien eligible for federal public benefits.[14]
7. On March 2, 2021, Appellant filed an appeal to contest the determination. Appellant argued that he has been a long-time resident of the CNMI, has never had a delinquent bill, and the US Constitution's equal protection clause should afford him federal public benefits, regardless of immigration status.[15]
8. Upon appeal, the Department's Benefit Payment Control Unit ("BPC") conducted a financial audit to determine whether an overpayment occurred. BPC confirmed that Appellant received the following payments:
   a. On September 1, 2020, Appellant received a direct deposit of $16,620 for weeks ending March 21, 2020 to August 29, 2020;
   b. On September 8, 2020, Appellant received a direct deposit of $310 for week ending September 5, 2020;
   c. On September 15, 2020, Appellant received a direct deposit of $310 for week ending September 12, 2020;

[11] Exhibit 3.
[12] *See* Exhibits 1-3.
[13] Exhibit 14; *see also* Exhibit 15.
[14] Exhibit 4.
[15] Exhibit 6.

d. On September 22, 2020, Appellant received a direct deposit of $310 for week ending September 19, 2020;
e. On September 29, 2020, Appellant received a direct deposit of $310 for week ending September 26, 2020;
f. On October 6, 2020, Appellant received a direct deposit of $310 for week ending October 3, 2020;
g. On October 13, 2020, Appellant received a direct deposit of $310 for week ending October 10, 2020;
h. On October 20, 2020, Appellant received a direct deposit of $310 for week ending October 17, 2020;
i. On October 27, 2020, Appellant received a direct deposit of $310 for week ending October 24, 2020;
j. On November 3, 2020, Appellant received a direct deposit of $310 for week ending October 31, 2020;
k. On November 10, 2020, Appellant received a direct deposit of $310 for week ending November 7, 2020;
l. On November 17, 2020, Appellant received a direct deposit of $310 for week ending November 14, 2020;
m. On December 1, 2020, Appellant received a direct deposit of $310 for week ending November 21, 2020;
n. On December 8, 2020, Appellant received a direct deposit of $620 for weeks ending November 28, 2020 to December 5, 2020; and
o. On December 15, 2020, Appellant received a direct deposit of $310 for week ending December 12, 2020.

9. In consideration of the Disqualifying Determination and BPC's financial audit, the Department issued a Notice of Overpayment[16] indicating that Appellant was overpaid benefits for weeks ending March 21, 2020 through December 12, 2020 in the following amounts:
   a. $12,090 in PUA benefits;

[16] Exhibit 5.

b. $9,180 in FPUC benefits; and

c. $21,270 in total.

10. Appellant does not contest receiving the amount listed in the Notice of Overpayment.
11. The matter was scheduled for an Administrative Hearing.[17]
12. During the Administrative Hearing, Appellant stated that he no longer contests the basis for the Disqualifying Determination and was willing to enter into a reasonable payment plan to repay the overpayment.
13. However, Appellant does not have any of the overpayment benefits remaining, has not returned to the workforce, and has no other sources of income. Moreover, Appellant incurs approximately $600 in expenses for basic needs like housing, food, and utilities.
14. Ultimately, the Department does not contest Appellant's request for a waiver to repay the overpayment. The Department concedes the issue of fault by indicating Appellant was overpaid due to a technical glitch in the online portal that automatically processed Appellant's claims for payment. Moreover, the Department agreed that Appellant repayment poses serious obstacles and hardships for Appellant.

## V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

**1. Appellant is not a qualified alien.**

PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;

[17] Exhibits 7-9.

7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

Further, Section 265 of the Continued Assistance Act provides that a Commonwealth Only Transitional Worker (CW-1) shall be considered a qualified alien for purposes of eligibility under the PUA and FPUC programs.

When Appellant filed his appeal to contest the Disqualifying Determination, Appellant argued that he has been a long-time resident of the CNMI, has never had a delinquent bill, and the US Constitution's equal protection clause should afford him federal public benefits, regardless of immigration status. However, considering the above-cited law, Appellant's arguments are not persuasive.

Based on the applicable law and evidence provided, Appellant is not a qualified alien eligible for federal public benefits, such as PUA or FPUC. First, as shown by Appellant's VISA and SAVE Response, Appellant is a nonimmigrant with an E2 Investor Visa. The undersigned rejects Appellant's arguments that E2 Investor Visas meet the qualified alien definition. As stated above, the qualified alien definition is very specific. While the E2 investor visa granted Appellant certain rights and privileges to live and work in the CNMI, the E2 investor visa does not grant rights to federal public benefits, such as PUA. Second, when questioned to determine whether Appellant may fit into any other provision of the qualified alien definition, Appellant responded in the negative. There is no other evidence or testimony to establish that Appellant meets the qualified alien definition, above. Accordingly, Appellant was not a qualified alien at the time he submitted claims for unemployment benefits.

**2. Appellant was overpaid but entitled to a waiver from repaying the overpayment.**

An overpayment occurs when an individual received a benefit payment, or a portion or a payment, to which the individual is not entitled. However, "[a]ny individual who has received any amount as benefits . . . to which the individual was not entitled shall be liable for the amount

unless the overpayment was received without fault on the part of the recipient and its recovery would be against equity and good conscience."[18] Fault[19] is defined as:

> (A) A material statement made by the individual which the individual knew or should have known to be incorrect; or
> (B) Failure to furnish information which the individual knew or should have known to be material; or
> (C) Acceptance of a payment which the individual either knew or reasonably could have been expected to know was incorrect.

Based on federal guidance, "contrary to equity and good conscience" is tantamount to placing an individual below the poverty line and taking away basic necessities to live. In evaluating equity and good conscience,[20] the factors to consider include, but are not limited to:

> (A) Whether notice of a redetermination was given to the claimant, as required ...
> (B) Hardship to the claimant that the repayment may impose; and
> (C) The effect, if any, that the repayment will have upon the fulfillment of the objectives of the program.[21]

Considering that Appellant is not a qualified alien, Appellant should not have been paid benefits under PUA or FPUC. Moreover, considering that Appellant does not contest the amount listed in the Notice of Overpayment and confirmed receiving the total sum of $21,270 — it is clear that the overpayment occurred.

However, in this case, the undersigned finds that this overpayment occurred due to the fault of the Department and technical error in the online portal. First, the Department is required to institute benefit payment controls and run a SAVE inquiry to confirm identification or eligibility for all aliens before issuing benefits. This inquiry did not occur and the online portal automatically

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[18] HRS § 383-44. Section 2104(f)(2) of the CARES Act requires individuals who have received FPUC overpayments to repay these amounts to the state agency. Thereunder, the state has authority to waive repayments of FPUC if the payment was without fault on the part of the individual and such repayment would be contrary to equity and good conscience. Section 201(d) of the Continued Assistance Act amends Section 2102(d) of the CARES Act and authorizes states to waive the repayment if the state determines that the payment of PUA was without fault on the part of any such individual and such repayment would be contrary to equity and good conscience. This waiver authority applies to overpayments that meet this criterion at any time since the PUA program began.

[19] HRS 12-5-83.

[20] *Id.*

[21] PUA benefits were designed to be a critical lifeline for qualifying individuals facing a financial crisis amidst a pandemic. Issues of fraud and overpayments are of great consequence that jeopardizes the integrity of the program and availability of funds for eligible or qualified individuals.

processed Appellant's application based on the information provided on the application. Second, the technically incorrect answer Appellant provided regarding his citizenship was not his fault. Specifically, when asked about citizenship, Appellant answered he was an "Alien/Refugee Lawfully Admitted to the U.S." The undersigned finds that Appellant genuinely believed to fit into this category because he was lawfully admitted into the U.S. with an E-2 Investor Visa. Furthermore, while it is the Claimant's responsibility to read and understand the program requirements as listed in the PUA benefits rights information handbook, this handbook defines "Qualified Aliens"—not "Alien/Refugee Lawfully Admitted to U.S." This overly technical language is very confusing and only compounded by language barriers when: (1) the term "Alien/Refugees Lawfully Admitted to the U.S. is not defined in any of the Department's published materials; and (2) the form and PUA benefit rights information handbook were not translated for persons with limited English proficiency.

Moreover, the undersigned finds that that repayment would be contrary to equity and good conscience. Here, Appellant has not returned to the workforce and has no other sources of income. However, Appellant continues to incur approximately $600 of monthly expenses for basic living necessities such as housing, food, and utilities. Considering Appellant's lack of income and immediate and basic needs, the undersigned finds that repayment of PUA benefits poses an incredible hardship and would be contrary to equity and good conscience.

In conclusion, Appellant was overpaid in the amount of $21,720. As discussed above, payment was made through no fault of the Appellant and repayment would be contrary to equity and good conscience. Accordingly, Appellant's request for an Overpayment Waiver is granted.

## VI. DECISION

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Disqualifying Determination, dated February 25, 2021, is **AFFIRMED**;
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of March 15, 2020 to March 13, 2021.
3. The CNMI Department of Labor's Notice of Overpayment, dated April 27, 2021, is **AFFIRMED**;
4. Appellant was overpaid but the request for waiving recovery of the overpayment is **GRANTED** for the entire amount of $21,270;

5. The CNMI Department of Labor Benefit Payment Control Unit shall institute the necessary precautions and control measures to prevent further overpayments to Appellant.

If a party is aggrieved by this Order and would like to contest the decision, he or she must submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The written request should be supported by legal, factual, or evidentiary reasons to reopen the decision. The written request must be submitted to the Administrative Hearing Office, either in person at 1357 Mednilla Avenue, Capitol Hill Saipan MP 96950) or via email at hearing@dol.gov.mp.

In the event a request to reopen the decision is granted, the matter shall be scheduled for a subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms, filings fees, and filing deadlines for judicial review will be as established by the applicable law and court rule.

