

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



COMMONWEALTH REGISTER

**VOLUME 44
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EMERGENCY

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Governing Procurement
Northern Marianas Technical Institute 048767

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PUBLIC NOTICE
ADOPTION OF EMERGENCY REGULATIONS
GOVERNING PROCUREMENT
THE NORTHERN MARIANAS TECHNICAL INSTITUTE

NOTICE OF EMERGENCY ADOPTION: The Northern Marianas Technical Institute (NMTI), a public corporation of the Commonwealth of the Northern Mariana Islands hereby adopts, upon the concurrence of the Governor, the attached rules and regulations on an emergency basis for the reasons stated below. 1 CMC § 9105(b)(2).

AUTHORITY: NMTI is empowered by the Legislature under its enabling statute to adopt rules and regulations pertaining to procurement matters. 3 CMC §§ 12142(d).

A government agency may adopt an emergency regulation upon fewer than 30 days notice if it states its reasons in writing:

(b) If an agency finds that the public interest so requires, or that an imminent peril to the public health, safety, or welfare requires adoption of a regulation upon fewer than 30 days notice, and states in writing its reasons for that finding, it may, with the concurrence of the Governor, proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency regulation. The regulation may be effective for a period of not longer than 120 days, but the adoption of an identical regulation under subsections (a)(1) and (a)(2) of this section is not precluded.

(c) No regulation adopted is valid unless adopted in substantial compliance with this Section [9104]. 1 CMC § 9104(b), (c).

THE TERMS AND SUBSTANCE: The emergency rules and regulations provide for the regulatory structure and procedures for expenditure of NMTI funds to procure goods and services for NMTI.

THE SUBJECTS AND ISSUES INVOLVED: These rules and regulations were formulated pursuant to NMTI's authority to promulgate its own procurement regulations pursuant to 3 CMC §§ 12142(d).

ADOPTION OF EMERGENCY REGULATIONS FOR 120 DAYS: The Secretary has followed the procedures of 1 CMC § 9104(b) to adopt the Regulations on an emergency basis for 120 days.

REASONS FOR EMERGENCY ADOPTION: NMTI finds that the public interest requires adoption of these regulations on an emergency basis to provide safeguards for a procurement system of quality and integrity, and to ensure the proper and timely expenditure by NMTI of

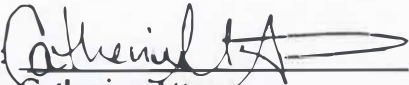
federal grant funding for its southern campus facility that must be constructed and completed within a specific time period.

DIRECTIONS FOR FILING AND PUBLICATION: These Rules and Regulations shall be published in the Commonwealth Register in the sections on emergency regulations (see 1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district. 1 CMC §§ 9102(a)(1) and 9104(a)(1). NMTI shall take appropriate measures to make these Rules and Regulations known to the persons who may be affected by them. 1 CMC § 9105(b)(2).

IMMEDIATE EFFECT: These emergency regulations will become effective immediately upon the concurrence of the Governor and which upon his signature shall be filed with the Commonwealth Register. 1 CMC § 9105(b)(2). NMTI has found that immediate adoption is required by the public interest or is necessary because of imminent peril to the public health, safety, or welfare. *Id.*

TO PROVIDE COMMENTS No comments are required for these emergency rules and regulations.


The attached emergency regulations were approved by the Northern Marianas Technical Institute (NMTI) on July 18, 2022.

Submitted by: 
Catherine Attao
Chairperson
Board of Trustees, NMTI

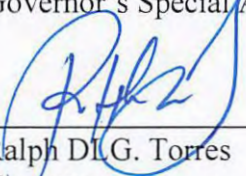
28 July 2022
Date


Jodina Attao
Chief Executive Officer, NMTI

7/28/2022
Date

Received by: 
Mathilda A. Rosario
Governor's Special Assistant for Administration

07/28/22
Date

Concurred by: 
Ralph D.L.G. Torres
Governor

03 AUG 2022
Date


Filed and
Recorded by:


ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

8-10-22
Date

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

Dated the 8 day of August, 2022.


EDWARD MANIBUSAN
Attorney General

CHAPTER ____ - 3000
NORTHERN MARIANAS TECHNICAL INSTITUTE
PROCUREMENT RULES AND REGULATIONS

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Part 001 - General Provisions

Subpart A - General

§ 3000-001 Purpose

- (a) Interpretation. The regulations in this chapter shall be construed and applied to promote their underlying purposes and policies.
- (b) Purposes and Policies. The underlying purposes and policies of the regulations in this chapter are:
- (1) To provide for public confidence in the procedures followed in public procurement;
 - (2) To insure the fair and equitable treatment of all persons who deal with the procurement system of the Northern Marianas Technical Institute;
 - (3) To provide increased economy in Northern Marianas Technical Institute procurement activities and to maximize to the fullest extent practicable the purchasing value of public funds;
 - (4) To foster effective broad-based competition within the free enterprise system; and
 - (5) To provide safeguards for the maintenance of a procurement system of quality and integrity.

§ 3000-005 Authority

The regulations in this chapter are promulgated under the authority of PL 20-92 which make the Board of Trustees accountable and the Chief Executive Officer responsible for procurement and supply in Northern Marianas Technical Institute.

§ 3000-010 Supplementary General Principles of Law Applicable

Unless displaced by the particular provisions of the regulations in this chapter, the principles of law and equity including, but not limited to, the Uniform Commercial Code of the Commonwealth, and common law of fraud, conflicts of interest, waste, false pretenses, and public purpose shall supplement these regulations.

§ 3000-015 Requirement of Good Faith

The regulations in this chapter require all parties, including Northern Marianas Technical Institute employees and contractors, involved in the negotiation, bidding, performance or administration of the Northern Marianas Technical Institute contracts to act in good faith.

§ 3000-020 Application of Regulations

Except as otherwise specified by law, the regulations in this chapter apply to every expenditure of Northern Marianas Technical Institute funds irrespective of source, including federal assistance monies and Covenant funds, which are not subject to federal procurement requirements. These regulations do not apply to contracts between the government and its political subdivisions or other governments. Nothing in these regulations shall be construed to prevent any governmental body or political subdivision from complying with the terms and conditions of any grant, cooperative agreement or memoranda of understanding.

§ 3000-025 Severability

If any provision of the regulations in this chapter or any application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of these regulations which can be given effect without the invalid provision or application, and to this end, the provision of this chapter are declared to be severable.

§ 3000-030 Validity of Contract

No Northern Marianas Technical Institute contract covered by the regulations in this chapter shall be valid unless it complies with these regulations.

§ 3000-035 Remedy Against Employee

Any procurement action of an employee of the Northern Marianas Technical Institute in violation of the regulations in this chapter is an action outside the scope of his or her employment. The Northern Marianas Technical Institute will seek to have any liability asserted against it by a contractor which directly results from these improper acts to be determined judicially to be the individual liability of the employee who committed the wrongful act.

Subpart B - Definitions

§ 3000-040 Definitions

As used in this chapter, unless the context otherwise requires, the following meanings apply:

- (a) “Legal counsel” means an assistant attorney general designated by the Attorney General to serve as counsel for the Northern Marianas Technical Institute or a private attorney hired by the Board of Trustees with the consent of the Attorney General.
- (b) “Board of Trustees” means the Board of Trustees of the Northern Marianas Technical Institute.
- (c) “Chief Executive Officer” means the executive officer appointed by the Board of Trustees to administer the Northern Marianas Technical Institute who has full charge and control of the administration and business affairs of the Northern Marianas Technical Institute.
- (d) “Construction” means the process of building, altering, repairing, improving or demolishing a public structure or building or public improvements commonly known as “capital improvements.” It does not include the routine maintenance of existing structures, buildings, or public real property.
- (e) “Contract” means all types of agreements, regardless of what they may be called for the procurement of supplies, services or construction.

- (f) “Cost-reimbursement contract” means a contract under which a contractor is reimbursed for cost which are allowable and allocable in accordance with the contract terms and these regulations, and a fee, if any.
- (g) “Dispute” means a disagreement concerning the legal rights and obligations of contracting parties, which, if not settled by mutual agreement, must be referred to a neutral third party for resolution.
- (h) “Employee” means an individual receiving a salary from the Northern Marianas Technical Institute, including appointive and elective officials and non-salaried individuals, including those on honorarium, performing personal services for the Northern Marianas Technical Institute. This definition extends to Board of Trustees and members of their staff. Consultants, independent contractors and part-time workers shall be considered employees.
- (i) “Goods” means all property, including but not limited to equipment, materials, supplies, food items and commodities and other tangible personal property of any kind or nature, printing, insurance, leases of real and personal property, and sale or other disposal of real and personal property.
- (j) “Invitation for bids” means all documents, whether attached or incorporated by reference, utilized for soliciting bids.
- (i) “NMTI” is the Northern Marianas Technical Institute.
- (l) “Official with expenditure authority” means the chief state officer who may extend, obligate, earmark, encumber or otherwise commit public funds under the Planning and Budgeting Act, as amended, or under any annual appropriation act.
- (m) “Person” means an individual, sole proprietorship, partnership, joint venture, corporation, other unincorporated association or a private legal entity.
- (n) “Procurement” means buying, purchasing, renting, leasing or acquiring construction, goods or services. It also includes all functions that pertain to the obtaining of construction, goods or services, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
- (o) “Purchase description” means the words used in a solicitation to describe the goods, services or construction to be purchased and includes specifications attached to, or made part of, the solicitation.
- (p) “Responsible” in reference to a bidder means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.
- (q) “Responsive” in reference to a bidder, means a person who has submitted a bid which conforms in all material respects to the invitation for bids.

(r) "Services" means the furnishing of time, labor or effort by a person other than an Employee, and not involving the delivery of a specific end product other than reports, plans and incidental documents.

(s) "Electronic" means electrical, digital or any other similar technology.

Subpart C - Public Access

§ 3000-045 Public Access to Procurement Information

Procurement information shall be a matter of public record and shall be available for public inspection. Procurement information may be kept confidential when necessary to insure proper bidding procedures. This decision shall be made only by the Board of Trustees.

§ 3000-050 Use of Electronic Media

The use of electronic media, including acceptance of electronic signatures, is authorized consistent with the CNMI's applicable statutory, regulatory or other guidance for use of such media, so long as such guidance provides for:

- (a) Appropriate security to prevent unauthorized access to the bidding, approval, and award processes; and
- (b) Accurate retrieval or conversion of electronic forms of such information into a medium which permits inspection and copying.

Part 100 - Procurement Organization

Subpart A – Procurement Officer

§ 3000-101 Creation of Procurement and Supply Division

There is hereby created in the Northern Marianas Technical Institute a Division of Procurement and Supply under the management of the Chief Executive Officer in the execution of those duties authorized under Public Law 20-92, or under any annual appropriations act.

§ 3000-105 Procurement Officer

The Chief Executive Officer shall appoint a Procurement Officer to administer and supervise the day-to-day activities of the division.

§ 3000-110 Duties of the Officer

The duties and responsibilities of the Officer include, but are not limited to, the following:

- (a) Oversee that these regulations are observed in all Northern Marianas Technical Institute procurement;
- (b) Hear all appeals of protests and disputes;

- (c) Conduct bidding, procurement, negotiation or administration of Northern Marianas Technical Institute contracts upon request of the official with expenditure authority;
- (d) Provide advanced planning for the centralized purchase of Northern Marianas Technical Institute supplies;
- (e) Exercise general supervision and control over all inventories of supplies belonging to the Northern Marianas Technical Institute;
- (f) Establish and maintain programs for the inspection, testing and acceptance of supplies;
- (g) Exercise general supervision and control over the employees of this division.

§ 3000-115 Contract Oversight

- (a) The Procurement Officer is responsible for certifying the correctness of all contracts according to the Northern Marianas Technical Institute policies;
- (b) The contract shall then be approved by the Finance Department (Accountant) or his designee for certification of funds;
- (c) The contract shall be approved by the Chief Executive Officer for expenditure authority;
- (d) The contract shall then be approved by the Chairman of the Board of Trustees;
- (e) The Northern Marianas Technical Institute's legal counsel shall certify the form and legal capacity of every Northern Marianas Technical Institute contract, change order, or purchase order. No contract for personal services or employment shall be approved if it is retroactive for more than thirty days.
- (f) The Personnel Officer shall approve all contracts for employment or personal services, including excepted services contracts and contracts for services by an independent contractor in a non-employment status.
- (g) A contract may be referred back to the Chief Executive Officer for further review based on additional evidence that it may not comply with the regulations in this chapter. If the Chief Executive Officer withdraws approval or refuses to approve a contract, he shall state in writing the basis for his determination.
- (h) It is the responsibility of the official with expenditure authority to ensure that the contractor does not sign the contract or incur any expenses under it until all necessary government signatures have been obtained. The supervision and inspection of a project is the primary responsibility of the official with expenditure authority.
- (i) No contract is effective against the Northern Marianas Technical Institute until all the Northern Marianas Technical Institute officials whose signatures appear on the contract form have signed the contract. A contract shall contain a right to audit records clause.

§ 3000-120 Split Contracts

If the Procurement Officer determines that a contract has been split into subcontracts for the purpose of avoiding bidding or if a change order or modification is unreasonably being made to increase the contract price where a contract has been bid and awarded to the lowest responsible and responsive bidder, then the Procurement Officer may require the contract or the modification to be competitively bid. An unreasonable modification or change order would be, for example, one which would have been reasonably foreseeable at the time of the formation of the contract.

§ 3000-125 Acceptance of Gratuities by Procurement Officer and Division Employees

(a) In addition to the restrictions found in § 60-40-525, the Chief and the employees of the Procurement and Supply Division shall be subject to these additional restrictions to avoid the appearance of impropriety.

(b) The Chief or his employees cannot accept from any person any gift of value given to them with the intent to influence their business judgement.

Subpart B - Procurement Function

§ 3000-130 Procurement Services

Upon request of any official with expenditure authority, the Procurement Officer shall provide assistance or conduct the bidding, procurement, negotiation or administration of a particular contract.

§ 3000-135 Centralized Procurement of Supplies

The Procurement Officer may, with the approval of the Chief Executive Officer, purchase supplies in large quantities to be relied upon by all departments, agencies, offices and branches when in the best interest of the Northern Marianas Technical Institute. No separate contract or purchase order for these supplies will be approved.

Part 200 - Source Selection and Contract Formation

Subpart A - Source Selection

§ 3000-201 Methods of Source Selection

Unless otherwise authorized by law or by regulation, all Northern Marianas Technical Institute contracts above \$10,001.00 subject to § 3000-210 shall be awarded by competitive sealed bidding, except as provided in:

- (a) § 3000-210 (Small Purchases);
- (b) § 3000-215 (Sole Source Procurement);
- (c) § 3000-220 (Emergency Procurement);

- (d) § 3000-225 (Competitive Sealed Proposals);
- (e) § 3000-230 (Professional Services);
- (f) § 3000-305 (Architect-Engineer Services).

§ 3000-205 Competitive Sealed Bidding

- (a) Invitation for Bids. An invitation for bids shall be issued and shall include at the minimum:
 - (1) An invitation for bids number;
 - (2) Date of issuance;
 - (3) Name, address and location of issuing office;
 - (4) Specific location where bids must be submitted;
 - (5) Date, hour and place of bid opening;
 - (6) A purchase description in sufficient detail to permit full and open competition and allow bidders to properly respond;
 - (7) Quantity to be furnished;
 - (8) Time, place and method of delivery or performance requirements;
 - (9) Essential contractual terms and conditions; and
 - (10) Any bonding requirements.
- (b) Public Notice. Adequate public notice of the invitation for bids shall be given a reasonable time prior to the date set forth for the opening of bids. Publication of notice shall be on the school website over a continuous period of four weeks shall be deemed to be adequate notice.
- (c) Bidding Time. A bidding time of at least four weeks shall be provided, unless the Procurement Officer determines in writing that a shorter period is necessary.
- (d) Bid Receipt. All bids shall be submitted to the Procurement Office. Bids shall be received prior to the time set for opening and shall be maintained sealed in a locked receptacle at that office. If a bid is opened by mistake, it shall be resealed and the person who opened the bid shall write his signature and print his title on the envelope and deliver it to the Procurement Officer. No information contained in the bid shall be disclosed prior to the bid opening. The Procurement Officer shall cause the opened bid to be placed into the sealed receptacle.
- (e) Bid Opening.
 - (1) The bid opening shall be conducted by the Procurement Officer at the Office of the Chief Executive Officer. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids.
 - (2) The Procurement Officer shall be present at the bid opening. The bids received prior to the bid closing date shall be publicly opened. The amount of each bid, together with the name of each bidder shall be recorded, the record and each bid shall be open to public inspection. The Procurement Officer shall prepare a written summary of the bid opening.
- (f) Bid Acceptance and Bid Evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria as necessary to

reasonably permit a determination as to the acceptability of the bid for the particular purpose intended.

(g) **Bid Rejection.** A bid may be rejected for any of the following reasons:

- (1) Failure to conform to essential requirements of the invitation for bids such as specifications or time of delivery;
- (2) Imposition of conditions or restrictions in the bid which modify requirements of the invitation or limit the bidder's liability to the Northern Marianas Technical Institute. For example, bids shall be rejected in which the bidder:
 - (i) Protects against future changes in conditions, such as increased costs;
 - (ii) Fails to state a price and indicates that price shall be the price in effect at the time of delivery;
 - (iii) States a price but qualifies it as subject to price in effect at the time of the delivery; or
 - (iv) Limits the rights of the Northern Marianas Technical Institute.
- (3) Unreasonableness as to price;
- (4) A bid from a non-responsible bidder.

(h) **Correction or Withdrawal of Bids; Cancellation of Awards.** Correction or withdrawal of inadvertently erroneous bids, before or after award, or cancellation of awards or contracts based on bid mistakes must be approved by the Procurement Officer in writing. After the bid opening, no changes in bid price or other provisions of bids prejudicial to the interest of the Northern Marianas Technical Institute or fair competition shall be allowed. Whenever a bid mistake is suspected, the Chief Executive Officer shall request confirmation of the bid prior to award. In such an instance, if the bidder alleges an error, the Chief Executive Officer shall only permit correction of the bid or withdrawal of the bid in accordance with subparagraph (h)(1) or (h)(2).

(1) **Correction of Bids.** Correction of bids shall only be permitted when:

- (i) An obvious clerical mistake is clearly evident from examining the bid document. Example of such mistakes are errors in addition or the obvious misplacement of a decimal point; or
- (ii) The otherwise low bidder alleges a mistake and the intended bid is evident from the bid document or is otherwise supported by clear and convincing evidence as to the bid intended and the corrected bid remains the low bid. A low bidder may not be permitted to correct a bid mistake resulting from an error in judgement.

(2) **Withdrawal of Bids.** Withdrawal of a bid shall only be permitted where the otherwise low bidder alleges a mistake and there is clear and convincing evidence as to the existence of a mistake.

(3) **Cancellation of Awards.** Cancellation of awards or contracts shall only be permitted when:

- (i) Evidence as to the existence of the mistake is not discovered until after the award;
- (ii) Performance of the contract at the award price would be unconscionable.

(i) **Notice of Intent to Award.** After bid evaluation, a notice of intent to award the contract to the lowest responsive bid by a responsible bidder whose bid fully meets the requirements of the invitation for bids and this chapter shall be issued to all bidders. The notice of intent to award is not a promise or guarantee of award, and the intended bidder should not incur any costs based on either the notice of intent to award or reliance of a contract.

(j) **Award.**

(1) The contract must be awarded with reasonable promptness by written notice to the lowest responsive bid by a responsible bidder whose bid fully meets the requirements of the invitation for bids and this chapter. The contract cannot be awarded less than five business days after the issuance

of a notice of intent to award pursuant to subsection (i). Unsuccessful bidders shall also be promptly notified.

(2)(i) Notice of an award shall only be made by the presentation of a contract with all of the required signatures to the bidder. No other notice of an award shall be made orally or by letter. No acceptance of an offer shall occur nor shall any contract be formed until a Northern Marianas Technical Institute contract is written and has been approved by all the officials required by law and regulation.

(ii) Northern Marianas Technical Institute contract shall contain a clause which states that the signature of the private contractor shall be the last in time to be affixed to a contract and that no contract can be formed prior to the approval of all required Northern Marianas Technical Institute officials.

(3) 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 per cent, and time or economic considerations preclude re-solicitation of work of a reduced scope, the Chief Executive Officer 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.

(4) Warranties. Any contract awarded by NMTI must state a warranty of goods, services or construction for a minimum of one year.

§ 3000-210 Small Purchases

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.

(a) Purchases that use Government-sourced funds (local funds), or any combination of both local and federal funds, may be made according to the small purchase procedures of this subsection:

(1) For purchases that do not exceed \$5,000 at least one price quote shall be obtained. However, the Procurement Officer may require the expenditure authority to obtain more than one price quote.

(2) A blanket purchase order may be used to make purchases without securing a price quote when the purchases do not exceed \$5000. The goods or services that may be purchased under a blanket purchase order must be defined (i.e. office supplies) and shall not be used for equipment. The expenditure authority shall promptly submit to the Procurement Officer copies of receipts for all purchases made under a blanket-purchase order. The Procurement Officer may instruct the expenditure authority to explain the need for the goods or services and how the prices paid were reasonable.

(3) For purchases that exceed \$5,000, but which are less than or equal to \$50,000, a minimum of three vendors shall be solicited to submit written or electronic quotations. The quotations shall be recorded and placed in the procurement file. If fewer than three vendors submit quotations, the expenditure authority shall certify, in writing, to the Procurement Officer that fewer than three vendors responded and shall provide written proof of the request. If

fewer than three of the solicited vendors submit quotes, the Procurement Officer may either approve the request or instruct the expenditure authority to solicit additional quotes.

- (b) Purchases from the United States General Services Administration (GSA) may be made according to the small purchase procedures of this subsection:
 - (1) At least one quote shall be obtained when making purchases, including purchases that exceed \$250,000.
- (c) A purchase order may be used as authorization for any of the small purchase procedures of this section.
- (d) Purchase orders may also be utilized instead of contracts for purchasing instructional materials, books, and publications.
- (e) This section shall not apply to lease or purchase of vehicles, machinery and equipment or to the purchase of professional services.
- (f) 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, and agreed to and signed by the Chief Executive Officer.

§ 3000-215 Sole Source Procurement

- (a) A contract may be awarded for a supply, service, instructional materials or construction item without competition when the Procurement Officer determines in writing that there is only one source for the required supply, service or construction item.
- (b) The written determination shall be prepared by the official with expenditure authority and shall contain the following information:
 - (1) The unique capabilities required and why they are required and the consideration given to alternative sources.

§ 3000-220 Emergency Procurement

- (a) Notwithstanding any other provision of the regulations in this chapter, emergency procurement procedures may be used where
 - (1) An unusual and compelling urgency precludes full and open competition, and
 - (2) Delay in award of a contract would result in serious injury, financial or other to the Northern Marianas Technical Institute. An emergency procurement must be as competitive as practicable under the circumstances.
- (b) A written justification of the basis for the emergency and for the selection of the particular contractor must be made by the official with expenditure authority. The justification must include:
 - (1) Description of the action being approved.

- (2) Description of the supplies or services required to meet the needs, including the estimated value.
 - (3) A description of the efforts made to ensure that offers are solicited from as many potential sources as is practicable.
 - (4) A determination that the anticipated cost to NMTI will be fair and reasonable, and
 - (5) Data, estimated cost, or other rationale as to the extent and nature of the harm to NMTI.
- (c) The justification must be approved by the Procurement Officer and the Chief Executive Officer.

§ 3000-225 Competitive Sealed Proposals

- (a) **Condition for Use.** When the Chief Executive Officer determines in writing upon the advice of the legal counsel that the use of a competitive sealed bidding is either not practical or not advantageous to the Northern Marianas Technical Institute, a contract may be entered into by competitive sealed proposals.
- (b) **Request for Proposals.** Proposals shall be solicited through a request for proposals.
- (c) **Public Notice.** Adequate public notice of the request for proposals shall be given in the same manner as provided for in competitive sealed bids.
- (d) **Receipt of Proposals.** Proposals shall be opened so as to avoid disclosure of the contents to competing offerors during the process of negotiation. A register of proposals shall be prepared and opened for public inspection after contract award.
- (e) **Evaluation Factors.** The request for proposals shall state the relative importance of price and other evaluation factors.
- (f) **Discussion with Responsible Offerors and Revisions to Proposals.** As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification and to insure full understanding of, and responsiveness to, solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submission and prior to award for the purpose of obtaining the best and final offers. In conducting discussions there shall be no disclosure of any information derived from proposals submitted by competing offerors.
- (g) **Notice of Intent to Award.** After proposal evaluation, a notice of intent to award the contract to the responsible offeror whose proposal is determined in writing to be the most advantageous to the Northern Marianas Technical Institute, taking into consideration price and the evaluation factors set forth in the request for proposals, shall be issued to all offerors. The notice of intent to award is not a promise or guarantee of award, and the intended offeror should not incur any costs based on either the notice of intent to award or reliance of a contract.
- (h) **Award.** Award shall be made to the responsible offeror whose proposal is determined in writing to be most advantageous to the Northern Marianas Technical Institute taking into consideration price and the evaluation factors set forth in the request for proposals. The award cannot be made

less than five business days after the issuance of a notice of intent to award pursuant to subsection (g). No other factors or criteria shall be used in the evaluation and the contract file shall contain the basis on which the award is made.

§ 3000-230 Competitive Selection Procedures for Professional Services

- (a) Procurement Method. The services of accountants shall be procured as provided in this section except when authorized as a small purchase, emergency procurement, sole-source procurement or non-employment services contracts.
- (b) Policy. It is the policy to publicly announce all requirements for professional services and negotiate contracts on the basis of demonstrated competence and qualifications at a fair and reasonable price. The Procurement Officer shall maintain files of current statements of qualifications of professional firms. Persons engaged in providing professional services may submit statements of qualifications and expressions of interests providing such types of services. Persons may amend these statements at any time by filing a new statement.
- (c) Public Announcement and Form of Request for Proposals. Adequate notice of the need for such services shall be given by the official with expenditure authority through a request for proposals. The request for proposals shall describe the services required, list the type of information and data required of each offeror and state the relative importance of particular qualifications.
- (d) Award. Award shall be made to the offeror determined in writing by the official with expenditure authority to be the best qualified based on the evaluation factors set forth in the request for proposals, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best qualified offeror then negotiations will be formally terminated with the selected offeror. If proposals were submitted by one or more other offerors determined to be qualified, negotiations may be conducted with such other offeror or offerors, in the order of their respective qualification ranking, and the contract may be awarded to the offeror then ranked as best qualified if the amount of compensation is determined to be fair and reasonable.

Subpart B - Cancellation of Invitation for Bids or Request for Proposals

§ 3000-235 Cancellation

An invitation for bids or request for proposals may be cancelled and any and all bids or proposals may be rejected, when such action is determined by the Procurement Officer and approved by the Chief Executive Officer to be in the best interests of the Northern Marianas Technical Institute based on:

- (a) Inadequate or ambiguous specifications contained in the solicitation;
- (b) Specifications which have been revised;
- (c) Goods or services being procured which are no longer required;

- (d) Inadequate consideration given to all factors of cost to the Northern Marianas Technical Institute in the solicitation;
- (e) Bids or proposals received indicated that the needs of the Northern Marianas Technical Institute can be certified by a less expensive good or service;
- (f) All offers with acceptable bids or proposals received are at unreasonable prices; or
- (g) Bids were collusive.

Subpart C - Qualifications and Duties

§ 3000-240 Responsible Bidders and Duties

(a) Awards shall be made only to responsible contractors. To be determined responsible, a prospective contractor must:

- (1) Have adequate financial resources to perform the contract, or the ability to obtain them;
- (2) Be able to comply with the required delivery or performance schedule;
- (3) Have a satisfactory performance record;
- (4) Have a satisfactory record of integrity and business ethics;
- (5) Have the necessary organization, experience and skills (or the ability to obtain them), required to successfully perform the contract;
- (6) Have the necessary production, construction and technical equipment facilities, or the ability to obtain them;
- (7) Be otherwise qualified and eligible to receive award under applicable laws and rules; and
- (8) Submit a valid original business license and other certification as may be required.