So ordered this **6th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| In Re Matter of:<br><br>Mychal K. Omar<br><br>Appellant,<br><br>v.<br><br>CNMI Department of Labor,<br>Division of Employment Services-PUA,<br><br>Appellee. | ) | **PUA Case No. 21-0095**<br><br><br><br>**ADMINISTRATIVE ORDER** |

## I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on April 22, 2021 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Mychal K. Omar ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by Labor Certification Worker, Dennis Cabrera and PUA Coordinator Reyzor Tebuteb. There were no other witnesses who gave testimony at the hearing.

Exhibits:

1. Exhibit 1: Copy of Appellant's Application Snapshot (filed June 28, 2020);
2. Exhibit 2: Copy of Appellant's Employment Certification;
3. Exhibit 3: Copy of Appellant's Request for Separation's Information;
4. Exhibit 4: Copy of Appellant's Verification for Partial Unemployment;
5. Exhibit 5: Copy of Department's Disqualifying Determination (dated December 22, 2020);
6. Exhibit 6: Copy of Appellant's Request to File an Appeal (filed March 11, 2021);
7. Exhibit 7: Notice of Hearing (issued 3/11/21);
8. Exhibit 8: Amended Notice of Hearing (issued March 23, 2021);
9. Exhibit 9: Copy of PUA/FPUC Benefit Rights Information Handbook;

10. Exhibit 10: Marianas Variety Article re: PUA Appeal Instructions (published October 15, 2020);
11. Exhibit 11: Saipan Tribune Article re: PUA Appeal Instructions (published October 16, 2020);
12. Exhibit 12: Email from Benefit Payment Control Unit (dated April 20, 2021); and
13. Exhibit 13: Email from PUA Communications Center (dated April 20, 2021).

For the reasons stated below, the Appellant's Appeal is **UNTIMELY**. Accordingly, the Department's Determination dated December 22, 2020 is **AFFIRMED** and **FINAL**. Appellant is not eligible for benefits for the period of March 29, 2020 to December 26, 2020.

## II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")[1] and Federal Pandemic Unemployment Compensation ("FPUC").[2] On March 29, 2020, the CNMI Government executed an agreement with the US Secretary of Labor to operate the PUA and FPUC program in accordance to applicable law.[3] The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI. The CNMI Department of Labor Administrative Hearing Office has been designated to preside over appeals of the agency decisions.

Upon review of the records and as further discussed below, the appeal was is not timely filed. Accordingly, jurisdiction is not established.

## III. PROCEDURAL HISTORY & ISSUES

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued its initial determination on December 22, 2020. The Department's determination found the Appellant did

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[1] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[2] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[3] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

not meet the qualifications under the CARES Act and Appellant was not eligible for benefits from March 29, 2020 to December 26, 2020. Appellant filed the present appeal on March 11, 2021. The issues on appeal are: (1) whether Appellant filed a timely appeal; (2) whether Appellant is eligible for PUA; and (3) whether there are any overpayments requiring the return of PUA funds in this case.

## IV. FINDINGS OF FACT

In consideration of the evidence provided and credibility of witness testimony, the undersigned issues the following findings of fact:

1. On June 17, 2020, the Department launched the PUA and FPUC programs. In compliance with notification requirements and in effort to keep the public informed, the Department published appeal rights, instructions, and information in the BRI, Fact Sheet, Appeal Form, and various press releases through the CNMI Governor's website, the Department of Labor website, local news platforms, and social media.[4]
2. On June 28, 2020, Appellant applied for unemployment insurance under the PUA and FPUC benefits administered by the CNMI Department of Labor.[5]
3. In his application, Appellant acknowledged and certified that he understands it is his responsibility to read and familiarize himself with the contents of the Benefit Rights Information Handbook ("BRI") and other published material available to him.[6] Appellant stated he read the BRI.
4. On December 22, 2020, the Department issued a determination[7] disqualifying Appellant from unemployment insurance benefits from March 29, 2020 to December 26, 2020 because the Department found that Appellant did not meet the requirements set forth in the CARES Act.[8]
5. The determination included appeal rights and instructions. Specifically, the Determination states: "[y]ou have 10 days from the mail date on this letter to file an appeal. This means your appeal **must be received or postmarked** by **1/4/2021**. If you do not make that

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[4] *See* Exhibits 9-11.
[5] Exhibit 1.
[6] *Id.*
[7] Exhibit 5.
[8] *See* Exhibits 2 -4.

deadline, you lose the right to appeal this determination."[9] Instructions on how to file an appeal were included on the second page of the Determination.

6. Contrary to the instructions provided in the Determination and above-mentioned published material, Appellant did not file his appeal with the Administrative Hearing Office until March 11, 2021—66 days after the established deadline.[10]
7. Subsequently, the Administrative Hearing Office issued a Notice of Hearing instructing the parties of the proceedings and issues to be discussed.[11]
8. During the hearing, the Department confirmed there is no overpayment issue for the relevant time period in this case.[12] Accordingly, the issue of overpayment is not discussed further.

## V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

**1. Appellant did not file a timely appeal.**

Generally, an appeal should be filed within ten days after the Notice of Determination was issued or served to the claimant. However, the Department may extend the period to thirty days by a showing of good cause.[13] Good cause means: (1) illness or disability; (2) keeping an appointment for a job interview; (3) attending a funeral of a family member; and (4) any other reason which would prevent a reasonable person from complying as directed.[14]

Notably, the Department published appeal rights, instructions, and information in the BRI, Fact Sheet, Appeal Form, and various press releases through the CNMI Governor's website, the Department of Labor website, local news platforms, and social media.[15] Moreover, Appellant's Disqualifying Determination includes instructions to file an appeal with the Administrative Hearing Office by January 4, 2021.

However, Appellant did not file his appeal in accordance with the instructions provided. Instead, Appellant filed his appeal with the Administrative Hearing Office on March 11, 2021—

[9] Exhibit 5.
[10] Exhibit 6.
[11] Exhibits 7-8.
[12] Exhibit 12.
[13] HI. Rev. Statute § 383-38(a).
[14] HAR § 12-5-81(j).
[15] *See* Exhibits 9-11.

66 days after the established deadline. When asked why he filed late, Appellant indicated that he incorrectly filed through the online portal and was unaware that his appeal was not filed correctly until February. Because the appeal was not correctly filed until March 11, 2021, the appeal was not considered timely filed.

As a preliminary note, the failure to read instructions and follow directions does not amount to good cause to extend deadlines. Notably, even if a 30-day extension were granted, the appeal would still be untimely. Due to the untimely nature of this appeal, the undersigned has no jurisdiction to hear this case and the Department's Determination shall be deemed final and the issue of eligibility is moot.

## VI. ORDER

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Determination is **AFFIRMED**; and
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of March 29, 2020 to December 26, 2020.

If a party is aggrieved by this Order and would like to contest the decision, he or she must submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5.93. The written request should be supported by legal, factual, or evidentiary reasons to reopen the decision. The written request must be submitted to the Administrative Hearing Office, either in person at 1357 Mednilla Avenue, Capitol Hill Saipan MP 96950) or via email at hearing@dol.gov.mp.

In the event a request to reopen the decision is granted, the matter shall be scheduled for a subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms, filings fees, and filing deadlines for judicial review will be as established by the applicable law and court rule.

So ordered this **23rd** day of April, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| In Re Matter of: | ) | **PUA Case No. 21-0097** |
| Analiza M. Lucina, | ) | |
| Appellant, | ) | **ADMINISTRATIVE ORDER** |
| v. | ) | |
| CNMI Department of Labor, Division of Employment Services-PUA, | ) | |
| Appellee. | ) | |

## I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on April 27, 2021 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Analiza M. Lucina ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by Labor Certification Worker Dennis Cabrera. There were no other witnesses who gave testimony at the hearing.

Exhibits:

1. Exhibit 1: Copy of Appellant's Application Snapshot;
2. Exhibit 2: Copy of Department's Determination (dated September 29, 2020);
3. Exhibit 3: Copy of Appellant's Appeal Form (filed March 11, 2021);
4. Exhibit 4: Copy of Notice of Hearing (issued March 11, 2021);
5. Exhibit 5: Copy of the PUA/FPUC Benefit Rights Information Handbook;
6. Exhibit 6: Marianas Variety Article re: PUA Appeal Instructions (published October 15, 2020);
7. Exhibit 7: Saipan Tribune Article re: PUA Appeal Instructions (published October 16, 2020); and

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8. Exhibit 8: Copy of Email from PUA Benefit Payment Control Unit (dated April 26, 2021).

For the reasons stated below, the Department's Determination dated September 29, 2020, is **MODIFIED**. Accordingly, Appellant is not eligible for benefits for the period of March 15, 2020 to December 26, 2020.

## II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")[1] and Federal Pandemic Unemployment Compensation ("FPUC").[2] On December 27, 2020, the Continued Assistance for Unemployed Workers Act of 2020 ("Continued Assistance Act") amended and created new provisions of said federal unemployment insurance programs, which, among other things, extended the PUA and FPUC programs to March 13, 2021.[3] On March 11, 2021, the American Rescue Plan Act of 2021 ("ARPA") extended the programs to September 6, 2021. The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI in accordance to applicable law.[4] The CNMI Department of Labor Administrative Hearing Office has been designated to preside over appeals of agency decisions.

Upon review of the records, the appeal was not timely filed. Accordingly, jurisdiction is not established.

## III. PROCEDURAL HISTORY & ISSUE

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued its disqualifying determination on September 29, 2020. As stated in the determination, Appellant was disqualified for benefits effective March 15, 2020 because she is a Commonwealth Only Transitional Worker ("CW-1"). Appellant filed the present appeal on March 11, 2021. The issues

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[1] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[2] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[3] *See* Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A ("Continued Assistance for Unemployed Workers Act of 2020" or "Continued Assistance Act").
[4] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

on appeal are: (1) whether Appellant filed a timely appeal; (2) whether Appellant is a qualified alien eligible for PUA; and (3) whether there are any overpayments requiring the return of PUA funds in this case.

## IV. FINDINGS OF FACT

In consideration of the evidence provided and credibility of witness testimony, the undersigned issues the following findings of fact:

1. On June 17, 2020, the Department launched the PUA and FPUC programs. In compliance with notification requirements and in effort to keep the public informed, the Department published appeal rights, instructions, and information in the PUA/FPUC Benefit Rights Information Handbook (BRI), Fact Sheet, Appeal Form, and various press releases through the CNMI Governor's website, the Department of Labor website, local news platforms, and social media.[5]
2. On June 18, 2020, Appellant applied for unemployment insurance under the PUA and FPUC benefits administered by the CNMI Department of Labor.[6]
3. In her application, Appellant acknowledged and certified that she understands it is her responsibility to read and familiarize herself with the contents of the BRI and other published material available to her.[7]
4. On September 29, 2020, the Department issued a Disqualifying Determination[8] disqualifying Appellant from unemployment insurance benefits effective March 15, 2020 because of her CW-1 status.[9]
5. Due to a technical error from the Department's online portal, the Disqualifying Determination included incorrect appeal instructions. In order to combat this technical error, the Department issued a number of press releases to advise the public of the correct appeal instructions.[10]
6. On March 11, 2021, Appellant filed an appeal to contest the September 29th Disqualifying Determination. Where it asks to indicate why she is filing late, she states: "I was

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[5] Exhibits 5-7.
[6] Exhibit 1.
[7] *Id.*
[8] Exhibit 2.
[9] Commonwealth Only Transitional Workers were not considered qualified aliens eligible for PUA until the passage of the Continued Assistance Act on December 27, 2020.
[10] Exhibits 6-7.

disqualified last year due of [*sic*] my status re: CW1. I did not filed [*sic*] an appeal because it was clearly explained the reason [*sic*]." Where it asks to indicate why she disagrees with the Determination, she states: "As mentioned, CW1 and other Non Immigrant [*sic*] Worker who have approval notice can apply now for PUA."

7. Subsequently, the Administrative Hearing Office issued a Notice of Hearing instructing the parties of the proceedings and issues to be discussed.[11]
8. During the hearing, the Department confirmed there is no overpayment issue for the relevant time period in this case.[12] Accordingly, the issue of overpayment is not discussed further.

## V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

**1. Appellant did not file a timely appeal.**

Generally, an appeal should be filed within ten days after the Notice of Determination was issued or served to the claimant. However, the Administrative Hearing Office may extend the period to thirty days by a showing of good cause.[13] Good cause means: (1) illness or disability; (2) keeping an appointment for a job interview; (3) attending a funeral of a family member; and (4) any other reason which would prevent a reasonable person from complying as directed.[14]

Here, Appellant received the Disqualifying Determination on September 29, 2020. After receiving the determination, Appellant decided not to file an appeal to contest the Department's Disqualifying Determination. On March 11, 2021—after the law changed to expand the definition of "qualified aliens" to include CW-1 workers—Appellant decided to file an appeal. Notably the change to include CW-1 workers was effective December 27, 2020 and does not retroactively apply to her unemployment claims in 2020.

During the hearing, Appellant confirmed that she does not disagree or contest the September 29th Determination with respect to claims filed March 15, 2020 to December 26, 2020. Instead, Appellant is seeking assistance with regards to her ongoing or continuing claims filed after

[11] Exhibits 4.
[12] Exhibit 7.
[13] HI. Rev. Statute § 383-38(a).
[14] HAR § 12-5-81(j).

December 26, 2020. Specifically, Appellant indicates that the online portal payment summary states she is still disqualified from weeks after December 26, 2020. However, the Department confirms that this is a technical error from the online portal and is not an official determination. Appellant's continuing claims are currently undergoing review and pending a subsequent determination.[15]

Based upon the parties' testimony and applicable law, the undersigned does not find good cause to extend the filing deadline. Moreover, even if a 30-day extension were granted, the appeal would still be untimely by several months. Due to the untimely nature of this appeal, the undersigned has no jurisdiction to hear this case and the Department's Determination is final, except for a minor modification requested by both parties to include an end date to December 26, 2020.

## VI. ORDER

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Determination is **MODIFIED**; and
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of March 15, 2020 to December 26, 2020.

If a party is aggrieved by this Order and would like to contest the decision, he or she must submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The written request should be supported by legal, factual, or evidentiary reasons to reopen the decision. The written request must be submitted to the Administrative Hearing Office, either in person at 1357 Mednilla Avenue, Capitol Hill Saipan MP 96950 or via email at hearing@dol.gov.mp.

In the event a request to reopen the decision is granted, the matter shall be scheduled for a subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms,

[15] Considering that adjudication and a determination for these continued claims are still pending, it is not at issue during the present hearing. In the event Appellant disagrees or would like to contest any subsequent determinations from the Department, Appellant must file a new appeal.

filings fees, and filing deadlines for judicial review will be as established by the applicable law and court rule.

So ordered this 27th day of April, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| In Re Matter of: | ) | **PUA Case No. 21-0099** |
| Cirilo T. Batinggal, | ) | |
| Appellant, | ) | **ADMINISTRATIVE ORDER** |
| v. | ) | |
| CNMI Department of Labor, Division of Employment Services-PUA, | ) | |
| Appellee. | ) | |

This matter came before the undersigned for an Administrative Hearing on April 28, 2021 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Cirilo T. Batinggal ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by Labor Certification Worker Dennis Cabrera and PUA Coordinator Brenda Rideb. There were no other witnesses who gave testimony at the hearing.

Prior to the hearing, the Department filed a Motion to Dismiss stating that the Appellant is a Commonwealth Only Transitional Worker and was not eligible for PUA and FPUC benefits until the Continued Assistance Act expanding the definition of "qualified aliens" was passed on December 27, 2020. Therein, the Department also confirms there are no overpayment issues in this case. During the Administrative Hearing, the Appellant stated he no longer contests the March 5, 2021 Determination that disqualified him for benefits from February 2, 2020 to December 26, 2020 and does not oppose dismissal. In consideration of above, the undersigned finds that there are no issues on appeal. Accordingly, this appeal is hereby **DISMISSED** and the Department's Determination dated March 5, 2021 shall be deemed **FINAL**.

So ordered this **28th** day of April, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| In Re Matter of: | ) | **PUA Case No. 21-0100** |
| Emily Nicole Reed, | ) | |
| Appellant, | ) | **ADMINISTRATIVE ORDER** |
| v. | ) | |
| CNMI Department of Labor, Division of Employment Services-PUA, | ) | |
| Appellee. | ) | |

On April 27, 2021, the Department filed a Motion to Dismiss this appeal as they have issued a redetermination qualifying Appellant for PUA benefits. On April 28, 2021, Appellant confirmed, in writing, that she did not oppose dismissal.

In consideration of above, the undersigned finds that there are no issues on appeal. Accordingly, this appeal is hereby **DISMISSED** and the Administrative Hearing scheduled for April 29, 2021 at 9:00 a.m. is hereby **VACATED**. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this **28th** day of April, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| In Re Matter of: | ) | **PUA Case No. 21-0103** |
| Hydee D. Tudela | ) | |
| Appellant, | ) | **ADMINISTRATIVE ORDER** |
| v. | ) | |
| CNMI Department of Labor, Division of Employment Services-PUA, | ) | |
| Appellee. | ) | |

## I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on May 6, 2021 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Hydee D. Tudela ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by PUA Coordinator Vincent Sablan and Jonathan Borja. There were no other witnesses who gave testimony during the hearing.

Exhibits:

1. Exhibit 1: Copy of Appellant's Initial Paper Application submitted June 19, 2020;
2. Exhibit 2: Copy of Appellant's Application Snapshot inputted August 6, 2020;
3. Exhibit 3: Copy of Appellant's Weekly Certifications
4. Exhibit 4: Copy of Department's Disqualifying Determination dated March 26, 2021;
5. Exhibit 5: Copy of Department's Notice of Overpayment dated March 29, 2021;
6. Exhibit 6: Copy of Appellant's Request to File an Appeal and letter filed March 31, 2021;
7. Exhibit 7: Copy of Notice of Hearing issued March 31, 2021;
8. Exhibit 8: Copy of Appellant's Employment Verification dated February 27, 2020;
9. Exhibit 9: Copy of Appellant's Self-Certification dated March 12, 2021;
10. Exhibit 10: Copy of Department Case Notes inputted April 30, 2021
11. Exhibit 11: Governor's Press Release re: Qualified Aliens published August 9, 2020

12. Exhibit 12: Marianas Variety Article re: Qualified Aliens published September 22, 2020
13. Exhibit 13: Saipan Tribune Article re: Qualified Aliens published November 13, 2020
14. Exhibit 14: Copy of Appellant's I-797 Notice of Actions re: C09 Approval Notices dated October 29, 2019 and December 22, 2020)
15. Exhibit 15: Copy of Appellant's Employment Authorization Cards valid from October 29, 2019 to October 28, 2020 and December 22, 2020 to December 21, 2021; and
16. Exhibit 16: Copy of SAVE Response initiated March 17, 2021.

For the reasons stated below, the Department's Determination dated March 26, 2021 is **AFFIRMED**. Claimant is not eligible for benefits for the period of February 23, 2020 to September 4, 2021. The CNMI Department of Labor's Notice of Overpayment, dated March 29, 2021, is **AFFIRMED**. Appellant was overpaid in the total amount of $17,550 and is entitled to a waiver of repayment for the entire amount of overpayment.