(b) Obtaining Information. Prior to award, the official with expenditure authority shall obtain information from the bidder or offeror necessary to make a determination of responsibility using the factors in subsection (a) above. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for determination of non-responsibility with respect to that bidder or offeror.

(c) Right of Non-disclosure. Information furnished by a bidder or offeror pursuant to subsection (b) may not be disclosed outside of the office of the Chief Executive Officer, the Procurement Officer, and legal counsel or any involved Northern Marianas Technical Institute Employee without prior consent by the bidder or offeror.

(d) Non-responsibility Determination. When a bid or proposal on which a contract award would otherwise be made is rejected because the prospective contractor is found to be non-responsible, a written determination shall be signed by the official with expenditure authority stating the basis for the determination and this shall be placed in the contract file.

§ 3000-245 Pre-qualification of Contractors

Prospective suppliers of goods or services may be pre-qualified for particular types of construction, goods and services when determined necessary by the Procurement Officer. Opportunity for qualification before solicitation shall be afforded to all suppliers. Solicitation mailing lists of potential

contractors shall include, but shall not be limited to, pre-qualified suppliers. In no event will bidders be allowed to qualify after the bid opening.

Subpart D - Types of Contracts

§ 3000-250 Types of Contracts

- (a) Use of a cost-plus-a-percentage-of-cost and percentage of construction cost methods of contracting are prohibited.
- (b) Northern Marianas Technical Institute contracts shall utilize a firm fixed priced unless use of a cost reimbursement contract is justified under subsection (c).
- (c) A cost reimbursement contract may be used when the official with expenditure authority determines in writing which is attached to the contract that:
 - (1) Uncertainties in the work to be performed make the cost of performance too difficult to estimate with the degree of accuracy required for a firm fixed price contract;
 - (2) Use of a firm fixed price contract could seriously affect the contractor's financial stability or result in payment by the Northern Marianas Technical Institute for contingencies that never occurred; or
 - (3) Use of a cost reimbursement contract is likely to be less costly to the Northern Marianas Technical Institute than any other type due to the nature of the work to be performed under the contract.

§ 3000-251 Change Orders

- (a) A change order will only be allowed if an increase, decrease, or change in the Scope of Work is required which was not reasonably foreseeable at the time of the formation of the contract by either party. However, no change order resulting in an increase in contract cost, or time shall be allowed when it is the direct result of either party's inexperience, inefficiency, or competence.
- (b) Before adding significant new work to existing contracts, the Procurement and Supply officer shall thoroughly assess whether it would be more prudent to seek competition. This assessment shall be in writing and will articulate the specific need for the good or service, the reason(s) it should not be competitive, and any circumstances that led to her decision. All change orders which increase the original contract price by 25% shall automatically be procured through competitive procedures except when there is an emergency or when there is a sole source procurement. At no time shall more than two change orders be allowed to a contract for services where the additional services are trainings or other professional services.
- (c) Change orders for construction contracts shall be exempt from subsection (b) as it relates to the automatic prohibition on change orders that increase the price by 25%. A change order for a construction contract may be increased by more than 25%, and not automatically procured through competitive procedures, if:
 - (1) The Capital Improvements Projects office determines, in writing, that the change order is in the best interest of the Northern Marianas Technical Institute because:
 - (i) Utilizing a competitive process will unreasonably delay construction; or

- (ii) Utilizing a competitive process will not result in cost savings to the Northern Marianas Technical Institute; or
 - (iii) The project is necessary to protect the health and welfare of the students and staff of the Northern Marianas Technical Institute.
- (2) The Chief Executive Officer must approve, in writing, any change order processed under this section.

(d) Contractors shall not be allowed to continue working beyond the expiration term of a contract in the absence of an approved new contract or change order. Change orders shall be

Subpart E - Inspection and Audit

§ 3000-255 Right to Inspect Place of Business

The Board of Trustees and the Chief Executive Officer, may at reasonable times, inspect the place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the Northern Marianas Technical Institute.

§ 3000-260 Right to Audit Records

As required by section 404 of Public Law 3-91, the contractor and subcontractor or grantee and subgrantee at all levels shall provide the Public Auditor of the Commonwealth with access to and the right to examine and copy any records, data or papers relevant to a Northern Marianas Technical Institute contract or grant for a period of three years after the final payment under the contract or grant. A clause to this effect shall appear in all Northern Marianas Technical Institute contracts and obligations.

Subpart F - Reports and Records

§ 3000-265 Report of Anti-competitive or Deceptive Practices

(a) When for any reason any person suspects the following practices are occurring among bidders, offerors, contractors or subcontractors, a notice of the relevant facts shall be transmitted to the legal counsel without delay:

- (1) Unfair methods of competition;
- (2) Deceptive acts; or
- (3) Unfair business practices.

(b) These acts are more fully defined at 4 CMC §§ 5101 through 5206.

§ 3000-270 Retention of Procurement Records

(a) All procurement records shall be retained by the Board of Trustees, the Chief Executive Officer and the Procurement Officer.

(b) The Procurement Officer shall maintain a record listing of all contracts made under sole source procurement or emergency procurement for a minimum of five years. The records shall contain:

- (1) Each contractor's name;
 - (2) The amount and type of each contract; and
 - (3) A listing of the supplies, services or construction procured under each contract.
- (c) All procurement records, except those designated herein as not subject to disclosure, shall be available to public inspection.

Part 300 - Procurement of Construction and Architect-Engineer Services

§ 3000-301 Construction Procurement

(a) Invitation for Bids

- (1) **Deposit.** The official with expenditure authority shall determine the amount of deposit required for potential bidders to obtain the invitation for bids.
- (2) **Contents.** The invitation for bids shall be prepared in accordance with § 60-40-205(a). In addition, the following items shall be included in the invitation for bids.
 - (i) **Notice to Bidders.** General information regarding the project;
 - (ii) **Instruction to Bidders.** Information on the preparation of bids, bid security requirements and forms and certifications that must be submitted with the bid;
 - (iii) **General Conditions.** Standard contract clauses governing the performance of work;
 - (iv) **Special Conditions.** Special contract clauses depending on the nature and dollar amount of the work to be performed; and
 - (v) **Technical Specifications.** Specifications governing the technical aspects of the work to be performed.

(b) Bid Security

- (1) **Requirement.** Bid security shall be required for all competitive sealed bidding on construction contracts where the price is estimated by the Chief Executive Officer to exceed \$25,000.00 or when the Chief Executive Officer determines it is in the interest of the Northern Marianas Technical Institute. Bid security shall be on a bid bond, in cash, by certified check, cashiers check or other form acceptable to the Northern Marianas Technical Institute. A surety company shall hold the certificate of authority from the U.S. Secretary of the Treasury as an acceptable surety or other surety acceptable to the Northern Marianas Technical Institute legal counsel.
- (2) **Amount.** Bid security shall be an amount equal to at least fifteen per cent of the amount of the bid or other amount as specified in the invitations for bids depending upon the source of funding.
- (3) **Rejection of Bid.** Failure to furnish bid security, when required by the invitation, shall result in rejection of the bid as non-responsive.

(c) Contract Performance and Payment Bonds

When a construction contract is awarded in excess of \$25,000.00, the following bonds or security shall be delivered to the Northern Marianas Technical Institute and shall become binding on the parties upon the execution of the contract:

- (1) **Performance bond** satisfactory to the Chief Executive Officer, executed by a surety company authorized to do business in the Commonwealth or otherwise secured in a manner satisfactory to the Chief Executive Officer, in an amount equal to one hundred per cent of the price specified in the contract; and

(2) A payment bond satisfactory to the Chief Executive Officer, executed by a surety company authorized to do business in the Commonwealth or otherwise secured in a manner satisfactory to the Chief Executive Officer, for the protection of all persons supplying labor and materials to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent of the price specified in the contract.

(3) Bonding Requirement. Any bonds secured by the contractor must have an AM's Best rating or bond through an agency deemed satisfactory by the Chief Executive Officer.

(d) Suits on Payment Bonds.

(1) Right to Institute. Every person who has furnished labor or material to the contractor or its subcontractors for the work provided in the contract, in respect of which a payment bond is furnished under this section, and who has not been paid in full therefore before the expiration of a period of ninety days after the day on which the last of the labor was done or performed by such person or material was furnished or supplied by such person for which such claim is made, shall have the right to sue on the payment bond for the amount, or the balance thereof, unpaid at the time of institution of such suit and to prosecute said action for the sum or sums justly due such person; provided, however, that any person having a direct contractual relationship with a subcontractor of the contractor, but no contractual relationship express or implied with the contractor furnishing said payment bond, shall have a right of action upon the payment bond upon giving written notice to the contractor within ninety days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the materials upon which such claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was done or performed.

(2) Such notice shall be personally served or served by mailing the same by registered or certified mail, postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or conducts its business.

(e) Suits on Payment Bonds. Where and When brought. Every suit instituted upon a payment bond shall be brought in a court of competent jurisdiction for the Commonwealth; but no such suit shall be commenced after the expiration of one year after the day on which the last of the labor was performed or material was supplied by the person bringing suit. The obligee named in the bond need not be joined as a party in any such suit.

(f) Fiscal Responsibility. Every contract modification, change order, or contract price adjustment under a construction contract shall be subject to prior written certification by the Chief Executive Officer as to the effect of the contract modification, change order or adjustment in contract price on the total project budget or the total contract budget. In the event that the certification discloses a resulting increase in the total project budget and/or the total contract budget, such contract modification, change order or adjustment in contract price shall not be made unless sufficient funds are available therefore, or the scope of the project or contract is adjusted so as to permit the degree of completion that is feasible within the total project budget and/or total contract budget as it existed prior to the contract modification, change order or adjustment in contract price under consideration; provided, however that with respect to the validity, as to the contractor, of any executed contract modification, change order or adjustment in contract price which the contractor has reasonably relied upon, it shall be presumed that there has been compliance with the provisions of this subsection.

§ 3000-305 Architect-Engineer Services

- (a) Procurement Method. Architect-engineer services shall be procured as provided in this section except when authorized as a small purchase or emergency procurement.
- (b) Policy. It is the policy to publicly announce all requirements for architect-engineer services and negotiate contracts on the basis of demonstrated competence and qualifications at a fair and reasonable price.
- (c) Selection. The Chief Executive Officer and the Northern Marianas Technical Institute's Procurement office shall jointly maintain files of current statements of qualifications of architect-engineer firms. After public announcement of requirements for architect-engineer services, current statements shall be reviewed together with those that may be submitted by other firms in response to the announcement. Discussions shall be conducted with at least three of the firms regarding the contract requirements and technical approach and selection made therefrom, in order of preference, of no less than three firms determined to be the most highly qualified to perform the services required.
- (d) Negotiation. The Chief Executive Officer shall negotiate a contract with the highest qualified architect-engineer firm at a price determined to be fair and reasonable to the Northern Marianas Technical Institute. If a fair and reasonable price cannot be negotiated, negotiations shall be terminated and negotiations shall be undertaken with the second highest qualified firm. If a fair and reasonable price cannot be negotiated, negotiations shall be terminated and negotiations shall be undertaken with the third highest qualified firm. If a fair and reasonable price cannot be negotiated with any of the firms, the office with expenditure authority shall then select additional firms in order of competence and qualifications and continue negotiations until a fair and reasonable price is agreed upon.

§ 3000-310 Two-Phase Design-Build Selection Process

- (a) The two-phase design-build selection process procedures shall be used when the procurement officer determines that this method is appropriate, based on the following:
 - 1. Three or more *offers* are anticipated.
 - 2. Design work must be performed by *offerors* before developing price or cost proposals, and *offerors* will incur a substantial amount of expense in preparing *offers*.
 - 3. The following criteria have been considered:
 - i. The extent to which the project requirements have been adequately defined.
 - ii. The time constraints for delivery of the project.
 - iii. The capability and experience of potential contractors.
 - iv. The suitability of the project for use of the two-phase selection method.
 - v. The capability of the agency to manage the two-phase selection process.
 - vi. Other criteria established by the Chief Executive Officer.
- (b) Scope of work. NMTI shall develop, either in-house or by contract, a scope of work that defines the project and states the requirements. The scope of work may include criteria and preliminary design, budget parameters, and schedule or delivery requirements.
- (c) Procedures. One solicitation may be issued covering both phases, or two solicitations may be issued in sequence. Proposals will be evaluated in Phase One to determine which *offerors* will submit proposals for Phase Two. One contract will be awarded using competitive negotiation.
 - 1. Phase One.
 - i. Phase One of the solicitation(s) shall include:

1. The scope of work;
2. The phase-one evaluation factors, including:
 - a. Technical approach (but not detailed design or technical information)
 - b. Technical qualifications, such as-
 - i. Specialized experience or technical competence;
 - ii. Capability to perform'
 - iii. Past performance of the offeror's team (including architect-engineer and construction members); and
 - iv. Other appropriate factors (excluding cost or price related factors, which are not permitted in Phase-One)
 - c. Phase-Two Evaluation factors; and
 - d. A statement of the maximum number of *offerors* that will be selected to submit phase-two proposals. The maximum number specified in the solicitation shall not exceed five unless the procurement officer determines, for that particular solicitation, that a number greater than five is in the Government's interest and is consistent with the purposes and objectives of the two-phase design-build selection procedures. The procurement officer shall document this determination in the contract file. For acquisitions greater than \$4.5 million, the determination shall be approved by the Chief Executive Officer.
 - e. After evaluating phase-one proposals, the procurement officer shall select the most highly qualified *offerors* (not to exceed the maximum number specified in the solicitation) and request that only those *offerors* submit phase-two proposals.
2. Phase-Two:
 - i. Phase-two of the solicitations shall be prepared and include phase-two evaluation factors developed. Examples of phase-two technical evaluation factors include design concepts, management approach, key personnel and proposed technical solutions.
 - ii. Phase-two of the solicitation(s) shall require submission of technical and price proposals which shall be evaluated separately.

Part 400 - Protests and Disputes

§ 3000-401 Protests to the Chief Executive Officer

(a) General

(1) Any actual or prospective bidder, offeror, or contractor who asserts a claim or asserts that it has been aggrieved or will be aggrieved in connection with the solicitation or award of a contract may protest to the Chief Executive Officer. The protest shall be received by the Chief Executive Officer in writing prior to the award of a contract. For competitive sealed bids and competitive sealed proposals, protests shall not be submitted before the issuance of a notice of intent to award. The written protest shall state fully the factual and legal grounds for the protest.

(2) Other persons, including bidders, involved in or affected by the protests shall be given notice of the protest and its basis in appropriate cases. The protesting party shall provide such notice and a

copy of its protest to all other bidders involved in or affected by the protest and shall file a declaration or proof of service with the Chief Executive Officer. Proof of notice is required by the protesting party to other bidders or proposers within two days of filing its protest. These persons may submit their views and relevant information to the Chief Executive Officer within five days after receiving notice by the protesting party. The Chief Executive Officer may extend the period of time to submit views and relevant information if the Chief Executive Officer certifies that he/she believes the complexity of the matter requires a longer period of time. The submission of views may include any factual statements; briefs; memoranda; declarations; and other information which is relevant and necessary for the determination of the protest.

(3) The Chief Executive Officer shall decide the protest within five calendar days after the protest is filed unless the Chief Executive Officer certifies that the complexity of the matter requires a longer time, in which event the Chief Executive Officer shall specify the appropriate longer time. If the Chief Executive Officer fails to render a decision or determination within such period, the protesting party may file its appeal to the Appeal Committee of the State Board of Trustees by filing such Notice of Appeal with the Chairperson through the Board Secretary at the State Board of Trustees Office.

(4) When a protest has been appealed to the Appeal Committee, as provided in these procedures, the Chief Executive Officer shall submit a report, and the Chief Executive Officer should include with his/her report a copy of:

- (i) The protest;
- (ii) The bid submitted by the protesting bidder and a copy of the bid of the bidder who is being considered for award, or whose bid is being protested;
- (iv) The solicitation, including the specifications on portions relevant to the protest;
- (v) the abstract of offers or relevant portions;
- (vi) Any other documents that are relevant to the protest; and
- (vii) The Chief Executive Officer's signed statement setting forth findings, actions, and recommendations and any additional evidence or information deemed necessary in determining the validity of the protest. The statement shall be fully responsive to the allegation of the protest. If the award was made after receipt of the protest, the Chief Executive Officer's report will include the determination prescribed in subsection (b)(3) below. The foregoing information submitted by the Chief Executive Officer shall be considered the complete administrative record on appeal to the Appeal Committee unless the Appeal Committee supplements the record with additional testimony or evidence.

(5) Since timely action on protests is essential, they should be handled on a priority basis. Upon receipt of notice that an appeal from the Chief Executive Officer's decision has been taken to the Appeal Committee, the Chief Executive Officer shall immediately begin compiling the information necessary for a report as provided in subsection (a)(4) above.

(b) Protest

(1) When a proper protest against the making of an award is received, the award shall be withheld pending disposition of the protest. The bidders whose bids might become eligible for award shall be informed of the protest. In addition, those bidders shall be requested, before expiration of the time for acceptance of their bids, to extend the time for acceptance to avoid the need for re-advertisement. In the event of failure to obtain such extensions of bids, consideration shall be given to proceeding with an award under subsection (b)(2) below.

(2) When a written protest is received, award shall not be made until the matter is resolved, unless the Chief Executive Officer determines that:

- (i) The materials and services to be contracted for are urgently required;

- (ii) Delivery or performance will be unduly delayed by failure to make award promptly; or
- (iii) A prompt award will otherwise be advantageous to the Northern Marianas Technical Institute.

(3) If award is made under subsection (b)(2) above, the Chief Executive Officer shall document the file to explain the need for an immediate award. The Chief Executive Officer also shall give written notice to the protester and others concerned of the decision to proceed with the award.

(c) Computation of Time

(1) Except as otherwise specified, all “days” referred to in this subpart are deemed to be working days of the Northern Marianas Technical Institute. The term “file” or “submit” except as otherwise provided refers to the date of transmission.

(2) In computing any period of time prescribed or allowed by these procedures, the day of the act or event from which the designated period of time begins to run shall not be included.

§ 3000-405 Appeals of Chief Executive Officer’s Decisions to the Board

(a) Jurisdiction; Exhaustion of Remedies. A written appeal to the Appeal Committee from a decision by the Chief Executive Officer may be taken provided that the party taking the appeal has first submitted a written protest to the Chief Executive Officer and otherwise fully complied with § 3000-401, and the Chief Executive Officer has denied the protest or has failed to act on the protest within the time provided.

(b) Form of Appeal. No particular form of pleading is required for filing an appeal to the Appeal Committee. The appeal shall, however:

- (1) Include the name and address of the appellant;
- (2) Identify the name and number of the solicitation or contract;
- (3) Contain a concise, logically arranged, and direct statement of the grounds for appeal; and
- (4) Specifically request a ruling by the Appeal Committee.

(c) Time for Filing an Appeal. An appeal from the Chief Executive Officer’s decision must be received by the Appeal Committee not later than five days after the appellant received the decision of the Chief Executive Officer, or, in the event that the Chief Executive Officer has not decided the protest, within three days from the date that the Chief Executive Officer should have decided the protest pursuant to § 3000-401. Any appeal received after these time limits shall not be considered by the Appeal Committee unless good cause is shown or unless the Appeal Committee determines that the appeal presents issues significant to procurement practices that are not outweighed by the detriment to the Northern Marianas Technical Institute should be appeal be considered.

(d) Notice of Protest, Submission of Chief Executive Officer’s Report and Time for Filing of Comments on Report.

(1) The Chairperson of the Appeal Committee, immediately upon appointment by the Board Chairperson, shall notify the Chief Executive Officer in writing within one day of appointment, requesting the Chief Executive Officer to give notice of the appeal to all bidders or proposers who appear to have a reasonable prospect of receiving an award if the appeal is denied (hereinafter in this section, “noticed parties”). The Chief Executive Officer shall furnish copies of the protest and appeal documents to such noticed parties with instructions to communicate further directly with the Appeal Committee.

(2) The Appeal Committee shall request the Chief Executive Officer to submit a complete report on the appeal to the Appeal Committee as expeditiously as possible (generally within thirty calendar days) in accordance with § 3000-401(a)(3) and (4) and to furnish a copy of the report to the appellant and noticed parties.

(3) Comments on the Chief Executive Officer's report shall be filed by the protesting party and any noticed party with the Appeal Committee within five days after the Appeal Committee's receipt of the report, with a copy to the Chief Executive Officer, other noticed parties, and appellant, as applicable. The Appeal Committee may extend the period of time to submit comments if the Appeal Committee certifies that it believes the complexity of the matter requires a longer period of time. The Appeal Committee may, at its discretion, allow the protesting party, noticed parties, and the Chief Executive Officer to submit rebuttals to the comments on the Chief Executive Officer's report submitted by the protesting party and noticed parties. If rebuttals are permitted, the Appeal Committee may set deadlines for their submission. All rebuttal submissions must be forwarded by the rebutting party to the Chief Executive Officer, protesting party, and other noticed parties.

(4) The failure of an appellant or any noticed party to comply with the time limits stated in this section may result in resolution of the appeal without consideration of the comments untimely filed.

(e) **Withholding of Award.** When an appeal has been filed before award, award shall not be made until the appeal is resolved, unless awarded is done in a manner consistent with § 3000-401(b)(2).

(f) **Submission of Additional Information.** Any questions posed or additional information requested by the Appeal Committee shall be furnished as expeditiously as possible. The Appeal Committee may set a reasonable deadline for the submission of information or responses to questions. Any questions or requests, along with corresponding responses or submissions shall be made, upon request, available to any other interested party, except to the extent that the withholding of information is permitted or required by law. The Appeal Committee may allow for interested parties to comment on any answers or information submitted pursuant to this subsection in a manner and timeframe it deems reasonable.

(g) **Conference.** The Appeal Committee may conduct a conference on the merits of the appeal with the appellant and Chief Executive Officer. Alternatively, either party may request such a conference to be held at the discretion of the Appeal Committee. The Appeal Committee has the discretion to include other parties at the conference.

(h) **Time for Decision; Notice of Decision:** The Appeal Committee shall, if possible, issue a decision on the appeal within thirty calendar days after all information necessary for the resolution of the appeal has been received. A copy of the decision shall immediately be mailed or otherwise transmitted to the appellant, other participating parties, and the Chief Executive Officer.

§ 3000-410 Remedies

(a) **Remedies Prior to Award.** If prior to award the Chief Executive Officer or the Appeal Committee determines that a solicitation or proposed award of a contract is in violation of law or regulation, then the solicitation or proposed award shall be:

- (1) Cancelled; or
- (2) Revised to comply with law or regulation.

(b) Remedies After an Award. If after an award the Chief Executive Officer or the Appeal Committee determines that solicitation or award of a contract is in violation of law or regulation, then:

(1) If the person awarded the contract has not acted fraudulently or in bad faith:

(i) The contract may be ratified and affirmed, provided it is determined that doing so is in the best interests of the Northern Marianas Technical Institute; or

(ii) The contract may be terminated and the person awarded the contract shall be compensated for the actual expenses reasonably incurred under the contract;

(2) If the person awarded the contract has acted fraudulently or in bad faith:

(i) The contract may be declared null and void; or

(ii) The contract may be ratified and affirmed if such action is in the best interests of the Northern Marianas Technical Institute, without prejudice to the Northern Marianas Technical Institute's right to such damages as may be appropriate.

(c) Finality of Findings of Fact by the Appeal Committee. A determination of an issue of fact by the Appeal Committee under this part shall be final and conclusive unless arbitrary, capricious, fraudulent, or clearly erroneous. Any aggrieved party shall thereafter file its petition to review the Appeal Committee's determination as an agency decision under the CNMI Administrative Procedure Act and applicable rules of administrative procedure with the CNMI Superior Court.

§ 3000-415 Effective Date

All protests as to the manner of bidding, the failure to properly award a bid, the failure of the Northern Marianas Technical Institute to contract with a business after bidding, or the cancellation of bids which may or may not be the subject of lawsuit but have not reached final judgment as of the effective date of this chapter shall be heard in accordance with this part upon the request of the actual or prospective bidder, offeror, or contractor who is aggrieved.

§ 3000-420 Disputes

(a) Any dispute between the Northern Marianas Technical Institute and a contractor relating to the performance, interpretation of, or compensation due under a contract, which is the subject of this chapter, must be filed in writing with the Chief Executive Officer within ten days after knowledge of the facts surrounding the dispute.

(b) When a claim by or against a contractor cannot be satisfied or settled by mutual agreement and a decision on the dispute is necessary, the Chief Executive Officer shall review the facts pertinent to the dispute, secure necessary legal assistance and prepare a written description that shall include:

(1) Description of the dispute;

(2) Reference to pertinent contract terms;

(3) Statement of the factual areas of disagreement or agreement; and

(4) Statement of the decision as to the factual areas of disagreement and conclusion of the dispute with any supporting rationale.

(c) Appeals. The Appeal Committee shall review and render a decision on an appeal from an adverse decision timely taken by a contractor. The Appeal Committee may require a hearing or that information be submitted on the record, in its discretion. The Appeal Committee may affirm, reverse or modify the decision or remand it for further consideration.

(d) Duty to Continue Performance. A contractor that has a dispute pending before the Chief Executive Officer or an appeal before the Appeal Committee must continue to perform according to the terms of the contract and failure to so continue shall be deemed to be a material breach of the contract unless he/she obtains a waiver of this provision by the Chief Executive Officer or Appeal Committee.

§ 3000-425 Appeal Committee

The Appeal Committee is comprised of three members of the Board of Trustees appointed by the Board Chairperson to hear any appeal under these provisions. The Board Chairperson shall designate one of the three members as the Appeal Committee Chairperson.

Part 500 - Ethics in Public Contracting

§ 3000-501 Definitions of Terms

(a) “Confidential information” means any information which is available to an Employee only because of the Employee’s status as an Employee of the Northern Marianas Technical Institute and is not a matter of public knowledge or available to the public on request.

(b) “Conspicuously” means written in such special or distinctive form, print, or manner that a reasonable person against whom it is to operate ought to have noticed it.

(c) “Direct or indirect participation” means involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity.

(d) “Financial interest” means:

a. Ownership of any interest or involvement in any relationship from which or as a result of which, a person within the past year has received or is presently or in the future entitled to receive compensation; or

b. Holding a position in a business such as an officer, director, trustee, partner, employee or the like or holding any position of management.

(e) “Gratuity” means a payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

Subpart A - Standards of Conduct

§ 3000-505 Policy

Public employment is a public trust. In Northern Marianas Technical Institute contracting, public Employees shall discharge their duties impartially so as to:

(a) Insure fair competitive access to Northern Marianas Technical Institute procurement by reasonable contractors; and

(b) Conduct themselves in a manner as to foster public confidence in the integrity of the Northern Marianas Technical Institute.

§ 3000-510 General Standards

- (a) Employees. Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of a public trust. In order to fulfill this ethical standard, employee must meet the requirements of this chapter.
- (b) Contractors. Any effort to influence any public employee to breach the standards of ethical conduct set forth in this chapter is also a breach of ethical standards.

§ 3000-515 Employee Disclosure Requirements

- (a) Disclosure of benefit received from contract. Any Employee who has, or obtains any benefit from any Northern Marianas Technical Institute contract with a business in which the Employee has financial interest, shall report such benefit to the Chief Executive Officer.
- (b) Failure to disclose benefit received. Any Employee who knows or should have known of such benefit and fails to report such benefit is in breach of these ethical standards.

§ 3000-520 Employee Conflict of Interest

- (a) Conflict of interest. It is a breach of ethical standards for any Employee to participate directly or indirectly in a procurement when the employee knows that:
 - (1) The Employee or any member of the employee's immediate family has a financial interest pertaining to the procurement;
 - (2) A business or organization in which the employee, or any member of the Employee's immediate family, has a financial interest pertaining to the procurement; or
 - (3) Any other person, business or organization with whom the employee or any member of the Employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.
- (b) Discovery of actual or potential conflict of interest, disqualification and waiver. Upon discovery of an actual or potential conflict of interest, an Employee shall promptly file with the Chief Executive Officer a written statement of disqualification and shall withdraw from further participation in the transaction involved. The employee may, at the same time, apply to the Public Auditor for an advisory opinion as to what further participation, if any, the employee may have in the transaction.