## II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")[1] and Federal Pandemic Unemployment Compensation ("FPUC").[2] On December 27, 2020, the Continued Assistance for Unemployed Workers Act of 2020 ("Continued Assistance Act") amended and created new provisions of said federal unemployment insurance programs, which, among other things, extended the PUA and FPUC programs to March 13, 2021.[3] On March 11, 2021, the American Rescue Plan Act of 2021 ("ARPA") extended the programs to September 6, 2021. The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI in accordance to applicable law.[4] The CNMI Department of Labor Administrative Hearing Office has been designated to preside over appeals of agency decisions.

Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is established.

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[1] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[2] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[3] *See* Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A ("Continued Assistance for Unemployed Workers Act of 2020" or "Continued Assistance Act").
[4] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

## III. PROCEDURAL HISTORY & ISSUES

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued a Disqualifying Determination on March 26, 2021. On March 29, 2021 the Department issued a Notice of Overpayment based on their investigation and Disqualifying Determination. On March 31, 2021, Appellant filed a request to appeal the Disqualifying Determination. After the matter was scheduled for a hearing. As stated in the Notice of Hearing, the issues on appeal are: (1) whether Appellant is eligible for PUA; and (2) whether an overpayment occurred and funds should be returned.

## IV. FINDINGS OF FACT

In consideration of the evidence provided and credibility of witness testimony, the undersigned issues the following findings of fact:

1. As of January 2, 2020, Appellant was employed as a Bartender at Kasumi Corporation dba 9 O'clock bar ("Employer") in Garapan, Saipan.[5] Generally, Appellant worked 80 hours every two weeks and was paid $8.11 per hour.[6]
2. The employer reduced hours as a precautionary healthcare measure in accordance with Governor's Executive Order 2020-04. Appellant was placed on unpaid leave, effective February 27, 2020.[7] Employer has been closed since February of 2020.[8] To date, Appellant has not been recalled, offered other employment, or otherwise returned to the workforce.
3. On June 17, 2020, the Department launched the PUA and FPUC programs.
4. On June 19, 2020, Appellant submitted a paper application for unemployment assistance under the PUA and FPUC programs administered by the Department.[9] On August 6, 2020, the Department inputted Appellant's paper application into the online PUA portal.[10] Subsequently, Appellant submitted weekly certifications towards her PUA and FPUC claims for unemployment benefits.[11]
5. In her applications,[12] Appellant self-certified under penalty of perjury that:
    a. She is an Alien/Refugee lawfully admitted to U.S.;

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[5] Exhibit 8; *see also* Exhibits 1-2.
[6] Exhibit 8.
[7] Exhibit 8.
[8] Exhibit 9-10.
[9] Exhibit 1.
[10] Exhibit 2.
[11] Exhibit 3.
[12] *See* Exhibits 1-3.

b. That her employment was affected as a direct result of a COVID-19 because her place of employment was closed;
c. Her employment was affected since March 13, 2020; and
d. She is able and available to work.

6. Upon further review of Appellant's supporting documents, the Department found that Appellant is not a U.S. Citizen, Non-national Citizen, or Qualified Alien. Instead, Appellant is an alien with a temporary employment authorization.[13]
   a. In 2019, Appellant applied for permanent residency and employment authorization after marrying a U.S. Citizen.
   b. On October 29, 2019, USCIS issued an Approval Notice for Appellant's application for employment authorization under Class C09 from October 29, 2019 to October 28, 2020.
   c. On December 22, 2020, USCIS issued an Approval Notice for Appellant's application for employment authorized under Class C09 from December 22, 2020 to December 21, 2021.
   d. To date, Appellant's application for permanent residency is pending.
   e. Appellant has no other documents or evidence to demonstrate that she is a qualified alien during the relevant time period.
7. On August 17, 2020, the Department initiated a SAVE inquiry by cross referencing Appellant's information in the USCIS database. On the same day, the results indicated that Appellant was temporarily authorized to work under Class C09. Despite knowledge of Appellant's immigration status, the Department did not immediately flag Appellant's claim or create an issue on the online portal to prevent the online portal from processing her claim for payout. It is unknown why the Department waited until September 18, 2020 to create an issue or flag Appellant's claim. Due to the delay, the portal processed Appellant's claim for payment.
8. On March 26, 2021, the Department issued a determination disqualifying Appellant from PUA and FPUC benefits from February 23, 2020 to September 4, 2021 because they found that Appellant was not a US Citizen, Non-citizen National, or Qualified Alien eligible for federal public benefits.[14]

[13] Exhibits 14-15.
[14] Exhibit 4.

9. Upon further review, the Department's Benefit Payment Control Unit ("BPC") conducted a financial audit to determine whether an overpayment occurred. BPC confirmed that Appellant received the following payments:
    a. On September 1, 2020, Appellant received a direct deposit of $16,930 for weeks ending March 14, 2020 to August 29, 2020; and
    b. On September 15, 2020, Appellant received a direct deposit of $620 for weeks ending September 5, 2020 to September 12, 2020.
10. In consideration of the Disqualifying Determination and BPC's financial audit, the Department issued a Notice of Overpayment[15] indicating that Appellant was overpaid benefits for weeks ending March 14, 2020 through September 12, 2020 in the following amounts:
    a. $8,370 in PUA benefits;
    b. $9,180 in FPUC benefits; and
    c. $17,550 in total.
11. Appellant does not contest receiving the amounts listed in the Notice of Overpayment.
12. On March 31, 2021, Appellant filed an appeal to contest the determination.[16] Appellant argued that she provided all the requested documents, her workplace was closed due to COVID-19, and she has employment authorization under Class C09.
13. The matter was scheduled for an Administrative Hearing.[17]
14. During the Administrative Hearing, Appellant stated that she believed to be a qualified alien because of her employment authorization. Although the Department informed the public regarding the legal definition and specific provisions of a "qualified alien,"[18] there is an inconsistency with the published information and the application's use of the term "Alien/Refugee lawfully admitted to US."
15. Appellant claims to have spent the entire amount of benefits she received from the PUA and FPUC programs on paying bills for necessary expenses, debts or arrearages, and otherwise supporting her family.
16. Appellant and her husband are both unemployed and have no income to repay the amounts listed in the Notice of Overpayment.

[15] Exhibit 5.
[16] Exhibit 6.
[17] Exhibits 7.
[18] Exhibits 11-13.

17. Ultimately, the Department did not contest Appellant's request for a waiver to recover the overpayment. The Department concedes the issue of fault by indicating Appellant was overpaid because the Department failed to flag her claim on a timely manner and failed to define the term "Alien/Refugee lawfully admitted to U.S." Moreover, the Department agreed that Appellant's lack of income and ongoing necessary expenses poses serious obstacles and hardships for Appellant.

## V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

**1. Appellant's employment was affected as a direct result of COVID-19.**

In accordance with the CARES Act and Continued Assistance Act, payment of PUA and FPUC benefits are available to "covered individuals." A "covered individual" is someone who: (1) is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation under Section 2107 of the CARES Act, including an individual who has exhausted all rights to regular unemployment or extended benefits under State or Federal law or Pandemic Emergency Unemployment Compensation under Section 2107;[19] (2) self-certifies[20] that the individual is unemployed, partially unemployed, or unable or unavailable to work[21] as a direct result[22] of a listed COVID-19 reason in Section 2102(a)(3)(A)(ii) of the CARES Act, and (3) provides required documentation of employment/self-employment within the applicable period of time.[23]

With respect to condition (2) listed above, Section 2102 (a)(3)(A)(ii)(I) of the CARES Act specifically identifies the COVID-19 qualifying reasons[24] as:

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[19] This condition is generally not at issue with claimants in the CNMI because there are no other State or Federal unemployment insurance programs in the CNMI.

[20] The PUA program utilizes initial and weekly applications where claimants self-certify and report under penalty of perjury.

[21] A claimant must be able to work and be available for work, as defined by Hawaii state law, in order to be eligible for benefits. *See* HAR § 12-5-35.

[22] Pursuant to 20 CFR § 625.5, unemployment is considered a "direct result" of the pandemic where the employment is an immediate result of the COVID-19 public health emergency itself, and not the result of a longer chain of events precipitated or exacerbated by the pandemic.

[23] Section 241 of the Continued Assistance Act requires that an individual must provide documentation substantiating employment or self-employment, or the planned commencement of employment or self-employment, if he or she files a new application for PUA on or after January 31, 2021, or, if the individual applied for PUA before January 31, 2021 and receives PUA benefits on or after December 27, 2020.

[24] These reasons are further defined or illustrated in UIPL 16-20, Change 4.

(aa) The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
(bb) A member of the individual's household has been diagnosed with COVID-19;
(cc) The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
(dd) A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;
(ee) The individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;
(ff) The individual is unable to reach the place of employment because the individual has been advised by a health care provider to quarantine due to concerns related to COVID-19;
(gg) The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
(hh) The individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19;
(ii) The individual has to quit his or her job as a direct result of COVID-19;
(jj) The individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or
(kk) The individual meets any additional criteria established by the US Secretary of Labor for unemployment assistance under PUA.

Additional criteria established by the US Secretary of Labor under item (kk)[25], above, includes:

(1) The individual is an independent contractor who is unemployed (total or partial) or is unable or unavailable to work because of the COVID-19 public health emergency has severely limited his or her ability to continue performing the customary job;
(2) The individual has been denied continued unemployment benefits because the individual refused to return to work or accept an offer of work at a worksite that, in either instance, is not in compliance with local, state, or national health and safety standards directly related to COVID-19. This includes, but is not limited to, those related to facial mask wearing, physical distancing measures, or the provision of personal protective equipment consistent with public health guidelines;

[25] *See* Unemployment Insurance Program Letter 16-20 and 16-20, Change 5.

(3) An individual provides services to an educational institution or educational service agency and the individual is unemployed or partially unemployed because of volatility in the work schedule that is directly caused by the COVID-19 public health emergency. This includes, but is not limited to, changes in schedules and partial closures; and
(4) An individual is an employee and their hours have been reduced or the individual was laid off as a direct result of the COVID-19 public health emergency.

Here, Appellant submitted a claim for PUA and FPUC benefits self-certifying, under penalty of perjury, that her employment was affected as a direct result of COVID-19 because her place of employment closed since March of 2020. However, Appellant's employment certification demonstrates that Appellant was reduced hours and placed on unpaid leave since February 27, 2020.[26] This was confirmed by the Department's investigation.[27] Appellant has not been recalled, offered other work, or otherwise returned to the workforce. Based on the applicable law and evidence provided, Appellant satisfies items (jj) and (kk) above. Accordingly, Appellant's employment was affected as a direct result of a COVID-19 qualifying reason.

**2. Appellant is not a qualified alien.**

PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

[26] Exhibit 8-9.
[27] Exhibit 10.

Further, Section 265 of the Continued Assistance Act provides that a Commonwealth Only Transitional Worker (CW-1) shall be considered a qualified alien for purposes of eligibility under the PUA and FPUC programs.

When Appellant filed her appeal, Appellant argued she was a qualified alien simply because of her employment authorization. However, Appellant's argument is not supported by law.

Based on the applicable law and evidence provided, Appellant is not a qualified alien eligible for federal public benefits, such as PUA or FPUC. First, when asked about each provision under the Qualified Alien definition, Appellant responded that she does not meet the particular status. There is no other evidence or testimony to establish that Appellant meets the qualified alien definition, above. Second, the Appellant's Employment Authorization Document ("EAD") does not correspond to any provision within the Qualified Alien definition. The Employment Authorization Document is a work permit that allows aliens to work in the United States. The Employment Authorization Document Card indicates that Appellant was authorized to work based on Category C09. Category C09 is a code that USCIS utilizes for applicants pending an adjustment in status. Notably, the EAD granted Appellant certain rights and privileges to live and work in the CNMI, but it does not grant rights to federal public benefits, such as PUA. Third, while Appellant may have submitted an application for permanent residence, the application for permanent residency has not been approved. Therefore, Appellant was not a qualified alien at the time of the weeks claimed and not eligible to receive PUA or FPUC benefits.

**3. Appellant was overpaid but entitled to a waiver from repaying the overpayment.**

An overpayment occurs when an individual received a benefit payment, or a portion or a payment, to which the individual is not entitled. However, "[a]ny individual who has received any amount as benefits . . . to which the individual was not entitled shall be liable for the amount unless the overpayment was received without fault on the part of the recipient and its recovery would be against equity and good conscience."[28] Fault[29] is defined as:

> (A) A material statement made by the individual which the individual knew or should have known to be incorrect; or

[28] HRS § 383-44. Section 2104(f)(2) of the CARES Act requires individuals who have received FPUC overpayments to repay these amounts to the state agency. Thereunder, the state has authority to waive repayments of FPUC if the payment was without fault on the part of the individual and such repayment would be contrary to equity and good conscience. Section 201(d) of the Continued Assistance Act amends Section 2102(d) of the CARES Act and authorizes states to waive the repayment if the state determines that the payment of PUA was without fault on the part of any such individual and such repayment would be contrary to equity and good conscience. This waiver authority applies to overpayments that meet this criterion at any time since the PUA program began.

[29] HRS 12-5-83.

> (B) Failure to furnish information which the individual knew or should have known to be material; or
> (C) Acceptance of a payment which the individual either knew or reasonably could have been expected to know was incorrect.

Based on federal guidance, "contrary to equity and good conscience" is tantamount to placing an individual below the poverty line and taking away basic necessities to live. In evaluating equity and good conscience,[30] the factors to consider include, but are not limited to:

> (A) Whether notice of a redetermination was given to the claimant, as required ...
> (B) Hardship to the claimant that the repayment may impose; and
> (C) The effect, if any, that the repayment will have upon the fulfillment of the objectives of the program.[31]

Considering that Appellant is not a qualified alien, Appellant should not have been paid benefits under PUA or FPUC. Moreover, considering that Appellant does not contest the amount listed in the Notice of Overpayment and confirmed receiving the total sum of $17,550 — it is clear that the overpayment occurred.

However, in this case, the undersigned finds that this overpayment occurred due to the fault of the Department. First, the Department is required to institute benefit payment controls and run a SAVE inquiry to confirm identification or eligibility for all aliens ***before*** issuing benefits. Here, the Department initiated the first SAVE inquiry on August 17, 2020. The same-day results indicated that Appellant was a Filipino National with employment authorization under Class C09. At that time, the Department should have created an issue to flag Appellant's claim and prevent payment. For an unknown reason, the Department did not create the issue or flag the claim until September 18, 2020 – ***after*** Appellant's claim was processed for payout. The Department's failure to act in a timely manner triggered this overpayment. Second, the Department's argument that Appellant was partially at fault due to the representations she made on her application regarding status is not persuasive. Notably, arguments are generally not persuasive when the PUA Coordinator repeatedly did not know the legal standard for waivers and definition of fault. Here, the undersigned recognizes that claimants are responsible for reading the published Benefit Rights Information handbook and must be held accountable for the representations made on an initial or weekly application. However, in this case,

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[30] *Id.*
[31] PUA benefits were designed to be a critical lifeline for qualifying individuals facing a financial crisis amidst a pandemic. Issues of fraud and overpayments are of great consequence that jeopardizes the integrity of the program and availability of funds for eligible or qualified individuals.

Appellant's misunderstanding stems from an inconsistency in the published material and online application. Specifically, the Benefits Rights Information handbook and other publications refer to and define the term "Qualified Alien" but the initial application utilizes the term "Alien/Refugee Lawfully Admitted to US." Appellant genuinely believed to meet this definition because she entered the CNMI legally and has legal authorization to work under class C09. Appellant had no reason to know otherwise considering the inconsistency stated above and there is no other showing of fault on the Appellant.

Moreover, the undersigned finds that that repayment would be contrary to equity and good conscience. Here, Appellant has not returned to the workforce and has no other sources of income. However, Appellant continues to incur monthly expenses for basic living necessities such as housing, food, and utilities. Considering Appellant's lack of income and immediate and basic needs, the undersigned finds that repayment of PUA benefits poses an incredible hardship and would be contrary to equity and good conscience.

In conclusion, Appellant was overpaid in the amount of $17,550. As discussed above, payment was made through no fault of the Appellant and repayment would be contrary to equity and good conscience. Ultimately, the Department conceded to fault and recognized Appellant's hardships. Accordingly, a waiver to recover the overpayment is appropriate and warranted.

## VI. DECISION

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Disqualifying Determination, dated March 26, 2021, is **AFFIRMED**;
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of February 23, 2020 to September 4, 2021.
3. The CNMI Department of Labor's Notice of Overpayment, dated March 29, 2021, is **AFFIRMED**;
4. Appellant was overpaid but the request for waiving recovery of the overpayment is **GRANTED** for the entire amount of $17,550;
5. The CNMI Department of Labor Benefit Payment Control Unit shall institute the necessary precautions and control measures to prevent further overpayments to Appellant.

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If a party is aggrieved by this Order and would like to contest the decision, he or she must submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The written request should be supported by legal, factual, or evidentiary reasons to reopen the decision. The written request must be submitted to the Administrative Hearing Office, either in person at 1357 Mednilla Avenue, Capitol Hill Saipan MP 96950 or via email at hearing@dol.gov.mp.

In the event a request to reopen the decision is granted, the matter shall be scheduled for a subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms, filings fees, and filing deadlines for judicial review will be as established by the applicable law and court rule.

So ordered this 7th day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

| | | |
|---|---|---|
| In Re Matter of: | ) | **PUA Case No. 21-0104** |
| | ) | |
| Patricia Garshak, | ) | |
| | ) | |
| Appellant, | ) | **ADMINISTRATIVE ORDER** |
| | ) | |
| v. | ) | |
| | ) | |
| CNMI Department of Labor, Division of Employment Services-PUA, | ) | |
| | ) | |
| Appellee. | ) | |

## I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on May 19, 2021 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Patricia Garshak ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by Labor Certification Worker Dennis Cabrera and Labor Certification Technician Elaine Rosario. There were no other witnesses who provided testimony at the hearing.

Exhibits:

1. Exhibit 1: Copy of Appellant Application Snapshot, filed August 14, 2021;
2. Exhibit 2: Department's Disqualifying Determination issued February 11, 2021;
3. Exhibit 3: Department's Disqualifying Determination issued March 19, 2021;
4. Exhibit 4: Appellant's Request to File an Appeal, filed March 31, 2021;
5. Exhibit 5: Notice of Hearing, issued March 31, 2021;
6. Exhibit 6: Copy of Appellant's Resume
7. Exhibit 7: Copy of Business Licenses issued to Garshak Court Reporters in 2014, 2016, and 2017;
8. Exhibit 8: Email Communication from Department of Finance, Division of Tax and Revenue, dated May 17, 2021;

9. Exhibit 9: Termination Letter from NMI District Court dated January 9, 2019; and
10. Exhibit 10: Email Communication from Benefit Payment Control Unit dated May 4, 2021.

For the reasons stated below, the Department's Determination dated March 19, 2021 is **AFFIRMED**. Claimant is not eligible for benefits for the period of February 2, 2020 to December 26, 2020.