§ 3000-525 Gratuities and Kickbacks

- (a) Gratuities. It shall be a breach of ethical standards for any person to offer, give or agree to give any Employee or former Employee, or for any Employee or former Employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy,

or other particular matter, pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefore.

(a) Kickbacks. It shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher than subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

§ 3000-530 Prohibition Against Contingent Fees

(a) Contingent fees. It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure Northern Marianas Technical Institute contracts upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

(b) Representation of contractor. Every person, before being awarded a Northern Marianas Technical Institute contract, shall represent in writing that such person has not retained anyone in violation of this section. Failure to do so constitutes a breach of ethical standards.

§ 3000-535 Contract Clauses

The prohibitions against gratuities, kickbacks, and contingent fees shall be conspicuously set forth in every contract and solicitation.

§ 3000-540 Restrictions on Employment of Present and Former Employees

(a) Present Employee. It shall be a breach of ethical standards for any Employee who is participating directly or indirectly in the procurement process to become or be while such an Employee, the employee of any person contracting with the Northern Marianas Technical Institute for whom the Employee is employed.

(b) Restrictions on former Employee in matters connected with their former duties. Permanent disqualification of former Employee personally involved in a particular matter. It shall be a breach of ethical standards for any former Employee knowingly to act as a principal or as an agent for anyone other than the Northern Marianas Technical Institute, in connection with any:

(1) Judicial or other proceeding, application request for a ruling or other determination;

(2) Contract;

(3) Claim; or

(4) Charge or controversy in which the employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation or otherwise while an employee, where the Northern Marianas Technical Institute is a party or has a direct or substantial interest.

§ 3000-545 Use of Confidential Information

It shall be a breach of ethical standards for any Employee or former Employee to knowingly use confidential information for actual or anticipated personal gain, or the actual or anticipated personal gain of any other person.

§ 3000-550 Collusion by Bidders

Collusion or secret agreements between bidders for the purpose of securing an advantage to the bidders against the authorizing agent in the awarding of contracts is prohibited. The Chief Executive Officer may declare the contract void if he finds sufficient evidence after a contract has been let that the contract was obtained by a bidder or bidders by reason of collusive or secret agreement among the bidders to the disadvantage of the Northern Marianas Technical Institute.

§ 3000-555 Penalties

(a) Northern Marianas Technical Institute employees. A Northern Marianas Technical Institute employee who violates the provisions of the rules and regulations in this chapter is subject to adverse action as may be appropriate in his or her particular circumstances. This action includes but is not limited to reprimand, suspension without pay, termination of employment, civil injunction, civil suit for damages or return of Northern Marianas Technical Institute money, or criminal prosecution.

(b) Contractors. A contractor who violates a provision of the rules and regulations in this chapter shall be subject to a written warning of reprimand, the termination of the contract or suspension from being a contract or subcontractor under a Northern Marianas Technical Institute contract in addition to other penalties prescribed by law.

(c) All proceedings under this section must be in accordance with due process requirements.

§ 3000-560 Authority to Debar or Suspend

(a) Authority.

(1) After reasonable notice to the person involved and reasonable opportunity for the person to be heard under the Administrative Procedure Act [1 CMC §§ 9101, et seq.], the Chief Executive Officer after consultation with the Northern Marianas Technical Institute legal counsel, shall have authority to debar a person for cause from consideration for award of contracts.

(2) The debarment shall not be for a period of more than three years. The Chief Executive Officer, after consultation with Northern Marianas Technical Institute legal counsel, shall have authority to suspend a person from consideration for award of contracts if there is probable cause for debarment. The suspension shall not be for a period exceeding three months.

(b) Causes for debarment or suspension. The causes for debarment or suspension include the following:

(1) Conviction for commission of a criminal offense is an incident of obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

(2) Conviction under Commonwealth or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, violation of the Consumer Protection Act (4 CMC §§ 5101, et seq.), violation of any unfair business practices as prescribed by 4 CMC § 5202, or any other offense indicating a lack of business integrity or business honesty

which currently, seriously and directly affects its responsibility as a Northern Marianas Technical Institute contractor;

(3) Conviction under Commonwealth or federal antitrust statutes arising out of the submission of bids or proposals such as in chapter 2 of division 5 of title 4 of the Commonwealth Code;

(4) Violation of contract provisions, as set forth below, of a character which is regarded by the Chief Executive Officer to be so serious as to justify debarment action:

(i) Deliberate failure without good cause to perform in accordance with the specifications within the time limits provided in the contract; or

(5) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered a basis for debarment;

(6) Any other cause that the Chief Executive Officer determines to be so serious and compelling as to effect responsibility as a Northern Marianas Technical Institute contractor, including debarment by another Northern Marianas Technical Institute entity; and

(7) For violation of any of the ethical standards set forth in part 500.

(c) Decision. The Chief Executive Officer shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken.

(d) Notice of decision. A copy of the decision shall be mailed or otherwise furnished immediately to the debarred or suspended person.

Part 600 - Miscellaneous

§ 3000-601 Severability

If any provision of the regulations in this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end, the provisions of these regulations are severable.



Eli D. Cabrera
Administrator

Commonwealth of the Northern Mariana Islands

OFFICE OF THE GOVERNOR

Bureau of Environmental and Coastal Quality

Division of Coastal Resources Management

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Richard V. Salas
Director, DCRM

**PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS OF
THE COASTAL RESOURCES MANAGEMENT REGULATORY AGENCIES**

**AMENDMENTS TO NMIAC CHAPTER 15-10
TO ALLOW REMOTE PARTICIPATION OF CRM AGENCY OFFICIALS**

ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands, Office of the Governor, Coastal Resources Management (CRM) Regulatory Agencies HEREBY ADOPT AS PERMANENT amendments to the following sections of NMIAC Chapter 15-10 to allow remote participation of CRM Agency Officials 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.*

- NMIAC §15-10-1001 Public Information and Education, (c) Public Hearings

I certify by signature below that as published, such adopted regulations are a true, complete, and correct copy of the referenced Proposed Regulations, and that they are being adopted without modification.

PRIOR PUBLICATION: These regulations were published as Proposed Regulations in Volume 44, Number 03, pp 048231-048237 of the Commonwealth Register on March 28, 2022.

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).

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY: None.

AUTHORITY: These amendments are promulgated under the authority of the CRM Regulatory Agencies to adopt new regulations under 1 CMC § 1531(d). These regulations were adopted as final by the CRM Regulatory Agencies in a public meeting on May __, 2022, and the Division of Coastal Resources Management (DCRM) Director was authorized to promulgate these regulations on behalf of the CRM Regulatory Agencies.

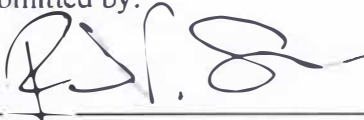
EFFECTIVE DATE: Pursuant to the APA, 1 CMC § 9105(b), these adopted amendments are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which in this instance is 10 days after publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: During the 30-day comment period, CRM received no comments regarding the Proposed Regulations. Upon this adoption of the

amendments, CRM will, if requested to do so by any interested person within 30 days of adoption, issue a concise statement of the principal reasons for and against its adoption.

I declare under penalty of perjury that the foregoing is true and correct and this declaration was executed on the date indicated below at Saipan, Commonwealth of the Northern Mariana Islands.

Submitted by:



Richard V. Salas
Director, Division of Coastal Resources Management

8/12/22

Date

Received by:



Ms. Mathilda A. Rosario
Special Assistant for Administration

08/12/22

Date

Filed and Recorded by:



Ms. Esther R.M. San Nicolas
Commonwealth Registrar

08-12-2022

Date



Commonwealth Ports Authority

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PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS FOR THE COMMONWEALTH PORTS AUTHORITY (CPA)

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED AMENDMENTS TO THE AIRPORT RULES AND REGULATIONS OF THE COMMONWEALTH PORTS AUTHORITY
Volume 44, Number 04, pp. 048330–57, of April 28, 2022

Amendments to the Commonwealth Ports Authority Airport Rules and Regulations

ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: Pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a), the Commonwealth Ports Authority HEREBY ADOPTS AS PERMANENT the Proposed Amendments to the Airport Rules and Regulations of the Commonwealth Ports Authority published in Number 04 of Volume 44 of the Commonwealth Register. I certify by signature below that as published, such adopted regulations are a true, complete, and correct copy of the referenced Proposed Regulations.

PRIOR PUBLICATION: The substance of these regulations was published in Volume 44, Number 04, pp. 048330–57 of the Commonwealth Register.

AUTHORITY: The authority for promulgation of regulations for CPA is set forth in 2 CMC § 2122.

EFFECTIVE DATE: These amendments to the Commonwealth Ports Authority's Airport Rules and Regulations will become effective ten days after publication of this Notice of Adoption in the Commonwealth Register. 1 CMC § 9105(b).

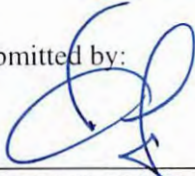
COMMENTS, MODIFICATIONS, AND AGENCY CONCISE STATEMENT: During the 30-day comment period, the Authority received no comments regarding the Proposed Regulations. No individual requested the Authority issue a concise statement of the principal reasons for or against the adoption of the Proposed Regulations.

At an Airport Facilities Committee meeting held on July 28, 2022, the Committee agreed to recommend to the CPA Board of Directors that the Proposed Regulations be adopted. The CPA Board of Directors adopted the Proposed Regulations as final at the July 28, 2022, Board of Directors meeting.

TERMS, SUBSTANCE, AND DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED:
The adopted regulations amend the Airport Rules and Regulations of the Commonwealth Ports Authority by clarifying CPA's compensatory rate-setting methodology. Among other things, these proposed amendments define, remove, and redefine terms that are used throughout NMIAC § 40-10.1; clarify CPA's rate methodology and adjustments, landing fees, and terminal rentals; and provide an illustrative example of the calculations of CPA's fees, rates, and charges. These proposed regulations also repeal NMIAC §§ 40-10.1-1210, 1220, 1225, 1230, and 1257.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 28th day of July, 2022, at Saipan, Commonwealth of the Northern Mariana Islands.

Submitted by:



CHRISTOPHER S. TENORIO
Executive Director

Date: 8/15/22

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

Dated this 10 day of August, 2022.



EDWARD MANIBUSAN
Attorney General

Filed and Recorded by: _____



ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

Date: 8-24-22

§ 40-10.1-010 Definitions

The following terms, as used in this subchapter, shall have the following meanings:

(a) “Affiliated Airline Company” shall mean any Air Transportation Company that is regarded or appears to operate as a related entity and is now or hereafter (1) a subsidiary of Airline, (2) owned in whole or in part by Airline or its parent company, (3) owns Airline in part, or (4) so affiliated with Airline or its parent company by virtue of a code sharing agreement and in any case shall have been designated in writing by Airline as an Affiliated Airline Company. Airline shall be responsible for and unconditionally guarantees the payment of rentals, fees, and charges, including Passenger Facility Charges by its Affiliated Airline Company. An Affiliated Airline Company hosted by Airline will pay rates, fees, and charges at the rate charged to Airline.

(b) “Air Transportation Business” shall mean that business operated by an Airline for the commercial transportation by air of persons, property, mail, parcels, and cargo at one or more of the Airports.

(c) “Air Transportation Company” shall mean a legal entity engaged in the business of scheduled or non-scheduled commercial transportation by air of person, property, mail, parcels, and cargo and authorized by the Authority to conduct such business at one or more of the Airports.

(d) “Aircraft” shall mean and include any and all contrivances, now or hereafter used for the navigation of or flight in air or space, including, but not limited to, airplanes, airships, dirigibles, helicopters, gliders, amphibians, and seaplanes.

(e) “Airfield” shall mean the Landing Area and the Ramp Area of an Airport.

(f) “Airfield Cost ~~and Revenue~~ Center” shall include ~~the aggregate~~ Capital Charges, and all direct and indirect Operation and Maintenance Expenses, ~~and Revenues for an allocable to all Airfields in the Airport Airfield System.~~ as such Airfields may be revised/changed from time to time.

(g) “Airline” shall mean an Air Transportation Company, including any Affiliates of Airline, engaged in the business of scheduled or non-scheduled commercial transportation by air of persons, property, cargo, or mail.

(h) “Airline Assigned Area or Assigned Area” shall mean those areas in a Terminal the Authority has licensed for use by an Airline as Preferential Use Premises or Common Use Premises, or licensed for use by Airlines on a per use basis.

~~(i) “Airline Supported Areas” shall mean the direct and indirect Operation and Maintenance Expenses and Capital Charges charged to the Airfield Cost and Revenue Center and the Terminal Cost and Revenue Center.~~

~~(j) —~~

~~(h)(i)~~ “Airport” shall mean an Authority owned Airport within the Airport System, including Francisco C Ada/Saipan International Airport, Benjamin Taisacan Manglona International Airport, Tinian International Airport, Pagan Airport together with all appurtenances thereto, structures, buildings, fixtures, and all tangible personal property now or hereafter owned, leased, or operated by the Authority.

~~(h)(j)~~ “Airport Rules and Regulations” shall mean the rules and regulations as set forth in Northern Mariana Islands Administrative Code (NMIAC) Subchapter 40-10.1 and subsequent amendments thereto.

~~(m)(k)~~ “Airport System” shall mean all Airports owned and operated by the Authority and which includes Francisco C Ada/Saipan International Airport, Benjamin Taisacan Manglona International Airport, and Tinian International Airport, together with all appurtenances thereto, structures, buildings, fixtures, and all tangible personal property now or hereafter owned, leased, or operated by the Authority.

~~(h)(l)~~ “Authority” shall mean the Commonwealth Ports Authority, a public corporation created, organized and existing under Title 2, Section 2101 et seq., Commonwealth Code, Commonwealth of the Northern Mariana Islands.

~~(e)(m)~~ “Bond Resolution” shall mean Resolution No. 02-98, dated March 4, 1998, as supplemented and amended from time to time authorizing the issuance by the Authority of Bonds or other financing obligations with respect to the Airport System or any successor resolution, indenture, or trust agreement.

~~(p)(n)~~ “Bonds” shall mean any bonds or other financing instrument or obligation of the Authority, other than Subordinated Bonds, issued for the purposes of improving the Airport System, all pursuant to the Bond Resolution.

~~(q)(o)~~ “Capital Charges” shall mean with respect to any Fiscal Year, the sum of Debt Service (exclusive of capitalized interest) and Other Debt Service payable by Authority in that Fiscal Year; plus Debt Service Coverage.

~~(p)(p)~~ “Common Use Formula” shall mean that formula which prorates one hundred percent (100%) of the cost of a ~~service or~~ Common Use space within a Terminal based on the ratio of each Scheduled Air Carrier’s Enplaned Passengers using the service or space at an Airport during the month, to the total of all Enplaned Passengers using the service or space at an Airport during the month. Notwithstanding the foregoing, Authority shall, after completion of any promotional offering, adjust the computation to reflect enplanements of additional Scheduled Air Carriers at an Airport or after the deletion of a Scheduled Air Carrier at an Airport.

~~(s)(q)~~ “Common Use Premises” shall mean space managed by Authority that may be made available to an Airline from time to time for use in common with other Airlines, as assigned by the Executive Director, subject to these Airport Rules and Regulations.

~~“Cost and Revenue Centers” shall mean those areas of functional activities of an Airport used for the purposes of accounting for Revenues, Operation and Maintenance Expenses, and Capital~~

Charges:

~~(t)~~(r) “Cost Centers” shall mean those areas or functional activities of an Airport used for the purposes of accounting for Operation and Maintenance Expenses and Capital Charges.

~~(t)~~(s) “Debt Service” shall mean with respect to any series of Bonds, the total, as of any particular date of computation and for any particular period or year, of the aggregate amount required pursuant to the Bond Resolution to be deposited during such period or year in the Bond Fund, as that term is defined in the Bond Resolution.

~~(v)~~(t) “Debt Service Coverage” shall mean one hundred and twenty-five percent (125%) of the debt service payable in each Fiscal Year as stated in Section 6.11 of the ~~Bond~~-Indenture (adjusted as may be permitted under the ~~Bond~~-Indenture).

~~(w)~~(u) “Deplaned Passenger” shall mean any passenger disembarking an aircraft at a Terminal, including any such passenger that shall subsequently board another aircraft of the same or a different Air Transportation Company or the same aircraft, previously operating under a different flight number.

~~(x)~~(v) “Enplaned Passenger” shall mean any passenger boarding an aircraft at a Terminal, including any such passenger that previously disembarked from another aircraft of the same or a different Air Transportation Company or from the same aircraft, previously operating under a different flight number.

~~(y)~~(w) “Executive Director” shall mean the Executive Director of the Authority or his duly authorized representative.

~~“Extraordinary Coverage Protection” shall mean the requirements set forth in Section § 40-10.1-120~~

~~(z)~~(x) “FAA” shall mean the Federal Aviation Administration, or its authorized successors.

~~(aa)~~(y) “Federal Aviation Regulations” shall mean the United States Federal Aviation Regulations, as currently amended, and promulgated by the United States Federal Aviation Administration.

~~(bb)~~(z) “Fiscal Year” shall mean the annual accounting period of the Authority for its general accounting purposes which is the period of twelve consecutive months, ending with the last day of September of any year.

~~(cc)~~(aa) “Fuel handling” shall mean the transportation, delivery, fueling, and draining of fuel or fuel waste products.

~~(dd)~~(bb) “Fuel storage area” shall mean and include any portions of the airport designated temporarily or permanently by the Authority as areas in which gasoline or any other type of fuel may be stored, including but not limited to, gasoline tank farms and bulkheads, piers, or wharves at which fuel is loaded.

~~(cc)~~ (cc) “Gate” shall mean means the area(s) on the secure side of a Terminal that transition the passenger from the Terminal to an Airline’s aircraft and includes a holdroom, landing bridge, pre-conditioned air and power systems.

~~(ee)(dd)~~ (dd) “General Aviation” shall mean all phases of aviation other than military aviation and scheduled or non-scheduled commercial air carrier operations.

~~(ff)(ee)~~ (ee) “General Aviation Operator” shall mean a Person conducting civil aviation operations other than scheduled or non-scheduled Air Transportation Companies.

~~(gg)(ff)~~ (ff) “Hazardous Material” shall mean: (1) any oil petroleum products, flammable substances, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other wastes, materials or pollutants which pose a hazard to the Airport System premises or to the safety and/or health of persons on or about the Airport System and/or cause an Airline Assigned Area to be in violation of federal, Commonwealth, or local laws governing or regulating hazardous materials; (2) asbestos in any form, urea formaldehyde foam insulation, transformers or other equipment which contains dielectric fluid containing regulated levels of polychlorinated biphenyls, or radon gas; (3) any chemical, material or substance defined as or included in the definition of “hazardous substances”, “hazardous waste”, “hazardous material”, “extremely hazardous waste”, “restricted hazardous waste”, “toxic substance” or similar words under any applicable local, Commonwealth, or federal laws, or any regulations promulgated pursuant thereto, including, but not limited to: the Comprehensive Environmental Response, Compensation Act of 1980 (CERCLA), as amended, 42 U.S.C. §§ 9601 et seq; the Hazardous Materials Transportation Act, as amended, 49 U.S.C. §§ 5101, et. seq.; the Federal Water Pollution Control Act (CWA), 33 U.S.C. §§ 1251 et. seq.; the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. §§ 6901 et. seq.; the Toxic Substances Control Act (TSCA), as amended, 15 U.S.C. §§ 2601 et. seq; or defined by the US DOT Pipeline and Hazardous Materials safety admin in 49 Code of Federal Regulations (CFR) 172.101. Also applicable are the Commonwealth of the Northern Mariana Islands (CNMI) BECQ Harmful Substance & Hazardous Waste Regulations; Pesticide and Used Oil Regulations; Storage Tanks: Aboveground & Underground Regulations and Solid Waste Management Regulations; (4) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by government authority, and which may pose a hazard to the health and safety of occupants of the Airport System, and or to any person entering upon the Airport System or adjacent property; and/or (5) any other chemical, material or substance which may pose a hazard to the environment or persons.

~~(hh)(gg)~~ (gg) “Indenture” shall mean that certain bond indenture dated March 1, 1998 authorizing the issuance of \$20,050,000.00 Senior Series A, Airport System Revenue Bonds, authorized by the Bond Resolution, and successor indentures.

~~(ii)(hh)~~ (hh) “Landing Area” shall mean those portions of an Airport provided for the landing, taking off, and taxiing of aircraft, including without limitation, approach and turning zones, aviation or other easements, runways, taxiways, runway and taxiway lights, and other appurtenances in connection therewith.

~~(jj)~~(ii) “Landing Fee” shall mean a fee expressed in tenths of a cent per thousand pounds of the Maximum Gross Landed Weight of each type of Airline’s aircraft and shall be multiplied by the total of all Maximum Gross Landed Weight for all Revenue Landings of each type of aircraft landed at the Airport System by Airline as further specified in Section 40-10.1-1205.

~~(kk)~~(jj) “Letter of Authorization” shall mean a letter issued by the Authority which constitutes a permit by the Authority authorizing an Air Transportation Company with the requisite federal regulatory approvals to conduct Air Transportation Business at an Airport or Airports and to use and occupy certain premises at an Airport or Airports in compliance with the terms of the Airport Rules and Regulations.

~~(kk)~~(kk) “Maintenance and Operation Expenses” shall mean “Maintenance and Operation Expenses” as defined in the Indenture including the current expenses, paid or accrued, of operation, maintenance, and ordinary current repairs of an Airport and shall include, without limiting the generality of the foregoing, insurance premiums, administrative expenses of the Authority relating solely to said Airport, including engineering, architectural, legal, consultants, and accounting fees and expenses as shall be in accordance with sound accounting practice. “Maintenance and Operation Expenses” shall not include any allowance for depreciation or renewals or replacements or obsolescence of capital assets of the Authority, or any operation and maintenance expenses of Special Purpose as that term is defined in the Bond Resolution. facilities buildings where the lessees thereof are obligated to pay such operation and maintenance expenses.

~~(ll)~~(ll) “Maximum Gross Landed Weight” shall mean the maximum gross certificated landing weight in one-thousand-pound units for which each aircraft operated at an Airport by Airline as certificated by the FAA ~~or its successor.~~

~~(mm)~~(mm) “Net Requirement” shall mean, with respect to a Terminal, the direct and indirect Maintenance and Operation Expenses for said Terminal and reserves required by the Indenture, plus its proportional share of Capital Charges, less reimbursements; with respect to an Airfield, the direct and indirect Maintenance and Operation Expenses for the Airfield and reserves therefore, plus the proportional share of Capital Charges, as further specified in Sections 40-10.1-1205 and 40-10.1-1206.

~~(nn)~~(nn) “Operational Area” shall mean any place on an Airport not leased or demised to a Person for exclusive use, and not a public area, highway, or public vehicular area. Operational Areas include runways, public taxiways, Ramp Areas, Public cargo ramp and apron areas, public aircraft parking and storage areas, Terminal Aircraft Aprons, and Fuel storage areas.

~~(oo)~~(oo) “Operator” shall mean the owner of an aircraft or any person who is using an aircraft for the purpose of operation by himself or his agents.

~~(pp)~~(pp) “Other Debt Service” shall mean any principal, interest, premium, and other fees and amounts, either paid or accrued, on Other Indebtedness of Authority.

~~(ff)(qq)~~ “Other Indebtedness” shall mean any debt incurred by Authority for Airport System purposes that is outstanding and not authenticated and delivered under and pursuant to the Indenture.

~~(ss)(rr)~~ “Passenger Facility Charge” or “PFC” shall mean the fees authorized by 49 U.S.C. 40117 and regulated by 14 CFR Part 158 as such statute and regulations currently exist or as they may be amended.

~~(tt) — “Per Use Fee” shall mean a charge assessed by the Authority for each use of an unassigned aircraft gate facility and / or an unassigned ticket counter for a period not to exceed two (2) hours. The gate facility includes holdroom, loading bridge, pre-conditioned air, and 400 Hertz (Hz) power systems. A ticket counter shall include one 2-position ticket counter. Per Use Fees shall not apply to the use of gate facilities or ticket counters that are included in an Air Transportation Company’s Preferential Use Premises pursuant to a Letter of Authorization issued by the Authority. The location of an aircraft gate facility and / or ticket counter will be assigned by the Executive Director and will be contingent upon the size of the aircraft operating at the Airport.~~

~~(uu) —~~
~~(vv)(ss) —~~ “Permission” or “permit” shall mean permission granted by the Executive Director unless otherwise herein specifically provided. “Permission” or “permit” whenever required by this chapter shall always mean written permission, except that verbal permission in specific instances may be granted under special circumstances where the obtaining of written permission would not be practicable.

~~(ww)(tt) —~~ “Person” shall mean any individual, firm, partnership, co-partnership, corporation, trust association, or company (including any assignee, receiver, trustee, or similar representatives thereof) or the United States of America, any state or political subdivision thereof, any foreign government, or the United Nations.

~~(xx)(uu) —~~ “Preferential Use Premises” shall mean those portions of a Terminal and Terminal Aircraft Apron to which an Airline has been assigned priority rights over all other users, subject to the provisions of these Airport Rules and Regulations.

~~(yy)(vv) —~~ “Public aircraft parking and storage area” shall mean that area of an Airport to be used for public aircraft parking and storage space for the parking and storing of aircraft, or for the servicing of aircraft with fuel, lubricants, and other supplies, or for making emergency repairs to aircraft, or for any or all such purposes.

~~(zz)(ww) —~~ “Public cargo ramp and apron area” shall mean and include any portions of an Airport designated and made available temporarily or permanently by the Authority for the loading or unloading of, cargo, freight, mail, and supplies, to and from aircraft, and for performing those operations commonly known as “ramp service,” and for performing inspections, minor maintenance, and other services upon or in connection with aircraft incidental to performing “ramp service,” but shall not mean those areas designated for the storage of cargo, freight, mail, and supplies, nor those areas designated for the purpose of performing fueling and other ramp services, or those areas designated for the purpose of parking operations.

~~(aaa)~~(xx) “Public Space” shall mean all utility rooms, duct-ways, janitorial rooms and closets, stairways, hallways, elevators, escalators, entranceways, public or common use lobbies and areas, public toilet areas and other areas used for the operation, maintenance, or security of a Terminal, even if used solely by Authority.

~~(bbb)~~(yy) “Public taxiway” shall mean and include any public taxiways designated for the purpose of the ground movement of aircraft on an Airport.

~~(eee)~~(zz) “Public vehicular parking area” shall mean and include any portion of an Airport designated and made available, temporarily, or permanently, by the Authority for the parking of vehicles.

~~(ddd)~~(aaa) “Ramp Area” shall mean the aircraft parking and maneuvering areas adjacent to a Terminal, and shall include within its boundaries all Terminal Aircraft Aprons.

~~(bbb)~~ “Rentable Premises” means the sum of the total square footage of assigned and unassigned Preferential Use Premises, Common Use Premises and other space within the Terminals that are available for rent by Airlines or other users of the Terminals.

~~(eee)~~(ccc) “Revenue Landing” shall mean any aircraft landing by Airline at an Airport for which Airline receives revenue.

~~(fff)~~ “Revenues” shall mean Revenues as defined in the Indenture including income accrued by the Authority in accordance with generally accepted accounting principles, including investment earnings, from or in connection with the ownership or operation of the Airport System or any part thereof, or the leasing or use thereof, but do not include PFC’s except as authorized for the payment of Debt Service and Debt Service Coverage.

~~(eee)~~—

~~(bbb)~~(ddd) “Rota Terminal” shall mean the Benjamin Taisacan Manglona International Airport terminal building, associated curbside entrance areas, adjoining landscaped areas, and aircraft aprons at the Benjamin Taisacan Manglona International Airport terminal building.

~~(iii)~~(eee) “Runway area” shall mean and include any portion of the paved runway as well as the clear zones and field area to the lateral clearance lines of said runway.

~~(iii)~~(fff) “Saipan Commuter Terminal” shall mean the Francisco C. Ada/Saipan International Airport terminal building for passengers flying within CNMI, associated curbside entrance areas, adjoining landscaped areas and aircraft aprons at the Francisco C. Ada/Saipan International Airport terminal building for passengers flying within CNMI as well as to and from Guam.

~~(kkk)~~~~(ggg)~~ “Saipan Main Terminal” shall mean the Francisco C. Ada/Saipan International Airport international passenger terminal building, associated curbside entrance areas, and aircraft aprons at the Francisco C Ada/Saipan International Airport terminal building.

~~(HH)~~~~(hhh)~~ “Scheduled Air Carrier” shall mean any Air Transportation Company performing or desiring to perform, pursuant to published schedules, seasonal or non-seasonal commercial air transportation services over specified routes to and from an Airport or Airports and holding the necessary authority from the appropriate federal or Commonwealth agencies to provide such transportation; and any Air Transportation Company authorized to use the Airports under a Letter of Authorization.

~~(mmm)~~~~(iii)~~ “Sightseeing flights” shall mean flights on which passengers are carried for hire, and which originate and terminate at an Airport with no intermediate stops other than emergency stops.

~~(nnn)~~~~(jii)~~ “Shall” means mandatory and not merely directory.

~~(ooo)~~~~(kkk)~~ “Subordinated Bond Indenture” shall mean an indenture or trust agreement subordinated to the Indenture authorizing the issuance by Authority of Subordinated Bonds, as such may be supplemented or amended from time to time.

~~(ppp)~~~~(lll)~~ “Subordinated Bonds” shall mean any bonds or other financing instrument or obligation subordinate to the Bonds, issued pursuant to any Subordinated Bond Indenture.

~~(qqq)~~~~(mmm)~~ “Terminal Aircraft Aprons” shall mean those areas of an Airport— that are designated for the parking of passenger aircraft and support vehicles, and the loading and unloading of passenger aircraft.

~~(rrr)~~~~(nnn)~~ “Terminal” shall mean the Francisco C. Ada/Saipan International Airport Commuter Terminal Building and Temporary Commuter area, Francisco C. Ada/Saipan International Airport Main Terminal Building, Benjamin Taisacan Manglona International Airport Terminal Building or Tinian Terminal Building and appending structures, law enforcement and security activities, paging systems, multi-user flight information display systems, and terminal roadway systems including entrance/exit/recirculating roadways, terminal curb front, and taxi/bus/staging areas, but excluding roadways exclusively serving the public parking areas.

~~(sss)~~~~(ooo)~~ “Terminal Cost ~~and Revenue~~ Center” shall include all Capital Charges, and all direct, indirect, and general administrative Operation and Maintenance Expenses, ~~and Revenues~~ for a Terminal.

~~(ppp)~~ “Terminal Rental Rate” shall mean the fees and charges imposed rates calculated in accordance with Section 40-10.1-1206.

~~(ttt)~~~~(qqq)~~ “Ticket Counter” shall mean those areas in a Terminal designated by the Authority on a per square foot basis for the use of a Terminal by Airlines for ticketing and processing passengers and their baggage, and similar activities, including associated queueing areas.

~~(uuu)~~(rrr) ____ “Tinian Terminal” shall mean the Tinian International Airport terminal building, associated curbside entrance areas, adjoining landscaped areas, and aircraft aprons at the Tinian International Airport.

~~(vvv)~~(sss) ____ “Transportation Security Administration” or “TSA” shall mean the Office of Homeland Security and Transportation Security Administration, or their authorized successors.

(ttt) ____ “Turn” means the arrival and departure of an aircraft from a Gate.

(uuu) ____ “Turn Fees” shall mean a charge assessed by the Authority for each use of an unassigned Gate or Ticket Counter for a period not to exceed two (2) hours, as further specified in Section 40-10.1-1206. Turn Fees shall not apply to the use of Gates Ticket Counters that are included in an Airline’s Preferential Use Premises pursuant to a Letter of Authorization. The location of a Gate or Ticket Counter will be assigned by the Executive Director and will be contingent upon the size of the aircraft operating at the Airport.

~~(www)~~(vvv) ____ “Vehicles” shall mean and include automobiles, trucks, buses, motorcycles, horse-drawn vehicles, bicycles, push carts, and any other device in or upon or by which any person or property is or may be transported, carried, or drawn upon land, aircraft excluded.

~~(xxx)~~(www) ____ The words “ingress” and “egress” shall refer to the use of an area, or portion of an Airport, as a means of going from one place to another without undue delay.

Modified, 1 CMC § 3806(d), (f), (g).

History: Amdts Adopted 39 Com. Reg. 39216 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39062 (Dec. 28, 2016); Adopted 14 Com. Reg. 9534 (Aug. 15, 1992); Proposed 14 Com. Reg. 9079 (Mar. 15, 1992).

Commission Comment: In subsections (c) and (o), the Commission moved a period and a comma, respectively, inside of the closing quotation marks to correct manifest errors. The Commission inserted a close quotation mark after the word “permission” in subsection (k) pursuant to 1 CMC § 3806(g). In subsection (u), the Commission inserted an opening quotation mark before “egress.”

§ 40-10.1-1201 Airline Fees and ChargesRate Methodology and Adjustments

~~(a) ____ Airline shall pay Authority for use of Airline Assigned Area, and fees and charges for the other rights, licenses, and privileges granted under its Letter of Authorization including rentals, fees, and charges payable by Airline with respect to the Airfield Cost and Revenue Center and Terminal Cost and Revenue Center. The rentals, fees, and charges for each of these Cost and Revenue Centers shall be equal to the Airline’s share of the Net Requirement in each respective area of the Airport. Landing Fees and Terminal Rental Rates will be calculated annually unless otherwise modified by the Authority as provided herein.~~

~~(b) ____ Accounting Procedure.~~

- ~~1. For purposes of assigning and allocating costs, the Authority shall utilize generally accepted accounting practices utilized for airports operating as an enterprise fund, and include only those charges properly attributable to the Airport System.~~
- ~~2. All rates and charges shall be at reasonable and non-discriminatory rates and adjusted annually based on Authority's cost, as defined in the Airport Rules and Regulations, of the facility or service provided to and used by Airline.~~
- ~~3. Indirect and general administrative costs shall be allocated in a reasonable, transparent cost allocation formula calculated consistently for all cost centers of the Authority.~~

~~(c) Cost Excluded:~~

- ~~1. The portion of capital costs of facilities and improvements paid by the Federal government or other governmental gifts or grant-in-aid, and depreciation, shall not be included in the cost factors in determining the establishment of rates and charges.~~

~~1. Insufficiency of Airport System Revenues, Adjustment of Fees and Charges~~

- ~~1. If at any time the Authority determines that Airport Revenues are or will be insufficient to pay, when due, all principal of and interest and premium on, any Bonds or other instruments of indebtedness issued by the Authority in connection with the Airport System, any requirements of the Airport Indenture or any other expense or cost incidental or necessary to, or arising out of, the maintenance or operation of the Airport System, including without limitation, emergency repairs or expenses, the costs of defending, settling, or satisfying any litigation which relates to the Airport System, or any aspect thereof, or to compensate for the loss of Airport System Revenue, the Authority may, upon thirty (30) days' notice to Airline, increase the fees and charges to such amount as is sufficient to assure that all such items, expenses, and costs shall be paid in full, when due, solely from Airport System Revenues.~~
- ~~2. Airline shall pay Extraordinary Coverage Protection payments in any Fiscal Year in which the amount of Revenues less Operating and Maintenance Expenses is projected to be less than one hundred twenty-five percent (125%) of the Debt Service requirement. Any amounts which must be collected for such Extraordinary Coverage Protection payments will be allocated to Cost and Revenue Centers within the Airline Supported Areas on the basis of the Net Requirement of such Cost and Revenue Centers.~~

(a) **Airline Rents, Fees, and Charges.** The fees and rents to be charged by the Authority and paid by Airlines operating at the Airports for their use of the Airfields and the Terminals will be calculated using the compensatory rate-setting methods set forth in this Part 1200 (the "Rate Methodology"). In calculating the revenue requirements used to derive each of these kinds of rates and charges, the Authority shall exclude any cost (net of the cost of collection) that (a) has been reimbursed or covered by government grants or PFC's, (b) has been reimbursed or covered by any insurance recovery, condemnation proceeds or other third-party payment, or (c) has been reimbursed or is required to be reimbursed to the Authority by an individual Airline in connection with projects undertaken by the Authority at the request and for the benefit of an individual Airline. For each Fiscal Year, the Authority shall develop budgeted Landing Fees, Terminal Rental Rates, Common Use Charges and Per Use Fees (collectively, the "Airline Rents, Fees, and Charges"). Illustrative calculations of Airline Rents, Fees, and Charges are provided in Exhibit X.

(b) **Mid-Year Adjustments.** If it appears to the Authority on the basis of information it is able to accumulate during the course of any Fiscal Year that the budgeted Capital Charges and Maintenance or Operation Expenses or projected levels of Airline activity it has used to calculate the Airline Rents, Fees, and Charges set forth in the Rate Methodology are likely to vary significantly (higher or lower) from actual results, the Authority may make adjustments to such rates and charges at mid-year or at such other time during the calendar year (a) as the need for such an adjustment becomes apparent to the Authority or (b) the variance between the budgeted Capital Charges and Maintenance and Operation Expenses or projected levels of Airline activity and actual results is expected to be ten percent (10%) or more. The Authority shall provide Airlines operating at the Airports with at least thirty (30) days advance written notice ("Mid-Year Adjustment Notice") of any adjustments to be made under this Section 1.02.

(c) **Year-End True-Up.** Within one hundred eighty (180) days after completion of the audit for the preceding Fiscal Year, the Authority will recalculate the Airline Rents, Fees, and Charges as set forth in this Rate Methodology on the basis of actual Capital Charges and Maintenance and Operation Expenses, Airline activity and other factors affecting the prescribed calculations and shall determine the amount of any overpayment (credit) or underpayment (debit) due to or from Airline. Any resulting credit will be issued to Airline, and any resulting debit will be invoiced to and payable by Airline. Airline may request that the Authority issue a payment to Airline, instead of a credit, for all or a portion of any overpayment. Any such request must be made in writing to the Authority and the Authority shall submit a payment for the amount requested within 90 days of receipt of the request.

(d) **Cost Centers.** To allocate Capital Charges and Maintenance and Operation Expenses, the following Centers shall be utilized by Authority:

(1) **Direct Cost Centers.** Includes Airfield, Saipan Main Terminal, Saipan Commuter Terminal, Rota Terminal, Tinian Terminal and Non-Airline and are defined below:

(a) Airfield. The Airfield cost center includes the portion of the Airports provided for the landing, taking off, and taxiing of aircraft, including runways, taxiways, approach and runway protection zones, safety areas, infield areas, landing and navigational aids, and land areas required by or related to aeronautical use of the Airports.

(b) Saipan Main Terminal. The Saipan Main Terminal cost center includes the Saipan International Airport main terminal passenger building and associated curbside entrance areas and adjoining landscaped areas. This cost center also includes the aircraft aprons at the Main Terminal.

(c) Saipan Commuter Terminal. The Commuter Terminal cost center includes the Commuter Terminal building and associated curbside entrance areas, and aircraft aprons at the Commuter Terminal.

(d) Rota Terminal. The Rota Terminal cost center includes the Rota Terminal building, associated curbside entrance areas, and aircraft aprons at the Rota Terminal.

(e) Tinian Terminal. The Tinian Terminal cost center includes the Tinian Terminal building, associated curbside entrance areas, and aircraft aprons at the Tinian Terminal.

(f) Non-Airline. The Non-Airline cost center includes all structures and areas other than those included in the Airfield, Saipan Main Terminal, Saipan Commuter Terminal, Rota Terminal and Tinian Terminal.

(2) Indirect Cost Centers. Includes ARFF, Security, Administrative, Accounting and AAS:

(a) ARFF. The ARFF cost center includes all aircraft rescue and firefighting functions of the Airport System.

(b) Security. The Security cost center includes all functions of the Airport System related to security.

(c) Administrative. The Administrative cost center includes the administrative functions of the Airport System.

(d) Accounting. The Accounting cost center includes accounting functions of the Airport System.

(e) AAS. The AAS cost center includes weather observation functions of the Airport System.

To calculate Airline Rents, Fees, and Charges, the Authority shall account for and allocate annual Maintenance and Operation Expenses and Capital Charges to the Direct Cost Centers and the Indirect Cost Centers. The Maintenance and Operation Expenses and Capital Charges allocated to the Indirect Cost Centers will then be allocated to the Direct Cost Centers based on cost causation principles and airport industry standards.

§ 40-10.1-1205 Landing Fees

(a) Landing Fees. Each Airline shall pay Landing Fees for its use of the Airfields within the Airport System based on its Maximum Gross Landed Weight at the Airports during the Fiscal Year. The Landing Fees effective October 1st of each Fiscal Year shall be determined according to the rate-setting method set forth in this Section 40-10.1-1205(a~~7~~—).

(1) Airfield Net Requirement. The Authority shall calculate the Airfield Net Requirement as follows for each Fiscal Year:

(a) the sum of Maintenance and Operation Expenses and Capital Charges allocable to the Airfields in the Airport System; *minus*

(b) any federal, State, or local grants or PFCs that are allocable to the Airfields in the Airport System.

(2) Calculation of Landing Fees. The Authority shall calculate the Average Landing Fee for each Fiscal Year by dividing by the cumulative Maximum Gross Landed Weight of all Airlines in the Airport System for the Fiscal Year. The Authority shall then calculate a Saipan Main Terminal Landing Fee and a Commuter Terminal Landing Fee such that the Commuter Terminal Landing Fee is sixty percent (60%) of the Saipan Main Terminal Landing Fee. Aircraft utilizing the Saipan Main Terminal shall pay the Saipan Main Terminal Landing Fee and Aircraft utilizing the Saipan Commuter Terminal or landing at Rota Airport or Tinian Airport shall pay the Commuter Terminal Landing Fee.

(4)(3) Payment of Landing Fees. Each Airline shall pay monthly to the Authority the applicable Landing Fees for Revenue Landings for the preceding month: upon receipt of invoice from the Authority. Airline's Landing Fees shall be determined as the product of the applicable Landing Fee rate for the period, and Airline's total landed weight for the month. Airline's landed weight for the month shall be determined as the sum of the products obtained by multiplying the Maximum Gross Landed Weight of each type of Airline's aircraft by the number of Revenue Landings of each said aircraft during such month.

~~(2)~~ —

(3)(4) (b) Exemptions. Exempted from paying landing fees are diplomatic, U.S. military, and Mariana Islands government aircraft, and any other aircraft operator which has a valid written agreement with the Authority, which provides for landing fees other than as provided for in this section.

Modified. 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 21 Com. Reg. 16803 (June 23, 1999); Amdts Proposed 21 Com. Reg. 16693 (Apr. 19, 1999); Adopted 14 Com. Reg. 9534 (Aug. 15, 1992); Proposed 14 Com. Reg. 9079 (Mar. 15, 1992).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

The 1999 amendments amended and readopted sections (a), (b) and (c). The 1999 amendments provided: "The foregoing amendments to Part 12: Schedule of Fees and Charges of the Airport Rules and Regulations shall become effective March 1, 2000. Until then, the existing Schedule of Fees and Charges shall apply." 21 Com. Reg. at 16700 (April 19, 1999).

§ 40-10.1-1206 Terminal Rentals

(a) (1) Airline's Terminal Rental Rates. Each Airline shall be determined as the sum of Airline's rentals pay rent and fees for Preferential Use and Premises, Common Use Premises. Airline's rental payment for Preferential Charges and Per Use Premises shall be determined as fees for its use of the Terminals in the sum of Airport System based on the products obtained by multiplying the rental

~~rate for the period, by the amount of the corresponding type of space assigned to Airline as Preferential Use Premises.~~

~~Total Terminal rentals for Common Use Premises shall be calculated as the product of the Rental Rates. The Terminal Rental rate for the period, and the amount Rates effective October 1st of each category of Common Use Premises. Airline's share of the total Fiscal Year shall be determined according to the rate-setting method set forth in this Section 40-10.1-1206(a).~~

~~(1) Terminal Complex rentals due Net Requirement. The Authority shall calculate the Terminal Net Requirement as follows for each month Fiscal Year:~~

~~(a) the sum of Maintenance and Operation Expenses and Capital Charges allocable to the Terminals in the Airport System; minus~~

~~(b) any federal, State, or local grants or PFCs that are allocable to Terminals in the Airport System.~~

~~(2) Calculation of Terminal Rental Rates. The Authority shall calculate the Average Terminal Rental Rate by dividing the Terminal Net Requirement by the square footage of the Rentable Premises. The Authority shall then calculate a Saipan Main Terminal Rental Rate and a Commuter Terminal Rental Rate such that the Commuter Terminal Rental Rate is forty percent (40%) of the Saipan Main Terminal Rental Rate. Airlines utilizing the Saipan Main Terminal shall pay the Saipan Main Terminal Rental Rate and Airlines utilizing the Saipan Commuter Terminal, Rota Terminal or Tinian Terminal shall pay the Commuter Terminal Rental Rate.~~

~~(b) Rent for Preferential Use Premises. Each Airline shall pay rent to the Authority for any Preferential Use Premises assigned to the Airline in its Letter of Authorization by multiplying the applicable Terminal Rental Rate by the total square footage of the assigned Preferential Use Premises.~~

~~(c) Common Use Charges. Each Airline shall pay the Authority Common Use Charges for its use of Common Use Premises in each Terminal. The Common Use Charges for each Terminal effective October 1st of each Fiscal Year shall be determined in accordance with according to the Common Use Formula.~~

For inclusion in the Common Use Formula, each Airline shall include in its monthly report of Enplaned Passengers and Deplaned Passengers the total number of Enplaned Passengers and Deplaned Passengers handled or otherwise accommodated by the Airline for its Affiliated Airline Companies and other Air Transportation Companies handled by Airline and not having a Letter of Authorization from the Authority that provides for the direct payment to Authority of appropriate charges for the use of Common Use Premises.

~~(b) — § 40-10.1-1210 — Public Apron and Operational Area Charge~~

~~(e) —~~

~~(d) — (a) — A minimum charge of twenty five dollars, or if greater, fifteen cents per thousand pounds maximum gross certified landing weight, as determined by FAA for said aircraft for each one hour, or fraction thereof, for parking on the public apron adjacent to the terminal building shall be paid to the Authority by the aircraft operator. The payment of which shall, in addition to permitting the parking of the aircraft, also permit the use by the aircraft crew and nonrevenue passengers of the public facilities in the departure building and on the airport (but not including use of the arrival building and in-bound baggage handling facilities). Maximum time limit for aircraft apron use is three and one-half hours, after which aircraft must be moved to the public aircraft parking area.~~

~~(e) —~~

~~(f) — (b) — Exceptions:~~

~~(g) — (1) — Diplomatic, U.S. military, and Mariana Islands government aircraft.~~

~~(h) — (2) — Notwithstanding the foregoing terminal rental charge schedule, the Authority may provide to airlines servicing the airports of the Commonwealth, an airline incentive fee discount on the terminal rental charges and other airport fees and charges based on a discount rate which the Authority determines to be reasonable and appropriate under the circumstances, taking into account the Authority's financial condition, the Authority's future revenue projection, the Authority's revenue bond debt service obligations, and its operations and maintenance expenses. The airline incentive fee discount program is intended to encourage the airlines to bring in more visitors to the Commonwealth and stimulate its economy.~~

~~(i) —~~

(d) **Turn Fees.** Each Airline shall pay the Authority Turn Fees for its use of certain Ticket Counters and Gates in the Saipan Main Terminal. The Turn Fees effective October 1st of each Fiscal Year shall be determined according to the rate-setting methods set forth in this Section 40-10.1-1206(d).

(1) Turn Fee for Ticket Counters. The Authority shall calculate the Turn Fee for Ticket Counters by:

(a) Dividing the aggregate amount of Ticket Counter space assigned to Airlines at the Saipan Main Terminal by the total number of Ticket Counters assigned to Airlines at the Saipan Main Terminal to derive the Average Assigned Ticket Counter Space: *then*

(b) Multiplying the Average Assigned Ticket Counter Space by the Saipan Main Terminal Rental Rate to derive the Average Ticket Counter Cost: *and then*

(c) First dividing the Average Ticket Counter Cost by 365 days to derive a daily rate and then dividing the daily rate by the three.

(2) Turn Fee for Gates. The Authority shall calculate the Turn Fee for Gates by:

(a) Multiplying the average square footage of a Holdroom B Gate by the Saipan Main Terminal Rental Rate to derive the Average Cost of a Holdroom B Gate; and then

(b) First dividing the Average Cost of a Holdroom B Gate by 365 days to derive a daily rate and then dividing the daily rate by the average number of Turns per day.

(3) Payments for Terminal Rents, Fees and Charges. Each Airline shall pay monthly to the Authority the applicable rent for Preferential Use Premises, Common Use Charges and Turn Fees for the preceding month upon receipt of invoice from the Authority.

§ 40-10.1-1210 [RESERVED]

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 23 Com. Reg. 17842 (Apr. 23, 2001); Amdts Proposed 23 Com. Reg. 17614 (Jan. 19, 2001); Amdts Adopted 21 Com. Reg. 16803 (June 23, 1999); Amdts Proposed 21 Com. Reg. 16693 (Apr. 19, 1999); Adopted 14 Com. Reg. 9534 (Aug. 15, 1992); Proposed 14 Com. Reg. 9079 (Mar. 15, 1992).

Commission Comment: The 1999 amendments amended subsections (a) and (b). The 1999 amendments provided: "The foregoing amendments to Part 12: Schedule of Fees and Charges of the Airport Rules and Regulations shall become effective March 1, 2000. Until then, the existing Schedule of Fees and Charges shall apply." 21 Com. Reg. at 16700 (April 19, 1999).

The 2001 amendments added new subsections (c) and (d) and amended and readopted subsections (a) and (b). Subsection (d) refers to all of § 40-10.1-1215. See 23 Com. Reg. at 17619 (Jan. 19, 2001).

§ 40-10.1-1220 International Arrival Facility Service Charge [RESERVED]

~~(a) — To cover the added costs of operations and maintenance of the arrival terminal building for international deplaned passengers at the Authority's Airport, a service charge calculated on the basis of two dollars and twenty cents per revenue passenger shall be paid to the Authority by every aircraft operator transporting international revenue passengers.~~

~~(b) — For purposes of this part, "international deplaned passengers" is defined as all those deplaned passengers at the Authority's Airport whose departure did not originate in Tinian, Rota, Guam, and whose destination is Saipan.~~

Modified, 1 CMC § 3806(c), (f).

History: Adopted 14 Com. Reg. 9534 (Aug. 15, 1992); Proposed 14 Com. Reg. 9079 (Mar. 15, 1992).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

§ 40-10.1-1225 ~~Aircraft Parking Charge~~[RESERVED]

~~Aircraft shall be parked at designated locations only.~~

~~(a) — For aircraft paying the public apron and Operational Area charges cited in § 40-10.1-1210, aircraft parking charges shall be three cents per thousand pounds maximum gross certified landing weight as determined by FAA for said aircraft for each twenty-four hours, or fraction thereof, beginning at the time the aircraft moves to the parking area from the public apron.~~

~~(b) — For aircraft not requiring use of the public apron and thus not subject to a charge thereof, aircraft parking charges shall be a minimum of five dollars, or three cents per thousand pounds for each twenty-four hours, or fraction thereof, thereafter.~~

~~(c) — Monthly rates shall be twenty-two times the daily rate. All such charges shall be paid by the aircraft operator to the Authority prior to departure of the aircraft from the assigned parking position.~~

~~(d) — Locally based aircraft parked in areas designated by the Executive Director for such purpose shall pay fifteen dollars per month, payable in advance.~~

~~(e) — Exceptions:~~

~~(1) — Diplomatic, U.S. military, and Mariana Islands government aircraft.~~

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

History: Adopted 14 Com. Reg. 9534 (Aug. 15, 1992); Proposed 14 Com. Reg. 9079 (Mar. 15, 1992).

Commission Comment: The final paragraph was not designated. The Commission designated it subsection (e).

In subsection (b), the Commission changed “hall” to “shall” to correct a manifest error.

§ 40-10.1-1230 ~~In-transit Passenger Service Charge~~[RESERVED]

~~(a) — Any operator using the airport for an in-transit stop (i.e., not involving airport-originating or terminating passengers) shall pay a service charge of a minimum of ten dollars or, if greater, a service charge calculated on the basis of thirty-five cents for each in-transit passenger to cover the costs of operating and maintaining the public-use portion of a Terminal utilized by said in-transit passengers.~~

~~(b) — Exceptions:~~

~~(1) — Diplomatic, U.S. military, and Mariana Islands government aircraft.~~

Modified, 1 CMC § 3806(c), (e), (f).

History: Adopted 14 Com. Reg. 9534 (Aug. 15, 1992); Proposed 14 Com. Reg. 9079 (Mar. 15, 1992).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

§ 40-10.1-1257 Amendment of Fees and Charges~~[RESERVED]~~

~~Authority may, in the manner provided in this Part 1200, amend any of the fees and charges specified in the Airport Rules and Regulations by Resolution. — Authority shall approve the budget and the corresponding amendments to such fees and charges by September 1st of each year. Except when Authority acts pursuant to the provision of Section 1201(d), all amendments of such fees and charges shall take effect at the beginning of the Authority's fiscal year (October 1st), and shall continue thereafter until revised in accordance with this Agreement.~~

EXHIBIT X

These exhibits are provided for illustrative purposes only.