## II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")[1] and Federal Pandemic Unemployment Compensation ("FPUC").[2] On December 27, 2020, the Continued Assistance for Unemployed Workers Act of 2020 ("Continued Assistance Act") amended and created new provisions of said federal unemployment insurance programs, which, among other things, extended the PUA and FPUC programs to March 13, 2021.[3] On March 11, 2021, the American Rescue Plan Act of 2021 ("ARPA") extended the programs to September 6, 2021. The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI in accordance to applicable law.[4] The CNMI Department of Labor Administrative Hearing Office has been designated to preside over appeals of agency decisions.

Upon review of the records, the appeal was not timely filed. Accordingly, jurisdiction is not established.

## III. PROCEDURAL HISTORY & ISSUES

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued a Disqualifying Determination on February 11, 2021. Upon Appellant's request for reconsideration,

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[1] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[2] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[3] *See* Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A ("Continued Assistance for Unemployed Workers Act of 2020" or "Continued Assistance Act").
[4] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

the Department issued a second Disqualifying Determination on March 19, 2021. On March 31, 2021, Appellant filed a request to appeal the March 19, 2021 Disqualifying Determination. As stated in the Notice of Hearing, the issues on appeal are: (1) whether the appeal is timely filed; (2) whether Appellant is eligible for PUA; and (3) whether an overpayment occurred and funds should be returned.

## IV. FINDINGS OF FACT

In consideration of the evidence provided and credibility of witness testimony, the undersigned issues the following findings of fact:

1. Appellant is self-employed as a freelance court reporter.
    a. Appellant has valid business licenses for Garshak Court Reporters issued in 2014, 2016, and 2017.[5] Appellant does not have a complete set of her business licenses. However, the Department of Finance, Division of Revenue and Tax confirmed that Appellant's last license expired on May 15, 2019.[6]
    b. Effective February 9, 2019, Appellant's service agreement and employment with the NMI District Court was terminated.[7]
    c. Thereafter, Appellant claimed to work in the CNMI as a freelance court reporter or independent contractor for Planet Depos.[8] There is no proof of employment or service agreement with respect to Planet Depos.
2. Appellant reported taxable income under her business licenses for Garshak Court Reporters. In 2019, Appellant reported income of $6,545.00 in the first quarter and $2,000 in the third quarter. There is no showing of income reported in 2020.[9]
3. In early 2020, Appellant was visiting Pittsburg, Pennsylvania for personal reasons. At that time, Appellant planned to relocate to Pittsburg, Pennsylvania and purchase a small business unrelated to court reporting.
4. Upon returning to the CNMI on February 6, 2021, Appellant decided to stay in the CNMI. In light of the developing COVID-19 outbreak, Appellant was scared to travel and did not purchase the small business she originally intended to purchase.

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[5] Exhibit 7.
[6] Exhibit 8.
[7] Exhibit 9.
[8] Exhibit 6.
[9] Exhibit 1.

5. Upon returning to the CNMI, Appellant began to self-quarantine at her home due to the fear of COVID-19. At this time, the CNMI's quarantine facilities were not in operation and there were no mandatory quarantine orders for incoming travelers.
6. Due to her fear of COVID-19, Appellant did not take any freelance gigs.
7. On June 17, 2020, the Department launched the PUA and FPUC programs.
8. On August 14, 2020, Appellant filed an online application to claim PUA and FPUC benefits.[10] In her application, Appellant self-certified, under penalty of perjury that her employment was affected as a direct result of the COVID 19 pandemic because:[11]
    a. She was unable to reach her place of employment because of a quarantine imposed as a direct result of COVID-19;[12]
    b. She was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of COVID-19;[13] and
    c. Her employment was affected for another reason regarding a complication with repatriation benefits, unrelated to COVID-19.[14]
9. The Department solely investigated the certifications listed in the application and reviewed supporting documents provided. The adjudicator in this case did not request specific documents or consider other potential eligibility issues.
10. On February 11, 2021, the Department issued a Disqualifying Determination.[15] There, Appellant was denied benefits from February 2, 2020 to December 26, 2020 because the Department found that her unemployment predated the pandemic and was not a direct result of the COVID-19 public health emergency.
11. Upon request for reconsideration, the Department issued a second Disqualifying Determination[16] on March 19, 2021 on the same basis because there was no new evidence to support the Appellant's claims.

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[10] Exhibit 1.
[11] Exhibit 1, page 3 – 4.
[12] However, there is no evidentiary showing that ordered or mandated quarantines directly affected her employment. Instead, Appellant chose to self-quarantine due to a general fear of COVID-19.
[13] Notably, there is no evidentiary showing that Appellant had a bona fide job offer to which she was scheduled to commence employment.
[14] The full explanation of Appellant's "other" reason does not fall within a COVID-19 qualifying reason specified under Section 2102 (a)(3)(A)(ii)(I) of the CARES Act.
[15] Exhibit 2.
[16] Exhibit 3.

12. The March 19, 2021 Determination clearly stated that Appellant has the right to appeal but said appeal must be received or postmarked by March 29, 2021.
13. On March 31, 2021, Appellant filed the present appeal at the Administrative Hearing Office and the matter was scheduled for a hearing.[17]
14. During the Administrative Hearing, Appellant explained that she filed late simply due to an oversight.
15. During the Administrative Hearing, the Department argued that there is no good cause to extend the filing deadline, Appellant does not satisfy the specific COVID-19 qualifying reasons, and confirmed there are no overpayment issues in this case.[18]

## V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

**1. Appellant's appeal is not timely filed.**

Generally, an appeal should be filed within ten days after the Notice of Determination was issued or served to the claimant. However, the Department may extend the period to thirty days by a showing of good cause.[19] Good cause means: (1) illness or disability; (2) keeping an appointment for a job interview; (3) attending a funeral of a family member; and (4) any other reason which would prevent a reasonable person from complying as directed.[20]

Here, Appellant filed her appeal two days late. When asked why she filed later than the 10-day deadline indicated on her determination, Appellant simply explained it was an oversight. The undersigned does not find the failure to read or follow established deadlines a small oversight. Moreover, the undersigned finds there is no showing of good cause to extend the established deadline. Based on the evidence presented and the applicable law, this appeal is untimely. Moreover, because the appeal is untimely, the Administrative Hearing Office does not have jurisdiction to review the Department's Determination and the Determination shall be deemed final.

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[17] Exhibits 4-5.
[18] Considering that the Department's Benefit Payment Control Unit has confirmed that there are no overpayments in this case, the issue of overpayments is not discussed further. *See* Exhibit 10.
[19] HI. Rev. Statute § 383-38(a).
[20] HAR § 12-5-81(j).

## VI. DECISION

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Disqualifying Determination, dated March 19, 2021, is **AFFIRMED**;
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of February 2, 2020 to December 26, 2020.

If a party is aggrieved by this Order and would like to contest the decision, he or she must submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The written request should be supported by legal, factual, or evidentiary reasons to reopen the decision. The written request must be submitted to the Administrative Hearing Office, either in person at 1357 Mednilla Avenue, Capitol Hill Saipan MP 96950 or via email at hearing@dol.gov.mp.

In the event a request to reopen the decision is granted, the matter shall be scheduled for a subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms, filings fees, and filing deadlines for judicial review will be as established by the applicable law and court rule.

So ordered this **20th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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|---|---|---|
| In Re Matter of: | ) | **PUA Case No. 21-0105** |
| Xueyan Luan, | ) | |
| Appellant, | ) | **ADMINISTRATIVE ORDER** |
| v. | ) | |
| CNMI Department of Labor, Division of Employment Services-PUA, | ) | |
| Appellee. | ) | |

## I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on May 11, 2021 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Appellant Xueyan Luan ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by Labor Certification Worker Dennis Cabrera and PUA Volunteer Rosalinda Ulloa. There were no other witnesses that provided testimony at the hearing.

Exhibits:

1. Exhibit 1: Copy of the Appellant's Initial Paper Application;
2. Exhibit 2: Copy of Department's Disqualifying Determination dated March 26, 2021;
3. Exhibit 3: Copy of Appellant's Request to File an Appeal and letter filed April 6, 2021;
4. Exhibit 4: Copy of Notice of Hearing issued April 6, 2021;
5. Exhibit 5: Copy of Appellant's EAD Card and Passport; and
6. Exhibit 6: Copy of Department's Email from Benefit Payment Control Unit sent May 3, 2021.

For the reasons stated below, the Department's Determination dated March 26, 2021 is **AFFIRMED**. Claimant is not eligible for benefits for the period of March 22, 2020 to December 26, 2020.

## II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")[1] and Federal Pandemic Unemployment Compensation ("FPUC").[2] On December 27, 2020, the Continued Assistance for Unemployed Workers Act of 2020 ("Continued Assistance Act") amended and created new provisions of said federal unemployment insurance programs, which, among other things, extended the PUA and FPUC programs to March 13, 2021.[3] On March 11, 2021, the American Rescue Plan Act of 2021 ("ARPA") extended the programs to September 6, 2021. The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI in accordance to applicable law.[4] The CNMI Department of Labor Administrative Hearing Office has been designated to preside over appeals of agency decisions.

Upon review of the records, the appeal was timely filed. Accordingly, jurisdiction is established.

## III. PROCEDURAL HISTORY & ISSUES

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued a Disqualifying Determination on March 26, 2021. On April 6, 2021, Appellant filed a request to appeal the Disqualifying Determination stating that she believes she is eligible for PUA based on her employment authorization. The matter was scheduled for an Administrative Hearing. As stated in the Notice of Hearing, the issues on appeal are: (1) whether the appeal is timely filed; (2) whether Appellant is eligible for PUA; and (3) whether an overpayment occurred and funds should be returned.

## IV. FINDINGS OF FACT

In consideration of the evidence provided and credibility of witness testimony, the undersigned issues the following findings of fact:

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[1] *See* Section 2102 of the CARES Act of 2020, Public Law 116-136.
[2] *See* Section 2104 of the CARES Act of 2020, Public Law 116-136.
[3] *See* Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A ("Continued Assistance for Unemployed Workers Act of 2020" or "Continued Assistance Act").
[4] Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

1. Prior to the COVID-19 pandemic, Appellant was employed as a Manager at IH Corporation ("Employer"), located in Garapan, Saipan. On or around April 2020, Appellant was furloughed or laid off. It is unclear whether the business was closed or operating at the time. On or around April 2021, Appellant returned to the workforce.
2. On June 17, 2020, the Department launched the PUA and FPUC programs.
3. On or around December of 2020, Appellant submitted a paper application[5] for unemployment assistance under the PUA and FPUC programs administered by the Department. In her application, Appellant self-certified under penalty of perjury that:
    a. She is an Alien/Refugee lawfully admitted to U.S.;
    b. That her employment was affected as a direct result of a COVID-19 because her place of employment was closed; and
    c. Her employment was affected since March 28, 2020; and
4. Upon further review of Appellant's supporting documents, the Department found that Appellant is not a U.S. Citizen, Non-national Citizen, or Qualified Alien. Instead, Appellant is an alien with a temporary employment authorization.[6]
    a. Prior to the pandemic, Appellant applied for permanent residency.
    b. Based on her application, Appellant was given temporary work authorization under Category C09 from September 23, 2020 to September 22, 2021.
    c. To date, Appellant's application for permanent residency is pending.
    d. Appellant has no other documents or evidence to demonstrate that she is a qualified alien during the time period she is claiming benefits.
5. On March 26, 2021, the Department issued a determination disqualifying Appellant from PUA and FPUC benefits from March 22, 2020 to December 26, 2020 because they found that Appellant was not a US Citizen, Non-citizen National, or Qualified Alien eligible for federal public benefits.[7]
6. On April 6, 2021, Appellant filed an appeal to contest the determination.[8] Appellant argued that she provided all the requested documents, her workplace was closed due to COVID-19, and she has employment authorization under Class C09.
7. The matter was scheduled for an Administrative Hearing.[9]

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[5] Exhibit 1.
[6] Exhibits 5.
[7] Exhibit 2.
[8] Exhibit 3.
[9] Exhibits 4.

8. During the Administrative Hearing, the Department confirmed there are no overpayment issues in this case.[10]

## V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

**1. Appellant's appeal is timely filed.**

Generally, an appeal should be filed within ten days after the Notice of Determination was issued or served to the claimant. However, the Department may extend the period to thirty days by a showing of good cause.[11] Good cause means: (1) illness or disability; (2) keeping an appointment for a job interview; (3) attending a funeral of a family member; and (4) any other reason which would prevent a reasonable person from complying as directed.[12]

Here, Appellant was unable to file by the April 5, 2021 due to illness. Instead, Appellant filed her Appeal on April 6, 2021. The Department did not contest extending the filing deadline to 30 days. For good cause shown, the filing deadline shall be extended to thirty days. In consideration of the extension, Appellant's appeal is timely filed.

**2. Appellant is not a qualified alien.**

PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

[10] Exhibit 6.
[11] HI. Rev. Statute § 383-38(a).
[12] HAR § 12-5-81(j).

Further, Section 265 of the Continued Assistance Act provides that a Commonwealth Only Transitional Worker (CW-1) shall be considered a qualified alien for purposes of eligibility under the PUA and FPUC programs.

When Appellant filed her appeal, Appellant argued she was a qualified alien simply because of her employment authorization. However, Appellant's argument is not supported by law.

Based on the applicable law and evidence provided, Appellant is not a qualified alien eligible for federal public benefits, such as PUA or FPUC. First, when asked about each provision under the Qualified Alien definition, Appellant responded that she does not meet the particular status. There is no other evidence or testimony to establish that Appellant meets the qualified alien definition, above. Second, the Appellant's Employment Authorization Document ("EAD") does not correspond to any provision within the Qualified Alien definition. The Employment Authorization Document is a work permit that allows aliens to work in the United States. The Employment Authorization Document Card indicates that Appellant was authorized to work based on Category C09. Category C09 is a code that USCIS utilizes for applicants pending an adjustment in status. Notably, the EAD granted Appellant certain rights and privileges to live and work in the CNMI, but it does not grant rights to federal public benefits, such as PUA. Third, while Appellant may have submitted an application for permanent residence, the application for permanent residency has not been approved. Therefore, Appellant was not a qualified alien at the time of the weeks claimed and not eligible to receive PUA or FPUC benefits.

## VI. DECISION

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Disqualifying Determination, dated March 26, 2021, is **AFFIRMED**;
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of March 22, 2020 to December 26, 2020.

If a party is aggrieved by this Order and would like to contest the decision, he or she must submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The written request should be supported by legal, factual, or evidentiary reasons to reopen the decision. The written request must be submitted to the Administrative Hearing Office, either in person at 1357 Mednilla Avenue, Capitol Hill Saipan MP 96950 or via email at hearing@dol.gov.mp.

In the event a request to reopen the decision is granted, the matter shall be scheduled for a subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms, filings fees, and filing deadlines for judicial review will be as established by the applicable law and court rule.

So ordered this **13th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| In Re Matter of: | ) | **PUA Case No. 21-0111** |
| Edralyn F. Franco, | ) | |
| Appellant, | ) | **ADMINISTRATIVE ORDER** |
| v. | ) | |
| CNMI Department of Labor, Division of Employment Services-PUA, | ) | |
| Appellee. | ) | |

On April 30, 2021, Appellant filed an appeal to contest a Notice of Overpayment dated January 25, 2021. The matter was scheduled for a hearing on June 17, 2021. On May 13, 2021, the Department filed a Motion to Dismiss the appeal, explaining that the Notice of Overpayment was issued in error and should be disregarded. The Department confirmed that Appellant has no overpayment issues. Further, Appellant does not contest a dismissal.

In consideration of above, the undersigned finds that there are no issues for appeal and dismissal is appropriate. Accordingly, this appeal is hereby **DISMISSED** and the Administrative Hearing scheduled for June 17, 2021 at 9:00 a.m. is **VACATED**. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this **14th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| In Re Matter of: | ) | **PUA Case No. 21-0116** |
| Cilo C. Manalo, | ) | |
| Appellant, | ) | **ADMINISTRATIVE ORDER** |
| v. | ) | |
| CNMI Department of Labor, Division of Employment Services-PUA, | ) | |
| Appellee. | ) | |

On May 11, 2021, Appellant filed an appeal to contest a Notice of Overpayment dated May 5, 2021. The matter was scheduled for a hearing on July 8, 2021. On May 13, 2021, the Department filed a Motion to Dismiss the appeal, explaining that the Notice of Overpayment was issued in error and should be disregarded. The Department confirmed that Appellant has no overpayment issues. Further, Appellant does not contest a dismissal.

In consideration of above, the undersigned finds that there are no issues for appeal and dismissal is appropriate. Accordingly, this appeal is hereby **DISMISSED** and the Administrative Hearing scheduled for July 8, 2021 at 9:00 a.m. is **VACATED**. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this **14th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| IN THE MATTER Of:<br><br>CNMI Department of Labor Enforcement Section<br><br>Complainant,<br><br>v.<br><br>CJ Corporation<br><br>Respondent. | **CAC No. 21-001-04**<br><br>**ADMINISTRATIVE ORDER** |

This matter came for an Administrative Hearing on May 18, 2021 at 9:00 a.m. in the Administrative Hearing Office. Due to the COVID-19 public health emergency, this hearing was held telephonically. The Department's Enforcement Section ("Enforcement") was present and represented by Investigator Arlene Rafanan. Respondent CJ Corporation ("Respondent") failed to appear.

On April 8, 2021, Enforcement filed a Notice of Violation/Determination against Respondent for failure to submit their quarterly compliance documents. Accordingly, the matter was scheduled for an administrative hearing. Despite effective service of process and adequate notice to appear, Respondent failed to appear. During the Administrative Hearing, Enforcement indicated that Respondent submitted their quarterly compliance documents with the Division of Employment Services on March 17, 2021. Although the submission was filed at the wrong office and submission does not excuse Respondent from an order to appear at the hearing, the Department found that Respondent substantially complied and moved to dismiss this case. Accordingly, this matter is hereby **DISMISSED**.

So ordered this **18th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| IN THE MATTER Of:<br><br>CNMI Department of Labor Enforcement Section<br><br>Complainant,<br><br>v.<br><br>Saint Trading Company, Inc.<br><br>Respondent. | **Compliance Agency Case No. 21-002-04**<br><br>**ADMINISTRATIVE ORDER** |

## I. INTRODUCTION

This matter came for an Administrative Hearing on May 18, 2021 at 10:00 a.m. in the Administrative Hearing Office. Due to the COVID-19 public health emergency, this hearing was held telephonically. The Department's Enforcement Section ("Enforcement") was present and represented by Investigator Arlene Rafanan. Respondent Saint Trading Company ("Respondent") was represented by Accountant Lorelei Vinas and Administrative Assistant Jeferson Banciles. There were no other witnesses present at the hearing. There were no documents admitted onto the record as evidence.

Based on the foregoing, the undersigned finds that failed to timely submit the quarterly compliance documents in accordance with the applicable laws.