Calculation of Landing Fees		
Airfield Expenses:		
Maintenance and Operation Expenses	A	\$4,836,057
Debt Service	B	\$448,737
Debt Service Coverage	C	\$112,184
Capital Charges	D	\$0
Total Airfield Maintenance and Operation Expenses	E=A+B+C+D	\$5,396,978
Less:		
PFC Revenues for Debt Service & Coverage	F	\$361,364
Federal Stimulus Funds for Debt Service	G	\$87,373
Federal Stimulus Funds for Maintenance and Operation Expenses	H	\$3,230,226
Net Airfield Requirement	I=E-F-G-H	\$1,718,015
Landed Weight (000):		
Saipan Main Terminal Landed Weight		207,989
Saipan Commuter Terminal Landed Weight		16,250
Rota Landed Weight		4,994
Tinian Landed Weight		11,256
Total Landed Weight	J	240,488
Landing Fees:		
Average Landing Fee (per 1,000 lbs.)	K=I/J	\$7.14

Calculation of Terminal Rental Rates		
Terminal Expenses:		
Maintenance and Operation Expenses	A	\$6,523,992
Debt Service	B	\$928,451
Debt Service Coverage	C	\$232,113
Capital Charges	D	\$0
Total Airport System Maintenance and Operation Expenses	E=A+B+C+D	\$7,684,555
Less:		
PFC Revenues for Debt Service & Coverage	F	\$158,525
Federal Stimulus Funds for Debt Service	G	\$769,926
Federal Stimulus Funds for Maintenance and Operation Expenses	H	\$5,573,822
Net Terminal Requirement	I=E-F-G-H	\$1,182,283
Total Airport System Terminal Rentable Premises (square feet)	J	232,916
Average Terminal Rental Rate (per square foot)	K=I/J	\$5.08

Calculation of Common Use Charges – Saipan Main Terminal		
Calculation of Common Use Charges:		
Total Saipan Main Terminal Common Use Premises (square feet)	A	71,210
Saipan Main Terminal Rental Rate (per square foot)	B	\$5.45
Total Common Use Charges - Saipan Main Terminal	C=AxB	\$387,865
Airline Percent of Total Enplanements:	D	%
Common Use Charges Allocated by Enplanement Market Share	E=CxD	\$

Calculation of Common Use Charges – Saipan Commuter Terminal		
Calculation of Common Use Charges:		
Total Saipan Commuter Common Use Premises (square feet)	A	1,005
Saipan Commuter Terminal Rental Rate (per square foot)	B	\$2.18
Total Common Use Charges - Saipan Commuter Terminal	C=AxB	\$2,190
Airline Percent of Total Enplanements:	D	%
Common Use Charges Allocated by Enplanement Market Share	E=CxD	\$

Calculation of Common Use Charges – Rota Terminal		
Calculation of Common Use Charges:		
Total Rota Common Use Premises (square feet)	A	4,254
Rota Terminal Rental Rate (per square foot)	B	\$2.18
Total Common Use Charges - Rota Terminal	C=AxB	\$9,274
Airline Percent of Total Enplanements:	D	%
Common Use Charges Allocated by Enplanement Market Share	E=CxD	\$

Calculation of Common Use Charges – Tinian Terminal		
Calculation of Common Use Charges:		
Total Tinian Common Use Premises (square feet)	A	1,527
Tinian Terminal Rental Rate (per square foot)	B	\$2.18
Total Common Use Charges - Tinian Terminal	C=AxB	\$3,329
Airline Percent of Total Enplanements:	D	%
Common Use Charges Allocated by Enplanement Market Share	E=CxD	\$

Calculation of Turn Fees - Ticket Counters		
Calculation of Turn Fee – Ticket Counters:		
Ground Floor - Total Assigned Ticket Counter Space (square feet)	A	1,800
Ground Floor - Total Assigned Airline Queuing Space (square feet)	B	4,975
Total Assigned Airline Ticket Counter Space (square feet)	C=A+B	6,775
Divided by Total Number of Assigned Ticket Counters	D	8
Average Leased Ticket Counter (square feet)	E=C/D	847
Average Terminal Rental Rate - Saipan Main	F	\$5.45
Cost of Average Ticket Counter	G=ExF	\$4,613
Divided by 365	H	365
Divided by 3 Turns	I	3
Turn Fee - Ticket Counters	J=G/H/I	\$4.21

Calculation of Turn Fees - Gates		
Calculation of Turn Fee - Gates:		
Second Floor - Average Holdroom B Gate Size (square feet)	A	6,109
Average Terminal Rental Rate - Saipan Main	B	\$5.45
Cost of Average Shared Gates	C=AxB	\$33,274
Average Loading Bridge Cost	D	\$96,000
Total Cost of Shared Gates	E=C+D	\$129,274
Divided by 365	F	365
Divided by 3 Turns	G	3
Turn Fee - Gates	H=E/F/G	\$118.06



Office of the Secretary
Department of Finance



P. O. Box 5234 CHRBSAIPAN, MP 96950 TEL.: (670) 664-1100 FAX: (670) 664-1115

Public Notice of Proposed Amendments to the Regulations for the
Department of Finance, Division Revenue and Taxation,
Business License Regulations

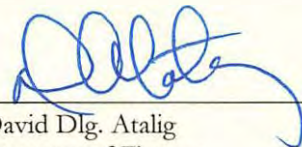
Notice of Intended Action: The Department of Finance, Division Revenue and Taxation approved the publication of the following amendments to its Business License Regulations. It intends to adopt these regulations as permanent, pursuant to the Administrative Procedure Act, 1 CMC § 9104(a). If adopted, these amendments will become effective ten days after publication of a Notice of Adoption in the Commonwealth Register. 1 CMC § 9105(b).

Authority: These amendments are promulgated under the authority set forth in the Commonwealth Code including, but not limited to: 1 CMC §§ 2553 and 2557; 4 CMC §§ 5611-5614

Terms and Substance: The purpose of the amendments to Business License Regulations Chapter 70-40.1 is to prescribe needful rules and procedures to carry out the intent and purpose of the laws of the Commonwealth of the Northern Mariana Islands administered by the Division of Revenue and Taxation.

Directions for Filing and Publication: These proposed amendments 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 regulations to David Dlg. Atalig, Secretary of Finance, via U.S. mail to the Department of Finance, P.O. Box 5234, CHRBSAIPAN Commercial Center, Saipan, MP 96950, or via hand delivery to the Office of the Secretary of Finance, Capitol Hill, Saipan, MP. Comments, data, views, or arguments are due within 30 days from the date of publication of this notice. 1 CMC § 9104(a)(2).

Submitted by: 
David Dlg. Atalig
Secretary of Finance


Date: 8/2/22

Received by: 
Mathilda A. Rosario
Special Assistant for Administration

Date: 08/04/22

Filed and Recorded by:  Date: 08-05-2022
~~Esther~~ R.M. San Nicolas
Commonwealth Registrar

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.


Edward Manibusan
Attorney General

Date: 8/4/2022

AMENDMENT:

Part 100 - Business License Requirements

§ 70-40.1-113 Fees

(a) Annual Business License Fees. The following annual fees shall be paid for each line of business upon submission of an application for a new business license or renewal application for an existing business license:

- (1) Agriculture, Forestry, Fishing & Hunting, \$100.00;
- (2) Mining, Quarrying, Oil & Gas Extraction, \$100.00;
- (3) Utilities, \$300.00;
- (4) Construction, \$100.00;
- (5) Manufacturing, \$100.00;
- (6) Wholesale Trade, \$100.00;
- (7) Retail Trade, \$100.00;
- (8) Information Industries, \$300.00;
- (9) Commercial Banking, \$500.00;
- (10) Offshore Banking, \$1000.00;
- (11) Other Depository and Non-Depository Credit Intermediation, \$300.00;
- (12) Securities, Commodity Contracts, Other Financial Investments, \$300.00;
- (13) Insurance Carriers/Companies, \$300.00;
- (14) Insurance Agencies, Brokerages and Other Insurance Related Activities, \$100.00;
- (15) Funds, Trust and Other Financial Vehicles, \$100.00;
- (16) Real Estate, \$100.00;
- (17) Rental & Leasing, \$100.00;
- (18) Professional, Scientific, and Technical Services, \$100.00;
- (19) Management of Companies and Enterprises, \$100.00;
- (20) Administrative & Support Services, \$100.00;
- (21) Waste Management & Remediation Services, \$300.00;
- (22) Educational Services, \$100.00;
- (23) Health Care & Social Assistance, \$300.00;
- (24) Accommodations, \$100.00;
- (25) Food Services & Drinking Establishments, \$100.00;
- (26) Other Services (Except Public Administration), \$100.00;
- (27) Temporary Business License. \$20.00;
- (28) Transportation and Warehousing Industries. \$300.00

(b) Other Fees. The following are other fees that may be imposed upon a business or applicant:

- (1) Late Filing Fee per Business License Certificate, \$10.00;
- (2) Duplicate License Fee per Business License Certificate, \$20.00;
- (3) Expedite Fee per Business License Certificate, \$20.00;
- (4) Amendment Fee for Change of Location per Business License Certificate, \$20.00;
- (5) Amendment Fee for Change of Business Name/DBA Name per Business License Certificate, \$20.00;

(6) Amendment Fee to Add a Business Name/DBA Name per Business License Certificate, \$20.00

(c) Temporary Business Licenses. Temporary business licenses shall only be issued for community and public events not lasting more than thirty consecutive days. Temporary business licenses cannot be transferred or renewed. Application requirements provided in § 70-40.1-105 do not apply to temporary business licenses. The application requirements for temporary business licenses shall be set forth in application forms prescribed by the Division of Revenue and Taxation.

(d) Calculating Fees for a Partial Year.

(1) Annual business license fees for obtaining a business license for an additional location or line of business shall be prorated based on calendar year quarters. New business licenses shall expire on the same date as existing business licenses and Applicants are required to pay 25% of the annual fee for the quarter in which the application is submitted, plus 25% for each quarter remaining through the quarter of expiration. Calendar year quarters are as follows:

1st Quarter: January 1st through March 31st

2nd Quarter: April 1st through June 30th

3rd Quarter: July 1st through September 30th

4th Quarter: October 1st through December 31st

(2) Example. A person has a business license to engage in retail trade at a Garapan location. The business license was issued on June 1, 2021, with an expiration date of May 31, 2022. On October 15, 2021, the person applies for a business license to engage in retail trade at a second location. The new business license for the second location would expire on the same date as the existing business license for the Garapan location, May 31, 2022. The fee due upon application for the new business license would be \$75 (\$25 for the quarter in which the application is submitted (4th quarter), plus \$25 for each of the two quarters remaining through the quarter of expiration (1st and 2nd quarters).

(3) Example. A person has a business license to engage in retail trade. The business license was issued on June 1, 2021, with an expiration date of May 31, 2022. On October 15, 2021, the person applies for a business license to engage in wholesale trade as an additional line of business. The new business license for the line of business would expire on the same date as the existing business license for retail trade, May 31, 2022. The fee due upon application for the new business license would be \$75 (\$25 for the quarter in which the application is submitted (4th quarter), plus \$25 for each of the two quarters remaining through the quarter of expiration (1st and 2nd quarters).



Office of the Secretary
 Department of Finance



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Arongorongoul Toulap reel Pommwol Liiwel ngáli Mwóghutughutúl

Bwulasiyol Finance, Division Revenue me Taxation,

Mwóghutughutúl Business License


Arongorong reel Mángemángil Mwóghut: Bwulasiyol Finance, Division Revenue me Taxation re átirow reel akkatééwowul liiwel kka e amwirimwiritiw ngáli Mwóghutughutúl Revenue me Taxation. Re mánagemángil rebwe adóptááli mwóghutughut kka bwe ebwe lléghló, sáangi Administrative Procedure Act, 1 CMC § 9104(a). Ngáre re adóptááli, ebwe bwunguló liiwel kkal llól seigh (10) ráál mwiril aal akkatééwow arongorong yeel me llól Commonwealth Register. 1 CMC § 9105(b).

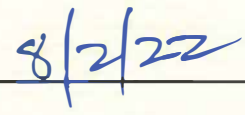
Bwángil: Liiwel kkal nge aa ffil reel fféerúl faal bwángil iye ebwe mmweteló mmwal llól Commonwealth Code ebwe bwal schuulong, nge ese yoor pilil ngáli, 1 CMC §§ 2553 me 2557; 4 CMC §§ 5611-5614.


Kkapsal me Aweewel: Bwulul liiwel ngáli Mwóghutughutúl Business License nge ebwe itittiw afal me mwóghut ngáli peiráágh me rebwe ayoora bwe ebwe weeweló enforcement reel alléghúl Commonwealth me Téél Falúw kka Efáng llól Marianas iye Division-il Revenue me Taxation re lemeli.

Afal reel Ammwelil me Akkatééwowul: Pommwol liiwel kkal nge ebwe akkatééwow me llól Commonwealth Register llól táilil pommwol me ffél mwóghutughut kka ra adóptááli (1 CMC § 9102(a)(1)) me ebwe appaschetá llól civic center me llól gobetnamento llól senatorial district, fengál reel English me mwáliyaasch (1 CMC § 9104(a)(1)).


Fóós: Schóó kka re mwuschel isiisilong iischil mánagemáng wóól pommwol mwóghutughut kkal rebwe iisch ngáli David DLG. Atalig, Sekkretóoriyal Finance, via U.S. mail ngáli Bwulasiyol Finance, P. O. Box 5234, CHRB Dandan Commercial Center, Saipan, MP 96950, ngáre bwughiló reel Bwulasiyol Sekkretóoriyal Finance, Asúngúl, Seipél, MP. Isiisilongol mánagemáng, data, views, ngáre angiiingi ebwe toolong llól eliigh (30) ráál mwiril aal akkatééwow arongorong yeel. 1 CMC § 9104(a)(2).

Isáliyalong: 
 David DLG. Atalig
 Sekkretóoriyal Finance

Ráál: 


Bwughiyal: 
Mathilda A. Rosario
Special Assistant ngáli Administration

Ráál: 08/04/22

Ammwelil: 
Esther ~~S.N. Nesbitt~~ R.M. San Nicolas
Commonwealth Register *rar*

Ráál: 08.05.2022

I alúghúlúgh, sáangi 1 CMC § 2153(e) me 1 CMC §9104(a)(3), bwe l ya takkal amwuri fischiiy me aa átirow mwóghutughut kkal bwe aa ffil reel fféerúl me legal sufficiency.


Edward Manibusan
Soulemelemil Allégh Lapalap

Ráál: 8/5/2022



Office of the Secretary
Department of Finance



P. O. Box 5234 CHRBSAIPAN, MP 96950

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

**Nutisian Publiku Put i Manmaproponi Na Regulasion Siha Para I
Dipattamentun I Finansiât, Dibision I Âpas Kontribusion,
Regulasion Lisensian Bisnis**

NUTISIA PUT I AKSION NI MA'INTENSIONA: I Dipattamentun i Finansiât, Dibision i Âpas Kontribusion ma'aprueba i publikasion i tinattiya na amendasion siha para iyon-niha Regulasion Âpas Kontribusion. Ma'intensiona para u ma'adapta esti siha na regulasion kumu petmanienti, sigun para i Âktun Administrative Procedures, I CMC § 9104(a). Kumu ma'adapta, esti siha na regulasion siempre mu ifektibu gi hâlum dies (10) dihas dispues di publikasion nu i Nutisian i Adaptasion gi hâlum i Rehistran Commonwealth. (I CMC § 9105(b))


ÂTURIDÂT: Esti na amendasion siha manmacho'gui gi pâpa' i aturidât ni mapega mo'na gi hâlum i Commonwealth Code kuntu, lao ti chi-ña para, I CMC § 2553, I CMC § 2557; 4 CMC §§ 5611-5614

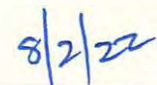
I TEMA YAN SUSTÂNSIAN I PALÂBRA SIHA: I intensiona i amendasion siha para i Regulasion Lisensian Bisnis gi Patti 70-40.1 para u ma'estaplesi i nisisidât na areklamentu yan manera siha ni para u kâtga huyung i intensiona yan puntu i lai siha giya Commonwealth gi Sangkattan na Islas Mariânas ni magubiebieta ni Dibision i Âpas Kontribusion.

DIREKSION PARA U MAPO'LU YAN MAPUPBLIKA: Esti i manmaproponi na amendasion siha debi na u mapupblika gi hâlum i Rehistran Commonwealth gi hâlum i seksiona ni maproponi yan nuebu na ma'adapta na regulasion siha (I CMC § 9102(a)(1)) yan u mapega gi hâlum i kumbinienti na lugât gi hâlum civic center yan gi hâlum ufisinan gubietnamentu siha gi hâlum distritun senadot, parehu Englis yan gi lingguâhin natibu (I CMC § 9104(a)(1)).

UPIÑON SIHA: I manintirisao na petsona siha siña manna'hâlum tinigin upiñon ni manmaproponi na regulasion siha para guatu as, David Dlg. Atalig, Sekretariun Finansiât via U.S. mail para Dipattamentun i Finansiât, P.O. Box 5234 CHRBSAIPAN, Dandan Commercial Center, Saipan, MP 96950, pat intrega hâlum gi Ufisinan i Sekretarian Finansiât, Capitol Hill, Saipan, MP. I upiñon, data, views, pat agumentu siha nisisita u fanhâlum gi hâlum trenta (30) dihas ginin i fetcha publikasion esti na nutisia. I CMC 9104(a)(2).

Nina'hâlum as:


David Dlg. Atalig
Sekretariun Finansiât


Fetcha

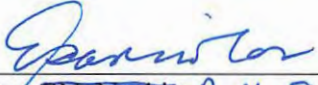
Rinisibi as:


Mathilda A. Rosario
Ispisiât Na Ayudânti Para Atministrasion

08/04/22

Fetcha

Pine'lu yan
Ninota as:


Esther ~~S.N. Nesbitt~~ R.M. San Nicolas
Rehistran Commonwealth

08.05.2022

Fetcha

Hu settifikao, sigun para 1 CMC § 2153(e) yan 1 CMC 9104(a)(3), na hu ribisa yan aprueba esti regulasion siha kumu para fotma yan ligât na sufisienti.



Edward Manibusan
Abugâdu Henerât

Fetcha:

8/5/2022



MARIANAS VISITORS AUTHORITY

P.O. BOX 500861 CK
SAIPAN, MP 96950
TEL: (670) 664-3200/1
FAX: (670) 664-3237
E-mail: info@mymarianas.com
www.mymarianas.com



Public Notice of Proposed Amendments to the Procurement Regulations for the Marianas Visitors Authority

Notice of Intended Action: The Marianas Visitors Authority (MVA) approved the publication of the following amendments to its Procurement Regulations at its meeting of May 03, 2022. It intends to adopt these regulations as permanent, pursuant to the Administrative Procedure Act, 1 CMC § 9104(a). If adopted, these amendments will become effective ten days after publication of a Notice of Adoption in the Commonwealth Register. 1 CMC 9105(b).


Authority: These amendments are promulgated under the authority of 4 CMC 2124(d), which authorizes MVA to adopt procurement and supply regulations consistent with those of the Commonwealth government, and 4 CMC, 2128, which grants MVA the authority to adopt rules and regulations.

Terms and Substance: The Amendment to the Procurement Rules and Regulations adds a new section on the Ratification of Unauthorized Commitments to MVA's Procurement Rules and Regulations to be designated as NMIAC §90-20-1060, unless otherwise designated by the Commonwealth Law Revision Commission.

Directions for Filing and Publication: These proposed amendments 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)).

The Marianas Visitors Authority (MVA) shall take appropriate measures to make these Rules and Regulations known to the person who may be affected by them ((1 CMC 9105(b)(2)).


Comments: Interested parties may submit written comments on the proposed regulations to Ellsbeth Viola Alepuyo, MVA Board Chairperson, via U.S. mail to PO Box 500861, Saipan, MP 96950, or via email to info@mymarianas.com. Comments, data, views, or arguments are due within 30 days from the date of publication of this notice. 1 CMC § 9104(a) (2).

Submitted by: 
Ellsbeth Viola Alepuyo
Chairperson
MVA Board of Directors

Date: Aug 10, 2022

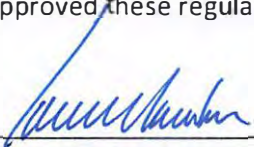
Received by: 
Mathilda A. Rosario
Special Assistant for Administration

Date: 08/19/22

Filed and Recorded by: 
Esther ~~San Nicolas~~ San Nicolas
Commonwealth Register ran

Date: 8.19.22

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.


Edward E. Manibusan
Attorney General

Date: 8/19/2022



MARIANAS
VISITORS AUTHORITY

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SAIPAN, MP 96950
TEL: (670) 664-3200/1
FAX: (670) 664-3237
E-mail: info@mymarianas.com
www.mymarianas.com



NUTISIAN PUBLIKU PUT I MANMAPROPONI NA TINILAIKA SIHA GI REGULASIÓN PROCUREMENT PARA I MARIANAS VISITORS AUTHORITY

I AKSION NI MA'INTENSIONA: I Marianas Visitors Authority (i MVA) ha aprueba i publikasió i mantinãttiya na amenda siha gi iyon-ñiha Regulasió Procurement gi huntan-ñiha gi Máu 03, 2022. Ma'intensiona para u adãpta esti siha na regulasió komu petmanenti i regulasion siha, sigun gi Åkton Administrative Procedure, 1 CMC § 9104(a). Yanggin ma'adãpta, esti na amenda siha siempre umifektibu gi dies (10) dihas dispues di publikasion nu i Nutisian Adãptasió gi halum i Rehistran Commonwealth. 1 CMC § 9105(b).


ÅTURIDÅT: Esti na amenda siha manmacho'gui gi pãpa' aturidãt i 4 CMC 2124(d), ni ma'aturisa i MVA para u adãpta i procurement yan suplika regulasió ni mamparehu yan eyi siha gi gubietnamentun Commonwealth, yan 4 CMC, 2128, ni ha nã'i i MVA aturidãt para u adãpta i areklamentu yan regulasió siha.

I TEMA YAN SUSTANSIAN I PALÅBRA SIHA: I Amenda gi Areklamentu Procurement yan Regulasió siha ni manmana'fanhãlum gi nuebu na seksió gi "Ratification of Unauthorized Commitments" gi Areklamentun Procurement yan Regulasió MVA para u madesikna komu NMIAC §90-20-1060, solamenti sino madesikna ginen i "Commonwealth Law Revision Commission."


DIREKSION PARA U MAPO'LU YAN PUBLIKASION: Esti i Maproponi na Amenda siha debi na u mapublika gi halum i Rehistran Commonwealth gi seksiona gi maproponi yan nuebu na ma'adãpta na regulasion siha (1 CMC 9102(a)(1)) yan mapega gi kumbinienti na lugãt siha gi halum civic center yan gi ufisinan gubietnamentu siha gi kada distritun senadot, parehu gi Inglis yan i lingguãhin natibu (1 CMC § 9104(a)(1)).

I Marianas Visitors Authority (i MVA) debi na u machuli' maninapropiu na aksió siha para u mafa'tinas esti siha na Areklamentu yan Regulasió tingu' para i petsona ni hãyi siña maninafakta ginen siha ((1 CMC 9105(b)(2)).


I UPIÑON SIHA: I manintiresão na pattida siha siña manna'halum tinigi' upiñon siha gi manmaproponi na regulasió guatu gi as Ellsbeth Viola Alepuyo, i Kabesiyun Kuetpun MVA, gi hinanão U.S. mail para PO Box 500861, Saipan, MP 96950, osino intrega ginen email gi info@mymarianas.com. I upiñon, infotmasiõn, pat ågumentu siha debi na u fanhãlum gi halum trenta (30) dihas ginen i fetchan publikasió esti na nutisia. 1 CMC § 9104(a)(2).

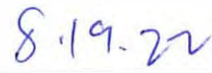
Nina'hålum as: 
Ellsbeth Viola Alepuy
Kabesiyu
Direktot Kuetpun MVA


Fetcha


Rinisibi as: 
Mathilda A. Rosario
Espisiât Na Ayudânti Para I Atministrasion


Fetcha

Pine'lu Yan
Ninota as: 
Esther ~~S. Rosales~~ R.M. San Nicolas
Rehistran Commonwealth


Fetcha

Hu settifika, sigun gi 1 CMC § 2153(e) yan 1 CMC § 9104(a)(3), na hu ribisa yan aprueba esti siha na regulasi3n komu fotma yan ligât sufisienti.


Edward E. Manibusan
Abugâdu Hinirât


Fetcha



MARIANAS
VISITORS AUTHORITY

P.O. BOX 500861 CK
SAIPAN, MP 96950
TEL: (670) 664-3200/1
FAX: (670) 664-3237
E-mail: info@mymarianas.com
www.mymarianas.com



**Arongorongol Toulap reel Pommwol Liiwel ngáli mwóghutughutúl
Procurement ngáli Marianas Visitors Authority**

Arongorong reel Mángemángil Mwóghut: Marianas Visitors Authority (MVA) re átirowa akkatééwowul liiwel ikka e amwirimwiritiw ngáli Mwóghutughutúl Procurement reel aar yéélágh wóól Ghúúw 03, 2022. Re mángemángil rebwe adóptáali mwóghutughut bwe ebwe lléghló reel fféerúl, sáangi Mwóghutughutúl Administrative Procedure Act, 1 CMC § 9104(a). Ngáre re adóptáali, ebwe bwunguló liiwel kkal llól seigh ráal mwiril aal akkatééwow me llól Notice of Adoption me llól Commonwealth Register. 1 CMC § 9105(b).


Bwángil: Ebwe arongowow liiwel kkal faal bwángil 4 CMC 2124(d), iye e ayoorai bwángil MVA reel rebwe adóptáali mwóghutughutúl procurement me supply iye e weewe fengál me gobetnameentol Commonwealth, me 4 CMC, 2128, iye e aiti ngáli MVA bwángiir reel rebwe adóptáali allégh me mwóghutughut.

Kkapsal me Aweewel: Liiwel ngáli Mwóghutughutúl Allégh me Mwóghut e schuulong ffél táilil wóól "Ratification of Unauthorized Commitments" ngáli Alléghúl me Mwóghutughutúl MVA iye e ffil ngáli NMIAC §90-20-1060, solo e tooto sáangi Commonwealth Law Revision Commission.

Afal reel Ammwelil me Akkatééwowul: Ebwe akkatééwow pommwol liiwel kkal me llól Commonwealth Register llól táilil pommwol me ffél mwóghutughut ikka ra adóptáali (1 CMC 9102(a)(1)) me ebwe appaschetá me llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch. (1 CMC § 9104(a)(1)).

Marianas Visitors Authority (MVA) rebwe bwughi mwóghutughut ikka e ffil reel rebwe fféeruló Allégh me Mwóghutughut ngáli aramas iye emmwelil anngawa ((1 CMC 9105(b)(2)).


Kkapas: Schóó kka re mwuschel isiisilong ischil mángemáng wóól pommwol mwóghutughut kkal rebwe isch ngáli Ellsbeth Viola Alepuyo, MVA Board Chairperson, via U.S mail ngáli PO Box 500861, ngáre via email ngáli ingo@mymarianas.com. Kkapas, data, views, ngáre angiingi ebwe toolong llól eliigh ráal mwiril aal akkatééwow arongorong yeel. 1 CMC § 9104(a)(2).

Isáliyalong: 
Ellsbeth Viola Alepuyo
Chairperson
MVA Board-il Directors

Ráal: 8/10/2022

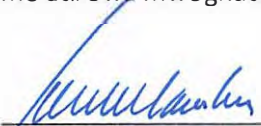
Bwughiyal: 
Mathilda A. Rosario
Special Assistant ngáli Administration

Ráál: 08/19/22

Ammwelil: 
Esther R. M. San Nicolas
Commonwealth Register

Ráál: 8.19.22

I alúghúlúgh sáangi 1 CMC 2153(e) me 1 CMC § 9104(a)(3), bwe I ya takkal amwuri fischiiy me átirowa mwóghutughut kkal bwe aa ffil reel fféerúl me legal sufficiency.


Edward E. Manibusan
Soulemelemil Allégh Lapalap

Ráál: 8/19/2022

A new § 90-20-1060 entitled Ratification of Unauthorized Commitments is added to MVA's Procurement Rules and Regulations as follows:

“§ 90-20-1060 Ratification of Unauthorized Commitments.

(a) Definitions.

(1) Ratification, as used in this section, means the act of approving an unauthorized commitment by the expenditure authority who has the authority to do so.

(2) Unauthorized commitment, as used in this section, means an agreement that is not binding solely because the MVA representative who made it lacked the authority to enter into that agreement on behalf of the MVA.

(b) Policy. MVA shall take positive action to preclude, to the maximum extent possible, the need for ratification actions. Although procedures are provided in this section for use in those cases where the ratification of an unauthorized commitment is necessary, these procedures shall not be used in a manner that encourages such unauthorized commitments to be made.

(1) Subject to the limitations in paragraph (c) of this section, the Expenditure Authority may request the Board of Directors to ratify an unauthorized commitment.

(2) Limitations. The authority in paragraph (b) of this section may be exercised only when:

(i) Supplies or services have been provided to and accepted by the MVA, or the MVA otherwise has obtained or will obtain a benefit resulting from performance of the unauthorized commitment;

(ii) The Expenditure Authority had the authority to enter a contractual commitment;

(iii) The resulting contract would otherwise have been proper if made in a manner approved by these regulations;

(iv) The Board of Directors determines the price to be fair and reasonable;

(v) The Board of Directors recommends payment, and the Attorney General concurs in the recommendation;

(vi) Funds are available; and

(vii) The ratification is in accordance with other limitations prescribed under these procedures.

(c) Ratification Requests. The Expenditure Authority shall submit a ratification request to both the Board of Directors and the Attorney General.

(d) Criminal investigation. Generally, the MVA is not bound by commitments made by persons with no contracting authority. Unauthorized commitments may violate laws or regulations. They constitute serious misconduct and may warrant disciplinary action or other sanctions. If unauthorized commitments involve any type of misconduct that might be punishable as a criminal offense, either the procurement officer, the managing director or a member of the board of directors shall report the matter immediately to the Office of the Attorney General.

(e) Documentation Required for Ratification. When submitting a ratification request, the Expenditure Authority shall give the Board of Directors all records and documents concerning the commitment, including a complete written statement of facts that explains:

(1) Why normal acquisition procedures were not followed;

(2) Why the contractor was selected;

(3) Identifies other sources/vendors considered;

(4) Description of work or products;

- (5) Estimated or agreed-upon contract price; and
- (6) Status of contract performance.

(f) **Processing a Ratification.** After receiving a request for ratification, the Board of Directors shall prepare a summary statement of the facts, and a recommendation to the Attorney General whether the procurement should be ratified. The Expenditure Authority shall include a recommendation for other disposition if advising against ratification and provide recommendation for corrective action to prevent recurrence.

(1) If other than the full amount requested by the Expenditure Authority is approved, the Board of Directors may request payment based on a showing of either of the following:

- (i) The reasonable value of work or labor provided to the MVA; or
- (ii) The reasonable value of goods sold and delivered to the MVA.

(2) The Board of directors shall either:

(i) Approve the ratification request in writing and send the approval to the Attorney General. If the Attorney General concurs, the Board of Directors shall send a written request to the Expenditure Authority for issuance of the necessary contractual documents; or

(ii) Return an unjustified request or recommendation to the Expenditure Authority with a written explanation on why the request or recommendation was denied.

(3) **Files.** The MVA will maintain a separate file containing a copy of each request to ratify an unauthorized contractual commitment and the response.”



Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS



**PUBLIC NOTICE
OF PROPOSED AMENDMENTS TO TEMPORARY OCCUPANCY RULES**

NOTICE OF INTENDED ACTION: The Commonwealth of the Northern Mariana Islands, Office of the Governor, Department of Public Lands intends to amend the Temporary Occupancy Rules and Regulations pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC § 9104(a).

AUTHORITY: These amendments are promulgated under the authority of the Department of Public Lands pursuant to 1 CMC § 2806 to develop administrative policies, procedures, and controls related to public land.

TERMS AND SUBSTANCE: These proposed amendments will change the Temporary Occupancy Rules and Regulations to:

- Clarify the general requirements for agreements authorizing temporary occupancy of public lands or properties;
- Allow agreements authorizing temporary occupancy of public lands or properties to be for a term less than one year;
- Clarify the procedures, terms, and requirements for concession agreements, including renewals and insurance requirements;
- Clarify the terms and requirements that differ for non-exclusive concession agreements versus the exclusive Managaha Island Master Concession, including RFP and auction requirements, subconcessions, term, and applications for renewal.
- Extend the permitted term of the exclusive Managaha Island Master Concession agreements from five years to ten years with an option to extend an additional five years at DPL's discretion.

CITATION OF AFFECTED REGULATIONS: The proposed amendments affect NMIAC Chapter 145-70 by amending the following provisions:

- NMIAC § 145-70-202 General Requirements
- NMIAC § 145-70-215 Concession Agreements.

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)).


P.O. Box 500380, Saipan, MP 96950 ● 2nd Floor, Joeten Dandan Commercial Building
Website: www.dpl.gov.mp ● E-mail: dpl@dpl.gov.mp ● Facebook: www.facebook.com/DPLCNMI
Tel: (670) 234-3751/52/53/54 ● Fax: (670) 234-3755

COMMENTS: Interested parties may submit written comments on the proposed amendments to SIXTO KAIPAT IGISOMAR, Department of Public Lands Secretary, to the following address, fax, or email address, with the subject line "Proposed Amendments to the Terms and Requirements of Concession Agreements":

DEPARTMENT OF PUBLIC LANDS
PO Box 500380, Saipan, MP 96950
Fax: (670) 234-3755
Email: admin@dpl.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:



Sixto K. Igisomar
Secretary, Department of Public Lands

08/19/22

Date

Received by:



Ms. Mathilda A. Rosario
Special Assistant for Administration

08/24/22

Date

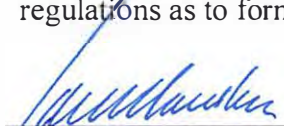
Filed and Recorded by:



Ms. Esther R.M. San Nicolas
Commonwealth Registrar

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

8/26/2022

Date



Commonwealth gi Sangkattan na Islas Mariãnas
Ufisinan Gubietnu
DIPÀTTAMENTUN TANU' PUPBLIKU



**NUTISIAN PUPBLIKU PUT I MAPROPOONI NA TINILAIKA SIHA
GI AREKLAMENTUN OKUPASIÓN TEMPURÁRIU**

I AKSIÓN NI MA'INTENSIÓNA: I Commonwealth gi Sangkattan na Islas Mariãnas, i Ufisinan Gubietnu, i Dipàttamentun Tanu' Pupbliku ha intensiona para u amenda i Areklamentun yan Regulasióon Okupasióon Tempuráriu sigun gi maneran i Ákton Administrative Procedure (APA), 1 CMC § 9104(a).

ÀTURIDÁT: Esti siha na tinilaika manmacho'gui gi papa' i aturidát nu i Dipàttamentun Tanu' Pupbliku sigun gi 1 CMC § 2806 para u dibelop i administrative policies, manera, yan gubietna siha i manassosiát gi tanu' pupbliku.

I TEMA YAN SUSTANSIAN I PALÁBRA SIHA: Esti i mapropooni na tinilaika siha siempri tinilaika i Areklamentu yan Regulasióon Okupasióon Tempuráriu para:

- Klaruyi i hinirát na dinimánda siha para kuntráta inaturirisa i okupasióon tempuráriu nu tanu' pupbliku osino propiedát siha;
- Sedi kuntráta inaturirisa i okupasióon tempuráriu nu tanu' pupbliku osino propiedát para menus ki un áñu na tema;
- Klaruyi i manera, tema, yan dinimánda siha para kuntrátan “concession”, ingklusu rinueba yan dinimándan insurance siha;
- Klaruyi i tema yan dinimánda siha na ha difirensiáo para “non-exclusive concession” na kuntráta kontra i “exclusive Mañagâhâ Island Master Concession”. Kuntodu RFP yan dinimándan atmunedá siha, “subconcessions,” tema, yan aplikasióon para rinueba.
- Ekstendi i manmasedi na tema nu i kuntrátan “exclusive Mañagâhâ Island Master Concession” ginen singku áñus asta dies áñus yan i inayik para u ma'ekstendi más ta'lu singku áñus na tiempu gi disisióon DPL.

SITASIÓN I MANMA'AFEKTA NA REGULASIÓN SIHA: I mapropooni na tinilaika siha inafekta i NMIAC Pátti 145-70 ginen inamemendan i tináttiya na provisions:

- NMIAC § 145-70-202 Hinirát na Dinimánda Siha
- NMIAC § 145-70-215 Kuntrátan Concession.

DIREKSIÓN PARA I PINE'LU YAN I PUPBLIKASIÓN: I mapropooni na tinilaika siha debi na u mapupblika gi halum Rehistran Commonwealth gi halum i seksiona ni manmapropooni yan i mannuebu ma'adápta na regulasióon siha (1 CMC § 9201(a)(1)) yan mapega gi halum kumbinienti na lugát siha giya i civic center yan gi halum ufisinan gubietnu gi kada distritun senadot, parehu Inglis yan i dos na lingguâhin natibu (1 CMC § 9104(a)(1)).

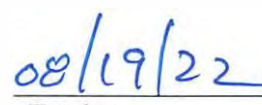
I UPIÑON SIHA: I manintires na pattida siña manintrega hálum upiñon siha gi manmaproponi na tinilaika siha guatu as SIXTO KAIPAT IGISOMAR, i Sekretáriun Dipáttamentun Tanu' Pupbliku, gi tináttiyi na address, fax, osino email address, yan i suhetu na rãya "Maproponi na Tinilaika siha gi Tema yan Kuntrãtan Dinimãndan Concession":

DEPARTMENT OF PUBLIC LANDS
PO Box 500380, Saipan, MP 96950
Fax: (670) 234-3755
Email: admin@dpl.gov.mp

I upiñon siha debi na u fanhálum gi halum trenta (30) kalendãriu na dihas ginen i fetcha publikasiòn esta na nutisia. 1 CMC § 9104(a)(2).

Nina'hálum as:


Sixto K. Igisomar
Sekretáriu, Dipáttamentun Tanu' Pupbliku


Fetcha

Rinisibi as:


Ms. Mathilda A. Rosario
Ispisiãt na Ayudãnti para i Atministrasiòn



Fetcha


Pine'lu yan Ninota as:


Ms. Esther R.M. San Nicolas
Rehistran Commonwealth


Fetcha

Hu aprueba, sigun gi 1 CMC § 2153(e) yan 1 CMC § 9104(a)(3), na hu ribisa yan aprueba esti na regulasiòn siha komu fotma yan ligãt sufisienti.


Mr. Edward Manibusan
Abugãdu Hinirãt


Fetcha



Commonwealth Téel Falúw kka Efäng Ilól Mariana
Bwulasiyol Soulemelem
BWULASIYOL AMMWELIL FALUWEER TOULAP



**ARONGORONGOL TOULAP
REEL PPWOMMWOL LIIWEL NGÁLI ALLÉGHÚL “TEMPORARY OCCUPANCY”**

ARONGORONGOL MÁNGEMÁNGIL MWÓGHUT: Commonwealth Téel Falúw kka Efäng Ilól Marianas, Bwulasiyol Soulemelem, Bwulasiyol Ammwelil Faluweer Toulap re mángemángil rebwe liiweli Alléghúl me Mwóghutughutúl “Temporary Occupancy” sáangi mwóghutughutúl Administrative Procedure Act (APA), 1 CMC § 9104(a).

LEMELEM: Ebwe arongowow liiwel kkal faal bwángil Bwulasiyol Ammwelil Faluweer Toulap sáangi 1 CMC § 2806 reel rebwe ayoora “administrative policies”, mwóghutughut, me lemelemil ikka e schuulong llól faluweer toulap.

KKAPASAL ME WEEWEL: Ppwommwol liiwel kkal ebwe liiweli Alléghúl me Mwóghutughutúl “Temporary Occupancy” ngáli:

- Ebwe ffat “general requirements” ngáli angúungúl bwángil “temporary occupancy” reel faluweer toulap ngáre bwughos;
- Lighiti ngáli angúungú ikka eyoor bwángil reel “temporary occupancy” sáangi faluwer toulap ngáre bwughos ngáli leelibwal eew ráágh ngáre eghus;
- Ebwe ffat mwóghutughut, kkapasal, me nisisital ngáli abwungubwung, eschuulong “renewals” me “insurance requirements”;
- Ebwe ffat kkapasal me “requirements” ikka ese weewe ngáli angúungúl “non-exclusive concession”, kkapasal, me “applications for renewal”.
- Extend the permitted term of the exclusive Managaha Island Master Concession agreements from five years to ten years with an option to extend an additional five years at DPL’s discretion.

ABWETCH REL IKKA E LIIWELI “STATUTES” MWÓGHUTUGHUT: Ppwommwol liiwel ikka e liiweli NMIAC Chapter 145-70 sáangi liiwelil plóono kka e amwirimwiritiw:

- NMIAC § 145-70-202 “General Requirements”
- NMIAC § 145-70-215 “Concession Agreements.”


AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow ppwommwol liiwel me llól Commonwealth Register llól tánil ppwommwol me ffél mwóghutughut ikka ra adóptáali (1 CMC § 9201(a)(1)) me ebwe appaschetá me llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch (1 CMC § 9104(a)(1)).

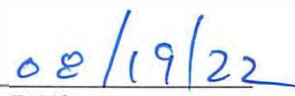
KKAPAS: Schóó kka re mwuschel isiisilong ischil kkapas wóól ppommwol liiwel kkal rebwe isiis ngáli SIXTO KAIPAT IGISOMAR, Sekkretóoriyol Bwulasiyol Ammwelil Faluweer Toulap, ngáli féléfíél iye e amwirimwiritiw, fax, ngáre email address, ebwe lo wóól “subject line” bwe “Proposed Amendments to the Terms and Requirements of Concession Agreements”:

DEPARTMENT OF PUBLIC LANDS
PO Box 500380, Saipan, MP 96950
Fax: (670) 234-3755
Email: admin@dpl.gov.mp

Ebwe toolong kkapas llól eliigh ráál sáangi ráálil akkatéewowul arongorong yeel.1 CMC § 9104(a)(2).

Isáliyalong:


Sixto K. Igisomar
Sekkretóoriyo, Bwulasiyol Ammwelil
Faluweer Toulap



Ráál

Bwughiyal:


Ms. Mathilda A. Rosario
Special Assistant ngáli Administration

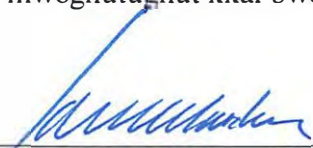

Ráál


Ammwelil:


Ms. Esther R.M. San Nicolas
Commonwealth Registrar

Ráál

I átirow, sáangi 1 CMC § 2153(e) me 1 CMC § 9104(a)(3), bwe I ya takkal amwuri fischiiy me átirowa mwóghutughut kkal bwe aa lléghló fféerúl me “legal sufficiency”.


Mr. Edward Manibusan
Soulemelemil Allégh Lapalap


Ráál

CHAPTER 145-70
 TEMPORARY OCCUPANCY RULES AND REGULATIONS

Part 200 - Policies and Procedures for Temporary ~~Non-Exclusive~~ Occupancy of Public Lands

§ 145-70-202 General Requirements

(a) The temporary occupancy of public lands or properties may be authorized via easements pursuant to § 145-70-205, Temporary Occupancy Agreements (TOA), pursuant to § 145-70-210 (which may take the form of ~~concession agreements~~, permits, temporary authorizations (TA), and other agreements appropriate for the activity to be conducted); or concession agreements pursuant to § 145-70-215. The activity for which the premises will be used must be permitted by the land use permitting agencies of the CNMI and applicable laws. Except as otherwise stated in these regulations, ~~t~~hese agreements shall generally:

- (1) Provide a benefit to the public;
- (2) Be short term (i.e., revocable and for periods of ~~no less than one year but~~ not more than five years) or intermittent in nature;
- (3) Be uniform in expiration dates, as follows:

<u>Types of Temporary Occupancy Agreements</u>	<u>Expiration Dates</u>
<u>Non-Exclusive</u> Beachfront Concession	December 31st
Agricultural and Grazing Permit	January 31st
Parking Permit (Parking/Encroachment)	February 28th
Signboard and Maintenance	March 31s
Encroachment, Container Storage, and Staging	April 30th
Roadside Vendor, Telecommunication Tower, Rock Quarry, Others	May 31st

- (4) Be reviewed periodically for compliance;
- (5) Prohibit the construction of permanent structures;
- (6) Provide non-exclusive rights to the land or property ~~unless otherwise stated in these regulations;~~
- (7) Be non-transferable, non-assignable, and cannot be sold, subjected to mortgage, or used as collateral;
- (8) Self-terminate should occupant or operator cease to exist or ceases the activity described in the application; and
- (9) Require compliance with all business licensing, permitting, and regulatory requirements for business or other activities to be conducted including without limitation all zoning, building and other permits as applicable.
- (10) Property valuations for purposes of calculating fees for TOA's may be determined by DPL's in-house appraiser or by an appraiser designated according to DPL's discretion.

§ 145-70-215 Concession Agreements

Concession agreements grant the concessionaire the right to conduct business operations from a designated area, zone, or venue on terms determined by DPL.

(a) Upon receipt of request for a non-exclusive concession, DPL will determine the desirability of the proposed area, use and the past performance and/or experience (if any) of the proposed concessionaire. If acceptable to the DPL and if consistent with designated use, zoning, surrounding activities, DPL may issue a notice of intent.

(b) DPL may issue an RFP or conduct an auction if there are two or more similar competing interests with respect to a given non-exclusive concession area, or in any instance at the discretion of the Secretary. DPL shall issue an RFP or conduct an auction with respect to the exclusive Managaha Island Master Concession.

(c) Monthly fees of at least \$250 per concession (up to 200 square feet) shall be charged in addition to 3% of BGR. Concessions negotiated through RFP or auction may be subject to higher fees based upon applicant's proposal or bid amount.

(d) The Premises shall be used solely for the business operations of the Occupant. Subconcessions for non-exclusive concessions are not permitted ~~unless expressly authorized in these regulations~~. Any change in ownership of occupant shall be considered an assignment. Assignments are not permitted for non-exclusive concessions ~~agreements or permits~~. (Only one non-exclusive concession agreement is allowed per applicant, permittee, and/or principal.)

(e) All concession agreements are terminable by DPL at will. The term of any non-exclusive concession agreement shall be shall be for no longer than one year per concession agreement with a maximum holdover of 12 months. ~~with the exception of~~ The exclusive Managaha Island Master Concession which may be for a terms of up to five ten years with an option to extend the term by an additional five years at DPL's discretion.

(f) Applications for renewal of non-exclusive concession agreements (if any) shall be made annually at least two months prior to expiration or as solicited via a Request for Proposal or at auction. Applications for renewal of the exclusive Managaha Island Master Concession (if any) shall be made at least one year prior to expiration or as solicited via a Request for Proposal or at auction.

(g) Criteria for evaluating an application/proposal for a concession agreement under consideration shall be the same as those outlined in the regulation on leases. For renewals, if a competing proposal does not materially enhance the existing concessionaire's proposal, operations, or otherwise project to materially increase the revenue to DPL, and the concessionaire has satisfied all the covenants and conditions of its existing concession agreement, it is DPL's

preference to renew the concession agreement with the current concessionaire with payments comparable to that proposed or implied by the best competing proposal, but in no case shall DPL accept rent less than what was established in any preceding period.

~~(g)~~(h) Non-exclusive bBeach concessions for beach and ocean recreational activities shall be limited as follows:

(1) Concessions for activities involving commercial motorized and non-motorized water craft shall not be permitted outside of the area designated by the BECQ – Coastal Resource Management Office and shall occur only within specific zones authorized by DPL.

(i) Concessions are restricted to areas adjacent to boundary corners of hotels, or if no hotel is located in the vicinity, to the perimeter boundaries of the public land perpendicular to the high-water mark.

(ii) Beach concession ~~agreements~~permits will be limited to twenty-five total concessions per year due to limited space and safety concerns and in an effort to maintain a peaceful beach experience for those not participating in concession activities. The number of beach concession ~~agreements~~permits may be limited to a lesser amount if the Division of Fish and Wildlife, Coastal Resources Management Office or other CNMI government and federal governments* determines that the marine sports activities cause an impact on marine life species and/or their habitats are disrupted, harmed, or destroyed resulting from such activities.

(2) Enforcement procedures shall be as follows:

(i) A first violation of ~~agreement~~permit terms or conditions will result in a citation and fine of \$200.00.

(ii) A second violation within 30 days of any citation shall result in an order to show cause not to terminate the agreement. A hearing shall be scheduled within 15 days if requested by concessionaire. If no hearing is requested, Concessionaire's authorization shall be terminated with immediate effect. Violators shall not be eligible for a concession agreement for three years following any termination.

(i) Liability insurance shall be required. The policy shall name DPL and the Commonwealth as co-insured, with a minimum coverage of \$100,000 in bodily injury per person, \$300,000 in bodily injury aggregate, and \$100,000 in property damage for each occurrence, or such higher amounts as DPL may reasonably require.

*So in original.



Board of Parole

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SAIPAN, MP 96950-2641
TEL.NOS.: (670) 664-3300 • FAX: (670) 664-3310
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NOTICE OF PROPOSED AMENDMENTS TO THE BOARD OF PAROLE REGULATIONS

INTENDED ACTION TO ADOPT THESE PROPOSED REVISIONS TO THE RULES AND REGULATIONS: The Board of Parole (BOP) intends to adopt as permanent the attached Title 115 pursuant to the procedures of the Administrative Procedure Act. 1 CMC § 9104(a). The amended regulations will become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: The Board of Parole shall adopt rules and regulations with respect to eligibility for parole, the conduct of parole hearings and meetings, conditions to be imposed upon parolees, revocation of parole and re-parole after revocation and enforce the provisions of this chapter. 6 CMC § 4206.

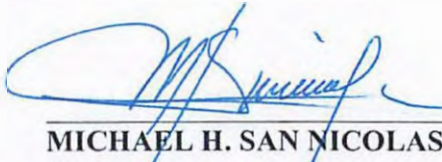
THE TERMS AND SUBSTANCE: These rules and regulations amend the following Regulations (generally in the following way):

1. § 115-10-010(a) (amends definition)
2. § 115-10-101(e) (renames applicant to inmate and amends explanation)
3. § 115-10-201 (defines deadline for application)
4. § 115-10-205(a), (b), (d), (f) (changes processing time)
5. § 115-10-210 (a) (adds reporting requirement); (b) (adds twice yearly Board Meetings); (c), (d), (e), (f) (adds reporting requirements); (g), (h) (adds remote attendance)
6. § 115-10-301 (adds hearing procedures)
7. § 115-10-305 (adds reporting requirement)
8. § 115-10-310 (moved from § 115-10-315 and amended for parole only)
9. § 115-10-315 (renumbered)
10. § 115-10-320 (adds new records retention guidelines)
11. § 115-10-401(h) (adds group rehabilitation condition); (i)-(w) (renumbered)
12. § 115-10-405 (clarifies reporting procedure)
13. § 115-10-410 (adds requirements for parole acceptance)
14. § 115-10-415 (amends reporting requirements)
15. § 115-10-420 (clarifies reporting procedure)
16. § 115-10-510 (clarifies)
17. § 115-10-515 (adds notification requirement and clarifies due process requirements)
18. § 115-10-520 (adds notification requirement)
19. § 115-10-530 (clarifies)
20. § 115-10-535 (adds hearing procedures)
21. § 115-10-540 (adds notification requirement and amends re-parole requirements)
22. § 115-10-605 (adds definition)
23. § 115-10-610 (adds notification requirement)

24. § 115-10-615(a), (b) (adds procedure)

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations to Title 115 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.

TO PROVIDE COMMENTS: Send or deliver your comments to the Board of Parole, Attn: Revised Regulations, at the above address, fax or email address: cnmiboardofparole.bop@gmail.com, with the subject line "Revised 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 Board of Parole approved the attached revised regulations on or about 08/23/2021.


Submitted by: 
MICHAEL H. SAN NICOLAS
Chairman
Date

Received as: 
MATHILDA A. ROSARIO
Special Assistant to the Administration
Date 08/10/22

Filed and Recorded by: 
ESTHER SAN NICOLAS
Commonwealth Registrar
Date 8.27.22

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 11th day August, 2022.


EDWARD MANIBUSAN
Attorney General



Commonwealth of the Northern Mariana Islands

Board of Parole

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ARONGORONGOL TOULAP REEL PPWOMWOL LIIWEL NGÁLI MWÓGHUTUGHUTÚL BOARD OF PAROLE

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI PPWOMWOL SIIWEL NGÁLI ALLÉGH ME MWÓGHUTUGHUT: Board of Parole (BOP) re mángemángil rebwe adóptááli bwe ebwe lléghló Title 115 iye e appasch sáangi Mwóghutughutúl Administrative Procedure Act. 1 CMC § 9104(a). Ebwe bwunguló mwóghutughut kkal seigh ráál mwiril aal adóptááli me akkatéwowul me llól Commonwealth Register. (1 CMC § 9105(b))

BWÁNGIL: Eyoor bwángil Board of Parole reel rebwe adóptááli allégh me mwóghutughut fengál me ikka e ffil ngáli parole, mwóghutughutúl “parole hearings” me yéélágh, “conditions” ikka ebwe isiis ngáliir “parolees”, “revocation of parole” me “re-parole” mwiril “revocation” me “enforce the provisions” reel chapter. 6 CMC § 4206.

KKAPASAL ME AWEEWEL: Allégh me mwóghutughut kkal e liiweli Mwóghutughut ikka e amwirimwiritiw:

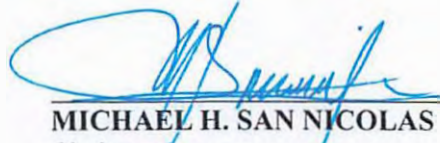
1. § 115-10-010(a) (liiweli faal)
2. § 115-10-101(e) (aita sefááli “applicant” ngáli “inmate” me liiweli weewel)
3. § 115-10-201 (weewel “deadline” ngáli “application”)
4. § 115-10-205(a), (b), (d), (f) (liiwelil ooral “processing”)
5. § 115-10-210 (a) (aschuulong “reporting requirement”); (b) (aschuulong “twice yearly Board Meetings”); (c), (d), (e), (f) (aschuulong “reporting requirements”); (g), (h) (ayoora “remote attendance”)
6. § 115-10-301 (aschuulong mwóghutughutúl “hearing”)
7. § 115-10-305 (aschuulong “reporting requirement”)
8. § 115-10-310 (“moved from § 115-10-315 and amended for parole only”)
9. § 115-10-315 (“renumbered”)
10. § 115-10-320 (aschuulong ffél “retention guidelines”)
11. § 115-10-401(h) (aschuulong “group rehabilitation condition”); (i)-(w) (“renumbered”)
12. § 115-10-405 (affata “reporting procedure”)
13. § 115-10-410 (aschuulong “requirements for parole acceptance”)
14. § 115-10-415 (liiweli “reporting requirements”)
15. § 115-10-420 (affata “reporting procedure”)
16. § 115-10-510 (affata)
17. § 115-10-515 (aschuulong “notification requirement” me ebwe ffat “due process requirements”)
18. § 115-10-520 (aschuulong “notification requirement”)
19. § 115-10-530 (affata)
20. § 115-10-535 (aschuulong mwóghutughutúl “hearing”)
21. § 115-10-540 (aschuulong “notification requirement” me liiweli “re-parole requirements”)
22. § 115-10-605 (aschuulong weewel)
23. § 115-10-610 (aschuulong “notification requirement”)

24. § 115-10-615(a), (b) (aschuulong mwóghutughut)

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ppwomwol Mwóghutughut ngáli Title 115 ebwe akkatééwow me llól Commonwealth Register me llól táilil ppwomwol me ffél mwóghutughut ikka ra adóptááilil (1 CMC § 9102(a)(1)) me ebwe appaschetá me llól civic center me bwal llól bwulasiyol gobetnamcento llól senatorial district, fengál reel English me mwaliyaasch.

REEL ISIISILONGOL KKAPAS: Afanga ngáre bwughiló yóómw ischil kkapas ngáli Board of Parole, Attn: Revised Regulations, reel féléfél iye e lo weiláng, fax ngáre email address: cnmiboardofparole.bop@pr.gov, fengál wóól subject line bwe “Revised Regulations”. Ebwe toolong kkapas llól cliigh ráál mwiril all akkatééwow arongorong yeel. Isiisilong yóómw data, views, ngáre angiingi. (1 CMC 9104(a)(2)). Board of Parole ra átirowa ppwomwol mwóghutughut ikka e appasch wóól ngáre atol 08/23/2021.

Isáliyalong:


MICHAEL H. SAN NICOLAS
Chairman


7-22-2022
Ráál

Bwughiyal:


MATHILDA A. ROSARIO
Special Assistant ngáli Administration

08/10/22
Ráál

Ammwelil:


ESTHER SAN NICOLAS
Commonwealth Registrar

8.24.22
Ráál

Sángi 1 CMC § 2153(c) (sángi átirowal AG bwe aa ffil reel fféerúl) me 1 CMC § 2153(c) (sángi átirowal AG) reel ppwomwol mwóghutughut ikka e appasch bwe ra takkal amwuri físchiiy me legal sufficiency sángi Soulemelemil Allégh Lapalpal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (akkatééwowul allégh me mwóghutughut).

Aghikillátiw wóól 11th ráálil Agosto, 2022.