## II. LEGAL STANDARD

Pursuant to 3 CMC § 4967, "[a]ny employer of any foreign national worker shall keep, and present immediately upon demand ... (a) Personnel records for each foreign worker . . . (b) Payroll records for each foreign national worker . . . (c) Documentation for each foreign national worker . . . and (d) Business license and any other information of documentation required by regulations." In addition to the above-stated documents, the regulations require employers to

submit compliance documents such as the quarterly Total Workforce Listing[1] and yearly Workforce Plan.[2]

Pursuant to 3 CMC § 4527 and 3 CMC § 4940, the Department's Enforcement, Compliance, and Monitoring Section has the authority to conduct investigations as the Department may deem appropriate and necessary to ensure compliance with applicable labor laws. In conducting these investigations, Enforcement "shall have all of the powers delegated [under the Employment Rules and Regulations] and the powers to inspect any records that an employer is required to keep, to make copies of records, and to interview employees." *Id.* Depending on the investigation, Enforcement may initiate a consolidated agency action. NMIAC § 80-20.2-455(i). If, after notice and an opportunity to be heard, a company has been found to violate the above-stated laws, the Administrative Hearing Officer has authority to sanction or levy a fine not to exceed two thousand dollars ***for each*** violation of the CNMI labor laws and impose any other sanction, order, or relief as may reasonably give effect to the requirements of Commonwealth law. 3 CMC § 4528 (f); *see* NMIAC § 80-20.1-485(c) (emphasis added).

## III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. On March 25, 2021, Enforcement issued a Notice of Warning to Respondent for failure to submit the following nine documents:
    a. Quarterly Total Workforce Listing (First – Fourth Quarter of 2020);
    b. Yearly Workforce Plan; and
    c. Quarterly Tax Withholdings (First – Fourth Quarter of 2020).
2. The documents were past due but Enforcement gave Respondent a deadline of April 8, 2021 to submit the documents.

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[1] Each business employer shall report quarterly, as of the last day of the calendar quarter, the number of employees, job classification, and the hourly wage of employees for whom wages were paid during the quarter. NMIAC § 80-20.1-505(b).

[2] All employers who employ nonimmigrant alien workers, unless exempt, must submit a new or updated Workforce Plan every twelve months. NMIAC § 80-20.1-510(c). A workforce plan shall identify specific positions currently occupied by a foreign national worker and timetable for accomplishing the replacement of the foreign national worker with qualified U.S. citizens, CNMI permanent residents, and U.S. permanent residents until the workforce participation objective is met. NMIAC § 80-20.1-510(b); *see also* 3 CMC § 4525 and NMIAC § 80-20.1-210(c)(3) (regarding minimum workforce participation requirement).

3. Respondent did not submit the requested documents to Enforcement.
4. Sometime after the April 8, 2021 deadline, the Enforcement contacted the Division of Employment Services to confirm whether Respondent submitted the requested documents. The Division of Employment Services confirmed that Respondent did not submit the above-stated documents, timely or otherwise.
5. On April 20, 2021, Enforcement filed a Notice of Violation/Determination against Respondent for failure to submit their quarterly compliance documents.
6. On April 22, 2021, the undersigned scheduled the matter for an administrative hearing and served a Notice of Hearing to both parties.
7. During the Administrative Hearing, Respondent could not provide any evidence to rebut the Enforcement's findings or determination. The Administrative Hearing was scheduled for May 18, 2021 and the Notice of Hearing was served to both parties pursuant to alternative service,[3] using contact information provided by the parties.
8. During the present Administrative Hearing, Respondent admitted that they did not submit the requested 2020 documents, as required and requested.
9. Based on Respondent's admission and applicable law, the undersigned finds that Respondent violated 3 CMC § 4967 by failure to timely provide the nine requested documents.
10. Pursuant to 3 CMC § 4528 (f) and NMIAC § 80-20.1-485(c), the undersigned may sanction employer up to $2,000 for each violation or up to $18,000 in this case. Respondent did not contest a sanction but sought to pay a lower amount. Enforcement did not object to a lowered amount and sought any amount that the undersigned deems appropriate.
11. In consideration of the unprecedented difficulty caused by the COVID-19 pandemic and Respondent's promised compliance to submit the requested documents—the undersigned finds a sanction of $18,000 to be excessive.

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[3] *See* NMIAC § 80-20.1-475(d)(4).

## IV. JUDGMENT AND SANCTIONS

In accordance with above, **JUDGMENT** is entered against Respondent for failure to submit documents in accordance with 3 CMC § 4947. Respondent is **SANCTIONED** $3,000, all suspended but for $1,000. The amount of $2,000 is **SUSPENDED** provided that Respondent timely completes all of the following conditions:

(1) Respondent submits the requested documents to Enforcement and is up to date with all compliance documents with the Division of Employment Services within seven (7) days of this Order;

(2) Respondent pays the $1,000 sanction and submits proof of payment to the Administrative Hearing Office within thirty (30) days of this Order; and

(3) Respondent commits no further violations of CNMI labor laws for the period of one year from the date of this Order.

If Respondent fails to comply with the terms of this Order, Respondent shall be subject to a reinstatement of all or part of the suspended sanction. Enforcement is **ORDERED** to monitor the terms and conditions of Respondent's suspended sanction and file a request to reopen this case should Respondent fail to comply.

Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[4]

So ordered this **19th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[4] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**
**DEPARTMENT OF LABOR**
**ADMINISTRATIVE HEARING OFFICE**

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| IN THE MATTER Of:<br><br>CNMI Department of Labor Enforcement Section<br><br>Complainant,<br><br>v.<br><br>Prophet Manpower Services.<br><br>Respondent. | **Compliance Agency Case No. 21-003-04**<br><br>**ADMINISTRATIVE ORDER** |

## I. INTRODUCTION

This matter came for an Administrative Hearing on May 18, 2021 at 10:00 a.m. in the Administrative Hearing Office. Due to the COVID-19 public health emergency, this hearing was held telephonically. The Department's Enforcement Section ("Enforcement") was present and represented by Investigator Arlene Rafanan. Respondent Prophet Manpower Services ("Respondent") was represented by Accountant Lorelei Vinas, Accounting Clerk Romerizza Talavera and Administrative Assistant Jeferson Banciles. There were no other witnesses present at the hearing. There were no documents admitted onto the record as evidence.

Based on the foregoing, the undersigned finds that failed to timely submit the quarterly compliance documents in accordance with the applicable laws.

## II. LEGAL STANDARD

Pursuant to 3 CMC § 4967, "[a]ny employer of any foreign national worker shall keep, and present immediately upon demand ... (a) Personnel records for each foreign worker . . . (b) Payroll records for each foreign national worker . . . (c) Documentation for each foreign national worker . . . and (d) Business license and any other information of documentation required by regulations." In addition to the above-stated documents, the regulations require employers to

submit compliance documents such as the quarterly Total Workforce Listing[1] and yearly Workforce Plan.[2]

Pursuant to 3 CMC § 4527 and 3 CMC § 4940, the Department's Enforcement, Compliance, and Monitoring Section has the authority to conduct investigations as the Department may deem appropriate and necessary to ensure compliance with applicable labor laws. In conducting these investigations, Enforcement "shall have all of the powers delegated [under the Employment Rules and Regulations] and the powers to inspect any records that an employer is required to keep, to make copies of records, and to interview employees." *Id.* Depending on the investigation, Enforcement may initiate a consolidated agency action. NMIAC § 80-20.2-455(i). If, after notice and an opportunity to be heard, a company has been found to violate the above-stated laws, the Administrative Hearing Officer has authority to sanction or levy a fine not to exceed two thousand dollars ***for each*** violation of the CNMI labor laws and impose any other sanction, order, or relief as may reasonably give effect to the requirements of Commonwealth law. 3 CMC § 4528 (f); *see* NMIAC § 80-20.1-485(c) (emphasis added).

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2. The documents were past due but Enforcement gave Respondent a deadline of April 8, 2021 to submit the documents.

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[1] Each business employer shall report quarterly, as of the last day of the calendar quarter, the number of employees, job classification, and the hourly wage of employees for whom wages were paid during the quarter. NMIAC § 80-20.1-505(b).

[2] All employers who employ nonimmigrant alien workers, unless exempt, must submit a new or updated Workforce Plan every twelve months. NMIAC § 80-20.1-510(c). A workforce plan shall identify specific positions currently occupied by a foreign national worker and timetable for accomplishing the replacement of the foreign national worker with qualified U.S. citizens, CNMI permanent residents, and U.S. permanent residents until the workforce participation objective is met. NMIAC § 80-20.1-510(b); *see also* 3 CMC § 4525 and NMIAC § 80-20.1-210(c)(3) (regarding minimum workforce participation requirement).

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4. Sometime after the April 8, 2021 deadline, the Enforcement contacted the Division of Employment Services to confirm whether Respondent submitted the requested documents. The Division of Employment Services confirmed that Respondent did not submit the above-stated documents, timely or otherwise.
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10. Pursuant to 3 CMC § 4528 (f) and NMIAC § 80-20.1-485(c), the undersigned may sanction employer up to $2,000 for each violation or up to $18,000 total for the 9 violations in this case. Respondent did not contest a sanction but sought to pay a lower amount. Enforcement did not object to a lowered amount and sought any amount that the undersigned deems appropriate.
11. In consideration of the unprecedented difficulty caused by the COVID-19 pandemic and Respondent's promised compliance to submit the requested documents—the undersigned finds a sanction of $18,000 to be excessive.

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[3] *See* NMIAC § 80-20.1-475(d)(4).

## IV. JUDGMENT AND SANCTIONS

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(1) Respondent submits the requested documents to Enforcement and is up to date with all compliance documents with the Division of Employment Services within seven (7) days of this Order;

(2) Respondent pays the $1,000 sanction and submits proof of payment to the Administrative Hearing Office within thirty (30) days of this Order; and

(3) Respondent commits no further violations of CNMI labor laws for the period of one year from the date of this Order.

If Respondent fails to comply with the terms of this Order, Respondent shall be subject to a reinstatement of all or part of the suspended sanction. Enforcement is **ORDERED** to monitor the terms and conditions of Respondent's suspended sanction and file a request to reopen this case should Respondent fail to comply.

Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.[4]

So ordered this **19th** day of May, 2021.

/s/
**JACQUELINE A. NICOLAS**
Administrative Hearing Officer

[4] The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.