EDWARD MANIBUSAN



Board of Parole

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NUTISIA PUT I MANMAPROPONI NA AMENDA SIHA GI REGULASION BOARD OF PAROLE

I AKSION NI MA'INTENSIONA PARA U ADAPTA ESTI I MANMAPROPONI NA TINILAIKA GI AREKLAMENTU YAN REGULASION SIHA: I Board of Parole (BOP), ha intensiona para u ma'adapta komu petmanienti na regulasion i mañechettun na Titulu 115 sigun gi manera siha gi Akton Administrative Procedure, I CMC § 9104(a). I ma'amenda na regulasion siha para u ifektibu gi halum dies (10) dihas dispues di adaptasion yan publikasion gi halum i Rehistran Commonwealth. (I CMC § 9105(b))

ATURIDÁT: I Board of Parole para u adapta i areklamentu yan regulasion siha kon respetu gi kuálifikáo para "parole", i kunduktan hinekkunguk yan hentan "parole" siha, i kundision para u mapega gi "parolees", "revocation" nu "parole" yan "re-parole" dispues di "revocation" yan makátga huyung i "provisions" nu esti na pátti. 6 CMC § 4206.

I TEMA YAN SUSTANSIAN I PALÁBRA SIHA: Esti i areklamentu yan regulasion siha ha amenda i mantinatti gi siha na Regulasion (hinirát gi halum tinatti gi manera):

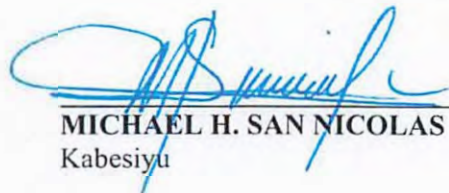
1. § 115-10-010(a) (amenda i sustansian i palábra siha)
2. § 115-10-101(e) (tulaika i ná'an i aplikánti para i prisuneru yan amenda i eksplikasion siha)
3. § 115-10-201 (difina ngai'an para u fäkpü' i aplikasion)
4. § 115-10-205(a), (b), (d), (f) (tinilalaika i maneran ora)
5. § 115-10-210 (a) (na'hålum i dinimåndan "reporting"); (b) (na'hålum dos biãhi gi sákkkan i Hentan Kuetpu); (c), (d), (e), (f) (na'hålum i dinimåndan "reporting"); (g), (h) (na'hålum i "remote attendance")
6. § 115-10-301 (na'hålum i maneran hinekkunguk siha)
7. § 115-10-305 (na'hålum i dinimåndan "reporting")
8. § 115-10-310 (mana'suha ginen § 115-10-315 yan ma'amenda para "parole" ha')
9. § 115-10-315 ("renumbered")
10. § 115-10-320 (na'hålum nuebu na infotmasion "retention guidelines")
11. § 115-10-401(h) (na'hålum i kundision "rehabilitation" gurupu); (i)-(w) ("renumbered")
12. § 115-10-405 (na'kláru i maneran "reporting")
13. § 115-10-410 (na'hålum i dinimåndan siha para i inakseptan "parole")
14. § 115-10-415 (amenda siha i dinimåndan "reporting")
15. § 115-10-420 (na'kláru i maneran "reporting")
16. § 115-10-510 (na'kláru siha)
17. § 115-10-515 (na'hålum i dinimåndan nutisia yan na'kláru i dinimåndan "due process")
18. § 115-10-520 (na'hålum i dinimåndan nutisia)
19. § 115-10-530 (na'kláru siha)
20. § 115-10-535 (na'hålum i maneran hinekkunguk)
21. § 115-10-540 (na'hålum i dinimåndan nutisia yan amenda i "reparole" na dinimåndan siha)
22. § 115-10-605 (na'hålum i sustansian i palábra)
23. § 115-10-610 (na'hålum i dinimåndan nutisia)

24. § 115-10-615(a), (b) (na'hålum i manera)

DIREKSION PARA U MAPO'LU YAN PUPBLIKASION: Esti i Manmaproponi na Regulasion siha para i Titulu 115 debi na u mapupblika gi halum i Rehistran Commonwealth gi seksiona ni manmaproponi yan nuebu na ma'adapta na regulasion siha (1 CMC § 9102(a)(1)) yan u mapega gi kumbinienti na lugât siha gi halum i civic center yan i ufisinan gubietnamentu siha gi kada distritun senadot, parchu English yan prinsipât na lingguâhin natibu.

PARA U MAPRIBENIYI UPIÑON SIHA: Na'hanâo pat intrega upiñon-mu siha guatu gi Board of Parole, Attn: Rinibisa na Regulasion siha, gi sanhilu' na address, fax osino email address: cnmiboardofparole.bop@gmail.com, yan i suhetu na râya "Rinibisa na Regulasion siha." I upiñon siha debi na u fanhålum gi halum 30 dihas ginen i fetchan pupublikasion esti na nutisia. Put fabot na'hålum i infotmasion, inatan, pat agumentu-mu siha. (1CMC § 9104(a)(2)). I Board of Parole inaprueba i mañechettun maribisa na regulasion siha gi osino kâsi gi 08/23/2021.

Nina'hålum as:


MICHAEL H. SAN NICOLAS
Kabesiya


7-22-2022
Fetcha

Rinisibi as:


MATHILDA A. ROSARIO
Espisiât na Ayudânti para i Atministrasion

08/10/22
Fetcha

Pine'lu yan
Ninota as:


ESTHER SAN NICOLAS
Registrar Commonwealth

8.24.22
Fetcha

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

Mafetcha gi diha 11th, gi August, 2022.


EDWARD MANIBUSAN
Abugâdu Hinirât

TITLE 115: BOARD OF PAROLE

**CHAPTER 115-10
BOARD OF PAROLE RULES AND REGULATIONS**

Part 001 General Provisions

§ 115-10-001 Authority

§ 115-10-005 Purpose

§ 115-10-010 Definitions

Part 100 Eligibility

§ 115-10-101 Eligibility Criteria

Part 200 Parole Application Process

§ 115-10-201 Application

§ 115-10-205 Application Processing

§ 115-10-210 Hearings Calendar

**Part 300 Board of Parole Hearings
and Decisions**

§ 115-10-301 Hearings

§ 115-10-305 Formal Order

§ 115-10-310 Reapplication for Parole

§ 115-10-315 ~~Revocation Hearings~~

§ 115-10-320 ~~15 Reapplication for~~

Parole Records Retention

**Part 400 Standard and Special
Terms and Conditions of Parole**

§ 115-10-401 Parole Conditions

§ 115-10-405 Additional Special

Conditions

§ 115-10-410 Certificate of Parole and Agreement

§ 115-10-415 Reasonable and Necessary Changes to Conditions

§ 115-10-420 Requests for Changes to Conditions

Part 500 Revocation Proceedings

§ 115-10-501 Parole Violations

§ 115-10-505 Emergency Situations

§ 115-10-510 Warrant of Arrest

§ 115-10-515 Preliminary Hearing

§ 115-10-520 Preliminary Hearing Determination

§ 115-10-525 Further Revocation Proceedings Not Warranted

§ 115-10-530 Revocation Hearing Schedule

§ 115-10-535 Revocation Hearing

§ 115-10-540 Parole Revocation

Part 600 Clemency

§ 115-10-601 General

§ 115-10-605 Definitions

§ 115-10-610 Notice

§ 115-10-615 Procedure

Chapter Authority: 6 CMC § 4206.

Chapter History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001) (repealing the 1992 Board of Parole Rules and Regulations); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001); Amdts Proposed 18 Com. Reg. 14337 (Sept. 15, 1996);* Amdts Adopted 14 Com. Reg. 10207 (Dec. 15, 1992) (repealing the June 1979 and March 1979 Board of Parole Rules and Regulations); Amdts Proposed 14 Com. Reg. 9790 (Oct. 15, 1992); Adopted 1 Com. Reg. 284 (June 16, 1979); Proposed 1 Com. Reg. 193 (Apr. 16, 1979); Adopted 1 Com. Reg. 187 (Mar. 16, 1979); Proposed 1 Com. Reg. 180 (Feb. 16, 1979).

*A notice of adoption for the 1996 amendments was never published.

TITLE 115: BOARD OF PAROLE

Commission Comment: [Historical comments removed.]

39 Com. Reg. 039334 (Mar. 28, 2017) proposed repeal of “Rules and Regulations promulgated pursuant to [sic] previous Public Laws and 6 CMC § 4206 [sic] published in the Commonwealth Registrar on February 28, 2015 and adopted on June 24, 2015,” and proposed new, permanent regulations in their place. Pursuant to 1 CMC 3806(a)–(b), the Commission codified Sections I, II, and III as Part 001; Section IV as Part 100; Section V as Part 200; Section VI as Part 300; Section VII as Part 400; Section VIII as Part 500; and Section IX as Part 600. 39 Com. Reg. 039334 (Mar. 28, 2017) contained repealer, severability, and savings clauses, and was adopted by 39 Com. Reg. 039590 (Apr. 28, 2017).

Part 001 - General Provisions

§ 115-10-001 Authority

The Board of Parole is authorized and mandated by Public Law 12-41 and 6 CMC § 4206 to adopt rules and regulations.

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-005 Purpose

The purpose of these rules and regulations is to establish procedures to be utilized in the parole process.

History: Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-010 Definitions

For the purpose of the regulations contained in Chapter 115-10 the definitions below shall have the following meanings:

- (a) "Inmate" herein means an incarcerated person that is applying to the Board for Parole-~~or~~ Re-parole.
- (b) "Parole" herein means a conditional release from imprisonment;
- (c) "Revocation" herein means a rescission of parole.
- (d) "Re-parole" herein means a conditional release from imprisonment subsequent to revocation of parole.

TITLE 115: BOARD OF PAROLE

(e) "Parolee" herein means an inmate released from prison on parole subject to conditions of parole.

(f) "Corrections" herein means the Commonwealth of the Northern Mariana Islands Department of Corrections or predecessor, thereof.

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

Part 100 – Eligibility

§ 115-10-101 Eligibility Criteria

~~In order for~~ For an inmate to be eligible to appear for a parole hearing before the Board of Parole, to request the privilege of parole, an inmate must meet all of the following criteria:

- (a) Eligible under the laws governing parole;
- (b) Has no pending criminal charges in the Commonwealth of the Northern Mariana Islands or any other jurisdiction;
- (c) Has made a formal application for parole to the Board of Parole as set forth below;
- (d) Understands and accepts that the terms and conditions of parole are not negotiable or flexible. The terms and conditions of parole must be adhered to at all times;
- (e) Has had, during the past twelve months prior to application for parole, or since the inception of the inmate's incarceration, whichever is shorter, a satisfactory record of behavior during incarceration. A satisfactory record of behavior is a record which demonstrates that the ~~applicant-inmate~~ applicant has substantially complied with the rules and policies of the Department of Corrections ~~pertaining to the imprisonment of persons or inmates~~; and
- (f) Has complied with all other orders of the Court.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

Part 200 – Parole Application Process

§ 115-10-201 Application

TITLE 115: BOARD OF PAROLE

Application for parole shall be made on the form prescribed by the Board of Parole Office. An inmate desiring parole, shall complete the application, and shall set forth therein a specific parole plan. The parole plan shall include details regarding the life the inmate intends to lead if released. The parole plan must include information regarding where and with whom the inmate will reside and the inmate's proposed employment plan, including, but not limited to, type of work, hours to be worked, employer's name and place of employment.

If a completed application is submitted within 90 calendar days of the next hearing date, the Chief of Parole shall have discretion to determine if the inmate will be heard by the Board of Parole at the first scheduled hearing date or the following hearing date.

Modified, 1 CMC § 3806(a)–(b).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-205 Application Processing

(a) Once the completed application is submitted to the Board of Parole Office, the Office shall have 60-90 calendar days to process the application.

(b) The Chief Parole Officer shall, during the 60-90 calendar day processing period, review the inmate's application for parole and the records available to the Board of Parole Office and shall make a determination as to whether or not an inmate has met the above eligibility criteria set forth in § 115-10-101. If the inmate has met the eligibility criteria, as determined by the Chief Parole Officer and legal counsel, the inmate shall be eligible to appear at a hearing before the Board of Parole. If the inmate does not meet the eligibility criteria, ~~as determined by the Chief Parole Officer~~, the inmate shall not be eligible to appear at a hearing before the Board of Parole until inmate meets all such eligibility criteria.

(c) During processing, the Parole Officers may request additional information and documents from the inmate. Inmate shall cooperate with the Parole Officer(s) in the collection of additional information.

(d) At the conclusion of the 60-90 calendar day period, the Chief Parole Officer shall notify the inmate either:

- (1) That inmate is eligible under the eligibility criteria in § 115-10-101 for a hearing before the Board of Parole and when inmate will be advised of inmate's hearing date; or,
- (2) That inmate is not currently eligible under the criteria in § 115-10-101, specifying which criteria inmate has failed to meet.

(e) If an inmate is not eligible for parole under the criteria set forth in § 115-10-101, inmate may re-apply once inmate has met the eligibility criteria set forth in § 115-10-101.

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(f) If an inmate is not eligible, or if inmate's application is withdrawn by the inmate for any reason, the Board of Parole Office shall have an additional 60-90 calendar days to process the inmate's application upon resubmission.

Modified, 1 CMC 3806(a)-(b), (d), (g).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

Commission Comment: In codifying 39 Com. Reg. 039334 (Mar. 28, 2017), the Commission changed "Section IV" to "§ 115-10-101" throughout this section pursuant to 1 CMC 3806(d).

§ 115-10-210 Hearings Calendar

(a) Every 3 months the Chief Parole Officer shall request from Corrections a list of the inmates that may be eligible to apply for parole within 1 year.

(b) The Board of Parole shall conduct a Board Meeting with a quorum as defined in 6 CMC § 4203 at least twice a year open to the public.

(c) The Chief Parole Officer shall maintain a list of processed and eligible parole applicants and advise the Board of Parole of this list at each Board Meeting. The Chief Parole Officer shall report to the Board of Parole shall set a hearing date based on the eligible applicant list at each regularly scheduled meeting, in as much detail as the Board of Parole requests, as to the inmates that have applied and are eligible for parole. The Board of Parole shall schedule a date for hearing for those inmates that are eligible for parole. The proposed hearing date shall be given to Corrections.

(d) The Board of Parole Office shall give each inmate and the Office of the Attorney General set for hearing 14 calendar days prior notice of the date, time, and place of inmate's hearing.

(e) The Chief Parole Officer shall present orally and in writing reports of the operations and status of the current parolees to the Board of Parole during each Board Meeting.

(f) The Board of Parole shall advertise the parole hearings/meetings in at least one newspaper of general circulation in the Commonwealth within 72 hours of the hearing/meeting date pursuant to 1 CMC § 9910.

(g) Remote Attendance: All hearings and Board meetings shall be held in the Commonwealth and pursuant to Public Law 8-41; "Open Government Act of 1992," as amended. Members of the Board who are in the Commonwealth but unable to attend a meeting

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in person may appear by means of internet or online video conferencing, teleconferencing, or other electronic means of communication, pursuant to Public Law 22-05.

1) Members attending a hearing/meeting via internet or online video conferencing, teleconferencing, or other electronic means of communication must make sure that they are in a secure location when participating in an executive session portion of a meeting, pursuant to the Open Government Act.

2) Members who appear by means of internet or online video conferencing, teleconferencing, or other electronic means of communication shall be considered present for the purposes of a quorum.

(h) Notice of Intent to Attend Remotely. Members who plan to attend appear by means of internet or online video conferencing, teleconferencing, or other electronic means of communication shall inform the Chairperson and the Administrative Assistant at least three (3) days prior to the hearing/meeting.

Modified, 1 CMC § 3806(a)–(b), (g).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

Part 300 – Board of Parole Hearings and Decisions

§ 115-10-301 Hearings

Regular hearings of the Board of Parole shall be conducted as deemed necessary by the Board of Parole.

The parole hearing is a hearing to determine whether an inmate should be released from incarceration to parole supervision in the community for the remainder of the inmate's sentence. The Board of Parole members may ask the inmate direct questions about his/her criminal history, his/her time in prison, what he/she plans to do if granted parole, or any other pertinent information.

A parole officer shall present the facts of each case and the results of the investigation for the sponsor's home.

Victim(s) or victim's next of kin shall be notified by the Chief Parole Officer by mail, in person, or telephone of the inmate's next scheduled hearing. A victim or a victim's family member may appear in person at the hearing to offer a statement or submit a written statement to the Board of Parole, Victim Witness Advocacy Unit, or the Office of the Attorney General-Criminal Division in advance of the hearing.

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Inmate family members and other witnesses may appear in person at the hearing to offer a statement or submit a written statement to the Board of Parole or the Office of the Attorney General-Criminal Division in advance of the hearing.

The sponsor shall appear at the hearing to be questioned by the Board of Parole.

The inmate may offer a written statement to the Board of Parole in advance of the hearing or an oral statement at the hearing regarding his/her criminal case(s), goals, intentions, and his/her purpose of applying for parole.

The Office of the Attorney General-Criminal Division shall be permitted to present written and/or oral statements at the hearing and offer a recommendation to the Board of Parole.

Modified, 1 CMC § 3806(a)–(b).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-305 Formal Order

Following the hearing the Board of Parole shall issue a formal written order granting or denying parole within 7 calendar days. If parole is granted, it shall be effective on the date the inmate is eligible under the law or at such later date as is specified by the Board of Parole in its order.

Modified, 1 CMC § 3806(a)–(b).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-310 Reapplication for Parole

Reapplication for parole after denial shall be handled in the same manner as initial application for processing and hearing purposes. However, an inmate who has been denied parole may not re-apply for parole:

- (a) 6 months from the date of denial; or
- (b) In the event inmate is serving a life sentence or a sentence of 20 years or longer, 24 months from the date of denial.

§ 115-10-~~310~~315 Revocation Hearings

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Parole revocation hearings shall be scheduled by the Board of Parole and conducted as set forth in Part 500.

Modified, 1 CMC 3806(a)-(b), (d).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

Commission Comment: In codifying 39 Com. Reg. 039334 (Mar. 28, 2017), the Commission changed "Section VIII" to "Part 500" pursuant to 1 CMC 3806(d).

~~§ 115-10-315~~ ~~Reapplication for Parole~~

~~Reapplication for parole after revocation shall be handled in the same manner as initial application for processing and hearing purposes. However, an inmate who has been denied parole may re-apply for parole no sooner than:~~

- ~~(a) Six months from the date of denial; or~~
- ~~(b) In the event inmate is serving a life sentence or a sentence of 20 years or longer, 24 months from the date of denial.~~

~~Modified, 1 CMC § 3806(a) (b), (e), (g).~~

~~History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).~~

§ 115-10-320 Records Retention

Minutes of all board hearings shall be forwarded to the Northern Marianas College pursuant to 1 CMC § 9914 for the Commonwealth archives.

- (a) Parole or Clemency Denied – Retention is 20 years from the date of denial.
- (b) Parole Granted – Retention is 20 years from the date the parolee completes his/her sentence.
- (c) Parole Ineligible – Retention is until the inmate is eligible for application of parole.
- (d) Clemency Granted – Retention is 20 years from the date clemency was granted.

The Board of Parole shall retain the records in an electronic format. To help ensure files are accessible over time, the Board of Parole will need to verify that the file formats being used are

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still supported. The Board of Parole shall convert or migrate files to ensure that the files remain accessible.

Part 400 – Standard and Special Terms and Conditions of Parole

§ 115-10-401 Parole Conditions

Prior to parole release, the Board of Parole shall impose and require all inmates to agree to abide and adhere to the parole conditions during the term of parole under the supervision of the Chief Parole Officer, as follows:

- (a) Shall not commit any crime or engage in criminal activities;
- (b) Shall support all dependents and meet other family responsibilities;
- (c) Shall devote himself/herself to an approved employment or occupation;
- (d) Shall remain within the geographic limits fixed in parolee's certificate of parole, unless granted written permission by the Chief Parole Officer to leave such limits;
- (e) Shall report, as directed by the Chief Parole Officer upon release, to parolee's Parole Officer at such regular intervals as may be required, answer all reasonable inquiries by the Parole Officer, and permit the officer to visit parolee at reasonable times at parolee's home or elsewhere;
- (f) Shall reside at any place fixed in parolee's certificate of parole;
- (g) Shall reside in a boarding home, hospital, or other parole residence facility, for such period and under such supervision or treatment as the Board of Parole or Chief Parole Officer may deem appropriate;
- (h) Shall attend any group rehabilitation sanctioned by the Board of Parole for group drug or alcohol rehabilitation purposes as the Board of Parole or Chief Parole Officer may deem appropriate;
- (i) Shall not possess firearms or other dangerous weapons;
- (j) Shall submit to available medical or psychiatric treatment as directed;
- (k) Shall not associate with persons that engage in criminal activities or, without permission of the Chief Parole Officer, with persons that have been convicted of a crime;
- (l) Shall pay any Court ordered fine and/or restitution;

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- (m) Shall satisfy any other conditions reasonably related to parolee's rehabilitation or to the public safety and security while on parole, as imposed by the Chief Parole Officer;
- (n) Shall submit to possible search and or seizure, with or without a search warrant, of a parolee's appropriate, place of residence, work and or property, day or night, by any Parole Officer(s), and any accompanying law enforcement officer(s);
- (o) Shall abide and adhere to the instructions of the Parole Officer;
- (p) Shall pay a monthly Parole Supervision Fee of \$30 or perform, in lieu of such fee, Community Work Service (CWS), pursuant to Public Law 14-33;
- (q) Shall submit to substance abuse testing and or drug urinalysis screenings and or testing, as required, by the Chief Parole Officer or Parole Officers;
- (r) Shall maintain an approved home placement and suitable sponsor while on parole and adhere to any sponsorship agreement;
- (s) Shall first obtain prior written approval from the Chief Parole Officer or designee within 24 hours of any prospective change in address, sponsor or employment;
- (t) Shall abide by and adhere to curfew and driving restrictions imposed by the Board or Chief Parole Officer or designee. The standard curfew hours for parolees are from 9:00 p.m. to 6:00 a.m. Requests to the Chief Parole Officer for temporary curfew extensions and authorizations to operate motor vehicles must be submitted in writing to the Parole Office 72 hours prior to the extension and authorization dates for review and consideration;
- (u) Shall not consume any alcoholic beverage or any illegal substances, or any legal substances without proper prescription from a licensed physician or medical doctor; and
- (v) Shall not enter or frequent any nightclub, bar, or other similar establishment that serve or dispense alcoholic beverages or the like, nor enter any gambling establishment and shall refrain

from playing, participating, in any form of gambling activity, or from operating, in any way, any type of electronic gaming device, machine, or any type of gambling table game

Modified, 1 CMC 3806(a)-(b), (g).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-405 Additional Special Conditions

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In addition to the standard terms and conditions and standard special conditions of parole, the Board of Parole Chairperson or the Chief Parole Officer may impose and require additional special conditions of parole, either at the time of the parolee's release on parole or at any time while parolee remains under parole supervision. Imposition of additional special conditions may vary, but in imposing them, the Board of Parole Chairperson or the Chief Parole Officer is guided by the following criteria:

- (a) Reasonable relationship between the additional condition imposed and the parolee's previous conduct, present situation and capabilities;
- (b) Reasonable balance between the parolee's liberty, expression, and association, and the community's safety; and
- (c) Sufficient specificity to aid in supervision and conduct.

Modified, 1 CMC § 3806(a)-(b).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-410 Certificate of Parole and Agreement

Prior to release on parole, the inmate shall be provided with a Certificate of Parole setting forth the conditions of parolee's parole. Inmate shall initial next to each condition and/or special conditions and sign a statement agreeing to such conditions prior to inmate's release on parole.

Modified, 1 CMC § 3806(a)-(b).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-415 Reasonable and Necessary Changes to Conditions

Reasonable and necessary changes to a parolee's standard special terms and conditions of parole may be temporarily imposed by the Chief Parole Officer by giving written notice of the new condition and the reasons for such imposition to the parolee and the Board of Parole Chairperson or designee.

Such temporary modification shall be imposed for a period not to exceed 90 calendar days. If within the 90 calendar days the Board of Parole Chairperson or designee, or any Board of Parole Member authorized by the Board to do so, agrees with the imposition of additional special terms and conditions of parole, the condition will ~~shall~~ be permanently imposed on parolee and notice of the same shall be given to parolee. In the event the Board of Parole Chairperson or designee, or any Board of Parole Member authorized by the Board to do so determines such imposition

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does not satisfy § 115-10-405, a Notice of Rescission of Temporary Additional Special Conditions shall be provided to the parolee.

Modified, 1 CMC 3806(a)–(b), (d), (g).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

Commission Comment: In codifying 39 Com. Reg. 039334 (Mar. 28, 2017), the Commission changed “Section B above” to “§ 115-10-405” pursuant to 1 CMC 3806(d).

§ 115-10-420 Requests for Changes to Conditions

A parolee may request a temporary exemption or permanent change to parolee's terms and conditions of parole. Such request must be made in writing to the Chief Parole Officer, and shall set forth the reason for the desired change or exemption. The request must be submitted ~~three~~³ working days in advance of the desired temporary exemption or permanent change. If, and only if, the Chief Parole Officer agrees such exemption or change should be granted, the Chief Parole Officer will, as soon as practical, bring the request to the attention of the Board of Parole ~~or Member authorized by the Board~~Chairperson or designee to grant such changes and exemptions. The change or exemption authorization shall be valid only after the ~~authorized Member~~Chairperson or designee concurs with the Chief in writing. In the event that the Board of Parole ~~Member authorized by the Board to~~Chairperson or designee grants such changes and exemptions deems that the request should be heard by the entire Board of Parole, the requested change ~~will~~shall be submitted to the Board of Parole for consideration and determination within a reasonable time.

Modified, 1 CMC § 3806(a)–(b), (e).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

Part 500 – Revocation Proceedings

§ 115-10-501 Parole Violations

The Board of Parole, or any Board of Parole Member authorized by the Board, may, if parolee is alleged to have violated parolee's parole, summon a parolee to appear at a preliminary hearing. Alternatively, if parolee is alleged to have violated parolee's parole, the Board of Parole, or any Board of Parole Member authorized by the Board, may issue an order suspending parolee's parole and a warrant ordering parolee to be apprehended and detained pending further action by the authorized member or by the entire Board.

Modified, 1 CMC § 3806(a)–(b).

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History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-505 Emergency Situations

If a Parole Officer has probable cause to believe that a parolee has violated a condition of parole and that an emergency situation exists, and awaiting an order of the Board of Parole would create an undue risk to the public or to the parolee, the Parole Officer shall arrest the parolee with or without first issuing a warrant for parolee's arrest and subsequent detention at the Department of Corrections or a local jail or detention facility, and may call on any law enforcement officer to assist in the arrest. Within 24 hours of arrest and detention, the parolee shall be detained on the written order of the Parole Officer in a local jail, lockup, or other detention facility, pending action by the Board of Parole. The Board of Parole, or any Board of Parole Member authorized by the Board to do so, may, after such detention, issue an order suspending parole or for the conditional or unconditional release of the parolee and take such other action as is authorized in this Part with respect to a parolee arrested under its warrant.

Modified, 1 CMC 3806(a)–(b), (d), (g).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

Commission Comment: In codifying 39 Com. Reg. 039334 (Mar. 28, 2017), the Commission changed “in this section” to “in this Part” pursuant to 1 CMC 3806(d).

§ 115-10-510 Warrant of Arrest

If, pursuant to § 115-10-505, a Parole Officer has a parolee arrested and detained, the Officer shall, within 72 hours of such arrest and detention, obtain a warrant of arrest and/or an order suspending parole from the Board of Parole, or any Board of Parole Member authorized by the Board ~~to issue such warrants or orders~~. If such warrant and/or order is not obtained within that period, parolee shall be released.

Modified, 1 CMC 3806(a)–(b), (d), (g).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

Commission Comment: In codifying 39 Com. Reg. 039334 (Mar. 28, 2017), the Commission changed “subsection B above” to “§ 115-10-505” pursuant to 1 CMC 3806(d).

§ 115-10-515 Preliminary Hearing

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A parolee who has been summoned or retaken for an alleged violation of the conditions of parole shall be scheduled for a preliminary hearing before the Board of Parole, or any Board of Parole Member authorized by the Board to conduct such hearings, within 20 calendar days of arrest or summons. The parolee shall be notified of the preliminary hearing at least 7 calendar days prior to the hearing. A parolee may knowingly and intelligently waive his or her right to preliminary hearing and/or to representation at the hearing in writing on the notification date. A parolee has the right to appear with retained legal counsel or if he/she cannot afford legal counsel, he/she may apply for indigent counsel.

A parolee has the right to confront and cross-examine witnesses. On request of parolee, person(s) who has given information on which a parole violation is to be based is to be made available for questioning in his/her presence, unless the Board of Parole Member authorized by the Board to conduct such hearings determines that informant would be subjected to a risk of harm if his/her identity were disclosed

Modified, 1 CMC § 3806(a)–(b), (g).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015); Amdts Adopted 23 Com. Reg. 18419 (Oct. 19, 2001); Amdts Proposed 23 Com. Reg. 18225 (Aug. 16, 2001).

§ 115-10-520 Preliminary Hearing Determination

The Board of Parole, or any Board of Parole Member authorized by the Board to do so, shall determine if there is probable cause to believe that a parolee has violated a condition of parolee's parole. If probable cause is found, the Board of Parole or the designated representative shall:

(a) Notify the parolee, in writing, of its finding and of the date, time, and place, of parolee's revocation hearing within 7 calendar days; and

(1) Order the parolee held under its warrant pending a revocation hearing; or

(2) Order the release of the parolee upon a finding that incarceration of the parolee pending revocation proceedings is unwarranted because the parolee does not pose a flight risk and does not constitute a danger to the community; or

(b) In the event the alleged violation is a pending criminal charge, notify the parolee that parolee's parole is and shall be suspended pending the disposition of the criminal suit against parolee by the court. In such cases, a revocation hearing shall not be set until such time as the criminal suit against the parolee is disposed of by the Court, ~~or otherwise dismissed.~~

Modified, 1 CMC 3806(a)–(b), (g).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017).

§ 115-10-525 Further Revocation Proceedings Not Warranted

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If the Board of Parole, or any Board of Parole Member authorized by the Board, determines that probable cause exists, but that continuation of revocation proceeding is not warranted, the Board of Parole, or any Board of Parole Member authorized by the Board to do so, may subsequently order that the parolee be released and required to conform with one or more additional conditions of parole which may be imposed in accordance with § 115-10-405.

Modified, 1 CMC 3806(a)–(b), (d).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017).

Commission Comment: In codifying 39 Com. Reg. 039334 (Mar. 28, 2017), the Commission changed “Section VII B herein” to “§ 115-10-405” pursuant to 1 CMC 3806(d).

§ 115-10-530 Revocation Hearing Schedule

Where probable cause has been found that a parolee has violated a condition of parolee's release, a revocation hearing shall be conducted by the Board of Parole within 90 calendar days of the probable cause determination at thr preliminary hearing or the date of waiver of the preliminary hearing.

Modified, 1 CMC § 3806(a)–(b), (g).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017).

§ 115-10-535 Revocation Hearing

Though this hearing is referred to as the revocation hearing, the Board of Parole may reinstate parole status with or without additional conditions or require the parolee to serve out his/her sentence.

A parole officer shall present the alleged facts and evidence of the violation(s) that the parolee allegedly violated.

At the revocation hearing, the parolee may admit, deny, or explain the violation charged, and may present evidence that the condition was not violated or that inmate's violation was excusable. ~~Parolee shall be permitted to consult with any persons whose assistance parolee reasonably desires, including parolee's own legal counsel, in preparing for a hearing before the Board of Parole. Parolee may confront and cross-examine adverse witnesses, unless the Board of Parole finds reason for not permitting such cross-examination.~~ A parolee has the right to appear with retained legal counsel or if he/she cannot afford legal counsel, he/she may apply for indigent counsel.

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A parolee has the right to confront and cross-examine witnesses. On request of parolee, person(s) with information on which a parole violation is to be based is to be made available for questioning in his/her presence, unless the Board of Parole determines that the witness would be subjected to a risk of harm if his/her identity were disclosed.

Parolee family members and other witnesses may appear in person at the revocation hearing or submit a written statement to the Board of Parole in advance of the hearing.

The Board of Parole members may ask the inmate direct questions about his/her alleged violations or any other pertinent information.

Modified, 1 CMC § 3806(a)–(b).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017).

§ 115-10-540 Revocation of Parole

A parolee whose parole is revoked for violation of the conditions of parole shall be recommitted for the term not to exceed the balance of the sentence imposed. Within 7 calendar days, the Board of Parole shall issue a formal written order. ~~Any parolee whose parole has been revoked, may, on or after the date the Board of Parole has set for re-application, upon submission of application, and eligibility, be considered by the Board of Parole for re-parole in accordance with the provisions of Part 100, Part 200, and Part 300 herein. In the event a parolee has 18 months or more remaining in parolee's sentence and the Board of Parole has not set a date for re-application, the parolee may reapply as follows:~~

- ~~(a) — After 12 months from the date of revocation if parolee has 18 months or more remaining in parolee's sentence to be served; or~~
- ~~(b) — After 24 months from the date of revocation if parolee has 60 months or more remaining in parolee's sentence to be served.~~

Reapplication after a first parole revocation, an inmate may reapply as follows:

- (a) After 12 months from the date of revocation, if the inmate has 24 months or less remaining on his/her sentence to be served; or
- (b) After 24 months from the date of revocation, if the inmate has 25 months to 48 months remaining on his/her sentence to be served; or
- (c) After 48 months from the date of revocation, if the inmate has more than 48 months remaining on his/her sentence to be served.
- (d) Upon a second revocation, an inmate will not be eligible for reapplication.

Modified, 1 CMC 3806(a)–(b), (d), (g).

TITLE 115: BOARD OF PAROLE

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017).

Commission Comment: In codifying 39 Com. Reg. 039334 (Mar. 28, 2017), the Commission changed “sections IV, V, and VI” to “Part 100, Part 200, and Part 300” pursuant to 1 CMC 3806(d).

Part 600 – Clemency

§ 115-10-601 General

The Board of Parole is required by the Commonwealth Constitution and by Commonwealth law to participate in any reprieve, commutation, or pardon granted by the Governor of the Commonwealth. The Board shall, upon request of the Governor, consider and make nonbinding recommendations concerning all requests for clemency. Such recommendations shall be made pursuant to the procedures in this Section.

Modified, 1 CMC § 3806(a)–(b).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015).

§ 115-10-605 Definitions

- (a) **Absolute Pardon.** A pardon that releases a person from punishment and restores the offender's civil rights without qualification.
- (b) **Clemency.** The power of the Governor to issue a pardon, reprieve, or commutation.
- (c) **Commutation.** The substitution in a particular case of a less severe punishment for a more severe one that that has already been judicially imposed on a person.
- (d) **Conditional Commutation.** A commutation that does not become effective until the person satisfies a prerequisite or that will be revoked upon the occurrence of some specified act.
- (e) **Conditional Pardon.** A pardon that does not become effective until the person satisfies a prerequisite or that will be revoked upon the occurrence of some specified act.
- (f) **Pardon.** The act or instance of officially nullifying punishment or other legal consequences of a crime.
- (g) **Partial Pardon.** A pardon that exonerates the offender from some but not all of the punishment or legal consequences of a crime.

Modified, 1 CMC § 3806(a)–(b).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017); Amdts Adopted 37 Com. Reg. 36616 (June 28, 2015); Amdts Proposed 37 Com. Reg. 36072 (Feb. 28, 2015).

TITLE 115: BOARD OF PAROLE

§ 115-10-610 Notice

The Board of Parole shall attempt to provide notice to all interested parties in accordance with these rules and regulations. The Board of Parole shall, ~~subject to budgetary restraints,~~ advertise any clemency hearing in at least one newspaper of public circulation in the Commonwealth within 72 hours of the hearing date.

Modified, 1 CMC 3806(a)-(b), (g).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017).

Commission Comment: In codifying 39 Com. Reg. 039334 (Mar. 28, 2017), the Commission changed “this rules and regulations” to “these rules and regulations” pursuant to 1 CMC 3806(g).

§ 115-10-615 Procedure

(a) A request for a clemency must be directed to the Office of the Governor. If the Board of Parole receives a request for clemency, then the Chief Parole Officer will provide an application to the inmate and shall forward the request to the Office of the Governor.

(b) If the Governor is considering a grant of clemency to a person, then the Office of the Governor shall issue a request to the Board of Parole to provide any information known to the Board of Parole regarding the criminal record of the person. The Office of the Governor must issue a similar request to the Office of the Attorney General, the Department of Corrections, and the Department of Public Safety.

(c) Upon receipt of the request from the Office of the Governor, the Board of Parole will provide a complete summary of the person's criminal record within 14 calendar days. The Board of Parole may supplement the criminal history with any other information that it deems relevant to the request.

(d) After reviewing information and the clemency request, the Governor may choose to grant or deny clemency to the person. If the Governor wishes to grant clemency, then the Office of the Governor must inform the Board of Parole in writing.

(e) If the Governor wishes to grant clemency, the Board of Parole must respond by providing any of the following information that was not previously provided to the Office of the Governor:

- (1) A detailed legal analysis of the person's criminal case and sentence;
- (2) Any information tending to show that the person has or has not taken responsibility for his or her actions;
- (3) A copy of the person's record of behavior while incarcerated at the Department of Corrections; and
- (4) Any other relevant information possessed by the Board of Parole.

TITLE 115: BOARD OF PAROLE

- (f) If the Board of Parole receives written notice of intent to grant clemency from the Office of the Governor, then the Board of Parole must schedule and hold a hearing within 30 days.
- (g) The Governor must consult with the Board of Parole on his or her intention to grant clemency.
- (h) The clemency hearing must be open to the public.
- (i) Any interested person may submit data, views, or arguments in writing, on the clemency request. Within reasonable time limitations, any person may present oral testimony for or against the clemency request.
- (j) At the conclusion of the hearing, the Board of Parole must vote on whether to support or object to the issuance of clemency. A majority of the voting members will be required to support or object to the issuance of clemency. The failure of the Board to reach a majority vote will mean that the Board takes no position on the issuance of clemency.
- (k) The Governor may choose to grant or deny clemency regardless of the position taken by the Board of Parole. The purpose of this procedure is to advise the Governor and help him or her reach a decision that is in the best interests of the Commonwealth.

Modified, 1 CMC § 3806(a)–(b), (g).

History: Amdts Adopted 39 Com. Reg. 039590 (Apr. 28, 2017); Amdts Proposed 39 Com. Reg. 039334 (Mar. 28, 2017).

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE**



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In Re Matter of:)	DUA Case No. 22-004
)	
Lou Ann Magsino,)	
)	
Appellant,)	ADMINISTRATIVE ORDER
)	
v.)	
)	
CNMI Department of Labor,)	
Division of Employment Services-DUA,)	
)	
Appellee.)	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on July 20, 2022 at 9:00 a.m. at the Administrative Hearing Office. Appellant Lou Ann Magsino (“Appellant”) was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Disaster Unemployment Assistance program (“Appellee” or “Department”) was present and represented by Director of Employment Services Eugene Tebuteb, Labor Certification Worker Dennis Cabrera, and Labor Certification Technician Labian Muna. Translator Arlene Rafanan was also present to facilitate communication.

Exhibits:

1. Exhibit 1: Copy of USDOL Letter, dated October 31, 2018;
2. Exhibit 2: Copy of USDOL Extension, dated December 13, 2018;
3. Exhibit 3: Copy of USDOL Extension, dated January 23, 2019;
4. Exhibit 4: Copy of Department Press Releases and News Articles;
 - a. DUA Press Release, dated November 16, 2018;
 - b. Saipan Tribune Article, dated November 16, 2018;
 - c. Saipan Tribune Article, dated December 10, 2018;
 - d. Saipan Tribune Article, dated December 14, 2018;
 - e. DUA Press Release, dated January 4, 2019;
 - f. DUA Press Release, dated January 25, 2019;

1 g. FEMA Press Release, dated February 7, 2019;

2 5. Exhibit 5: Copy of DUA Benefit Rights and Responsibilities Handbook;

3 6. Exhibit 6: Copy of Appellant's Initial Application, filed June 17, 2019;

4 7. Exhibit 7: Copy of Appellant's Employment Authorization Card;

5 8. Exhibit 8: Copy of Employer Notice re: Shutdown, dated November 15, 2018;

6 9. Exhibit 9: Copy of Appellant's Employment Certification from IPI, dated April 23,
2019;

7 10. Exhibit 10: Copy of Department's Initial Determination, dated June 18, 2019;

8 11. Exhibit 11: Copy of Appellant's Appeal Letter, dated June 27, 2019; and

9 12. Exhibit 12: Copy of Notice of Hearing, issued May 9, 2022.

10 For the reasons stated below, the Department's Determination dated June 18, 2019 is
11 **AFFIRMED**. Appellant is not eligible for disaster unemployment benefits for the entire Disaster
12 Assistance Period (week beginning October 28, 2018 to week ending April 27, 2019).

13 II. JURISDICTION

14 The Disaster Unemployment Assistance program (DUA) was established under the Robert T.
15 Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (42 U.S.C. 5121), as
16 amended. By Executive Order No. 12673, the Federal Emergency Management Agency (FEMA)
17 was delegated the responsibility of administering the Stafford Act and FEMA further delegated
18 the US Department of Labor in administering the DUA program and payment of DUA benefit
19 assistance, in conjunction with the applicable state agencies. Effective April 6, 2022 and in
20 accordance with 20 CFR 625.30(a), the CNMI Department of Labor, Administrative Hearing
21 Office was designated to hear Disaster Unemployment Appeals stemming from Super Typhoon
Yutu (DR-4404-MP).

22 Upon review of the records, the appeal is timely filed. Accordingly, jurisdiction is established.

23 III. PROCEDURAL BACKGROUND & ISSUES

24 On October 24, 2018, Super Typhoon Yutu devastated the CNMI. On October 26, 2018, the
25 US President issued a major disaster declaration and made federal funding available to affected
26 individuals. Said relief included disaster unemployment benefits to eligible claimants.

27 On November 16, 2018, the Department began to administer and accept applications for the
28 DUA program. Appellant filed a claim for unemployment benefits under the DUA program for
the above-mentioned disaster (DR-4404-MP). Appellant's claim was ultimately denied by the

1 CNMI Department of Labor and Appellant sought to appeal the Department's denial. Originally,
2 the Hawaii Employment Security Appeals Referee's Office (ESARO) was the designated entity
3 to decide appeal cases for this disaster. Due to the ESARO's extensive backlog, the CNMI
4 Department of Labor's Administrative Hearing Office was redesignated to hear first level appeals
5 on April 6, 2022.

6 Upon redesignation, the Administrative Hearing Office issued a Notice of Hearing. The issue
7 on appeal is whether Appellant is eligible for DUA benefits.

8 IV. FINDINGS OF FACT

9 In consideration of the evidence provided and credibility of witness testimony, the
10 undersigned issues the following findings of fact:

- 11 1. On October 24, 2018, Super Typhoon Yutu struck the CNMI.
- 12 2. On October 26, 2018, President Trump authorized federal disaster aid to help individuals
13 in the CNMI recover from the onslaught of Super Typhoon Yutu. The assistance was
14 authorized under major disaster declaration number 4404-DR.
- 15 3. Among other things, the declaration authorized federal aid for the Disaster Unemployment
16 Assistance (DUA) program to individuals who became unemployed as a direct result of
17 the major disaster.¹
- 18 4. The CNMI Department of Labor is the state agency responsible for administering the
19 DUA program in the CNMI.
 - 20 a. The Department announced the program and began to accept applications on
21 November 16, 2018.
 - 22 b. The Department issued a number of press releases² and published a Benefit Rights
23 and Responsibilities Handbook³ to inform potential claimants.
- 24 5. With respect to this disaster, DUA benefits in the amount of \$336 per week were available
25 for eligible claimants starting with week beginning date of October 28, 2018 and can be
26 paid up to week ending April 27, 2019 ("Disaster Assistance Period").⁴

27 ¹ Exhibit 1.

28 ² Exhibit 4

³ Exhibit 5.

⁴ Exhibits 1 and 5.

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6. Originally, the filing deadline for DUA applications was December 16, 2018.⁵ Due to ongoing hardships, the filing deadline was then extended to January 15, 2019.⁶ Once again, the filing deadline was extended to February 14, 2019.⁷
7. Appellant resided and worked in the CNMI at the time of the disaster. Appellant’s home was damaged and Appellant’s personal belongings were destroyed or lost. Nonetheless, Appellant returned to work the following day and testified that she continued to work full time.
8. On June 17, 2019, Appellant submitted an application⁸ for unemployment assistance under the DUA program. In the application,⁹ Appellant self-certified under penalty of perjury that her employment was affected by the disaster but failed to demonstrate how or when her employment was affected.¹⁰
9. Appellant’s Application included a copy of her Employment Certification and Letter from Employer. The employment certification does provide how Appellant was affected by the disaster. Further, no investigation was conducted on the veracity of statements in the Letter.
10. Appellant’s application also included a copy of her Employment Authorization Card. At the time relevant to this appeal, Appellant was a foreign worker with employment authorization under Category C11.¹¹ Appellant’s employment authorization under this category was valid from May 16, 2017 to June 29, 2019.
11. On June 18, 2019, the Department denied Appellant’s initial application for the entire disaster unemployment period.¹² Therein, the Department found that Appellant’s application was untimely and she failed to show good cause for filing late.
12. On June 27, 2019, Appellant filed an appeal letter.¹³ The Appeal letter reiterated Appellant’s difficult situation.

⁵ “An initial application for DUA shall be filed by an individual with the State agency of the applicable State within 30 days after the announcement date of the major disaster as the result of which the individual became unemployed. . . .” 20 CFR § 625.8

⁶ Exhibit 2.

⁷ Exhibit 3.

⁸ Exhibit 6.

⁹ *Id.*

¹⁰ Appellant responded “No” on eligibility criteria and left the section for claimed weeks blank.

¹¹ Exhibit 7.

¹² Exhibit 10.

¹³ Exhibit 11.

1 13. The appeal was transmitted to the Hawaii Employment Security Appeals Referee's Office
2 (ESARO), who was originally designated to decide appeal cases for this disaster. Due to
3 the ESARO's extensive backlog, the CNMI Department of Labor's Administrative
4 Hearing Office was redesignated to hear first level appeals on April 6, 2022.

5 14. On May 9, 2022, the Administrative Hearing Office issued a Notice of Hearing¹⁴
6 informing the parties of the scheduled hearing and issues on appeal.

7 15. Appellant recognizes that the initial application was filed late.

8 16. When asked why the application was filed late, Appellant testified that she learned of the
9 DUA program in 2018 but did not submit an application because she was busy recovering
10 from the typhoon.

11 V. CONCLUSIONS OF LAW

12 In consideration of the above-stated findings and applicable law, the undersigned issues the
13 following conclusions of law:

14 1. Appellant is not eligible for DUA benefits.

15 Under the DUA program, federal assistance is made available to eligible claimants from a specific
16 geographic area that is adversely affected by a declared disaster. Pursuant to 20 CFR 625.4, an
17 individual is eligible to receive a payment of DUA with respect to a week of unemployment if:

- 18 (a) That week begins during a Disaster Assistance Period;
- 19 (b) The applicable State for the individual has entered into an
20 Agreement which is in effect with respect to that week;
- 21 (c) The individual is an unemployed worker or an unemployed self-
22 employed individual;
- 23 (d) The individual's unemployment with respect to that week is
24 caused by a major disaster...
- 25 (e) The individual has filed a timely initial application for DUA and,
26 as appropriate, a timely application for a payment of DUA with
27 respect to that week;
- 28 (f) That week is a week of unemployment for the individual;
- (g) The individual is able to work and available for work within the
meaning of the applicable State law...

¹⁴ Exhibit 12.

1 (h) The individual has not refused a bona fide offer of employment
2 in a suitable position, or refused without good cause to resume or
3 commence suitable self-employment ...

4 (i) The individual is not eligible for compensation ... or for waiting
5 period credit for such week under any other Federal or State law ...

6 Here, there are a number of eligibility issues implicated by the exhibits and testimony provided.
7 However, the initial issue of timeliness is insurmountable. Pursuant to 20 CFR § 625.8(a), “[a]n initial
8 application for DUA shall be filed by an individual with the State agency of the applicable state within
9 30 days after the announcement date of the major disaster as the result of which the individual became
10 unemployed An initial application filed later than 30 days after the announcement date of the
11 major disaster shall be accepted as timely by the State agency if the applicant had good cause for the
12 late filing, but in no event shall an initial application be accepted by the State agency if it is filed *after*
13 *the expiration of the Disaster Assistance Period.*” (Emphasis added). Under the applicable state law,
14 good cause is defined as (1) illness or disability of the individual; (2) keeping an appointment for a
15 job interview; (3) attending a funeral or a family member; and (4) any other reason which would
16 prevent a reasonable person from complying as directed. HRS § 12-5-81.

17 For the reasons stated below, the undersigned finds that Appellant’s initial application is untimely.
18 First, Appellant failed to apply by the February 14, 2019 application deadline. Second, Appellant
19 failed to apply before the end of the April 27, 2019 Disaster Assistance Period. Instead, Appellant
20 submitted her initial application on June 17, 2019 – almost two months later. For that reason,
21 Appellant’s initial application is untimely and Appellant is not eligible for DUA benefits.

22 **VI. DECISION**

23 For the reasons stated above, it is ORDERED that:

- 24 1. The CNMI Department of Labor’s Disqualifying Determination, dated June 18, 2019, is
25 **AFFIRMED**;
- 26 2. The Appellant is **NOT ELIGIBLE** to receive disaster unemployment benefits for the
27 entire Disaster Assistance Period.

28 So ordered this **20th** day of July, 2022.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

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Second Level Appeal Rights

This decision becomes final unless you file a request for review by the Regional Employment and Training Administrator, U.S. Department of Labor, within fifteen (15) days after the date of this order, shown above. The request for review can be filed directly with the Regional Administrator by mailing the request to: ETA Regional Administrator, U.S. Department of Labor; 90 7th Street, Ste. 17-300; San Francisco, CA 94103, or through the CNMI Department of Labor, Administrative Hearing Office at 1357 Mednilla Ave, Capitol Hill, Saipan, 96950 for transmittal to the Regional Administrator. The timely request can also be emailed to the Regional Administrator at RO6-RA-SF@dol.gov. *The request for review should include the Appellant's name, claimant ID/or case docket number, and a copy of this decision.*

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE**



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In Re Matter of:)	DUA Case No. 22-006
)	
Marites Hossain,)	
)	
Appellant,)	ADMINISTRATIVE ORDER
)	
v.)	
)	
CNMI Department of Labor,)	
Division of Employment Services-DUA,)	
)	
Appellee.)	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on August 3, 2022 at 9:00 a.m. at the Administrative Hearing Office. Appellant Marites Hossain (“Appellant”) failed to appear and was unrepresented. Appellee CNMI Department of Labor Division of Employment Services – Disaster Unemployment Assistance program (“Appellee” or “Department”) was present and represented by Director of Employment Services Eugene Tebuteb, Labor Certification Worker Dennis Cabrera, and Labor Certification Technician Labian Muna.

Exhibits:

1. Exhibit 1: Copy of USDOL Letter, dated October 31, 2018;
2. Exhibit 2: Copy of USDOL Extension, dated December 13, 2018;
3. Exhibit 3: Copy of USDOL Extension, dated January 23, 2019;
4. Exhibit 4: Copy of Department Press Releases and News Articles;
 - a. DUA Press Release, dated November 16, 2018;
 - b. Saipan Tribune Article, dated November 16, 2018;
 - c. Saipan Tribune Article, dated December 10, 2018;
 - d. Saipan Tribune Article, dated December 14, 2018;
 - e. DUA Press Release, dated January 4, 2019;
 - f. DUA Press Release, dated January 25, 2019;
 - g. FEMA Press Release, dated February 7, 2019;

- 1 5. Exhibit 5: Copy of DUA Benefit Rights and Responsibilities Handbook;
- 2 6. Exhibit 6: Copy of Appellant's Initial Application, filed June 14, 2019;
- 3 7. Exhibit 7: Copy of Employer Notice re: Shutdown, dated November 15, 2018;
- 4 8. Exhibit 8: Copy of Appellant's Identification and C11 Employment Authorization
Cards;
- 5 9. Exhibit 9: Copy of Department's SAVE Verification, initiated June 26, 2019;
- 6 10. Exhibit 10: Copy of Department's Initial Determination, dated June 27, 2019; and
- 7 11. Exhibit 11: Copy of Notice of Hearing, issued May 9, 2022.

8 For the reasons stated below, the Department's Determination dated June 27, 2019 is
9 **AFFIRMED**. Appellant is not eligible for disaster unemployment benefits for the entire Disaster
10 Assistance Period (week beginning October 28, 2018 to week ending April 27, 2019).

11 II. JURISDICTION

12 The Disaster Unemployment Assistance program (DUA) was established under the Robert T.
13 Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (42 U.S.C. 5121), as
14 amended. By Executive Order No. 12673, the Federal Emergency Management Agency (FEMA)
15 was delegated the responsibility of administering the Stafford Act and FEMA further delegated
16 the US Department of Labor in administering the DUA program and payment of DUA benefit
17 assistance, in conjunction with the applicable state agencies. Effective April 6, 2022 and in
18 accordance with 20 CFR 625.30(a), the CNMI Department of Labor, Administrative Hearing
19 Office was designated to hear Disaster Unemployment Appeals stemming from Super Typhoon
Yutu (DR-4404-MP).

20 Upon review of the records, the appeal is timely filed. Accordingly, jurisdiction is established.

21 III. PROCEDURAL BACKGROUND & ISSUES

22 On October 24, 2018, Super Typhoon Yutu devastated the CNMI. On October 26, 2018, the
23 US President issued a major disaster declaration and made federal funding available to affected
24 individuals. Said relief included disaster unemployment benefits to eligible claimants.

25 On November 16, 2018, the Department began to administer and accept applications for the
26 DUA program. Appellant filed a claim for unemployment benefits under the DUA program for
27 the above-mentioned disaster (DR-4404-MP). Appellant's claim was ultimately denied by the
28 CNMI Department of Labor and Appellant sought to appeal the Department's denial. Originally,
the Hawaii Employment Security Appeals Referee's Office (ESARO) was the designated entity

1 to decide appeal cases for this disaster. Due to the ESARO's extensive backlog, the CNMI
2 Department of Labor's Administrative Hearing Office was redesignated to hear first level appeals
3 on April 6, 2022.

4 Upon redesignation, the Administrative Hearing Office issued a Notice of Hearing. The issue
5 on appeal is whether Appellant is eligible for DUA benefits.

6 IV. FINDINGS OF FACT

7 In consideration of the evidence provided and credibility of witness testimony, the
8 undersigned issues the following findings of fact:

- 9 1. On October 24, 2018, Super Typhoon Yutu struck the CNMI.
- 10 2. On October 26, 2018, President Trump authorized federal disaster aid to help individuals
11 in the CNMI recover from the onslaught of Super Typhoon Yutu. The assistance was
12 authorized under major disaster declaration number 4404-DR.
- 13 3. Among other things, the declaration authorized federal aid for the Disaster Unemployment
14 Assistance (DUA) program to assist individuals who became unemployed as a direct
15 result of the major disaster.¹
- 16 4. The CNMI Department of Labor is the state agency responsible for administering the
17 DUA program in the CNMI.
 - 18 a. The Department announced the program and began to accept applications on
19 November 16, 2018.
 - 20 b. The Department issued a number of press releases² and published a Benefit Rights
21 and Responsibilities Handbook³ to inform potential claimants.
- 22 5. With respect to this disaster, DUA benefits in the amount of \$336 per week were available
23 for eligible claimants starting with week beginning date of October 28, 2018 and can be
24 paid up to week ending date of April 27, 2019 ("Disaster Assistance Period").⁴

27 ¹ Exhibit 1.

28 ² Exhibit 4

³ Exhibit 5.

⁴ Exhibits 1 and 5.

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6. Originally, the filing deadline for DUA applications was December 16, 2018.⁵ Due to ongoing hardships, the filing deadline was then extended to January 15, 2019.⁶ Once again, the filing deadline was extended to February 14, 2019.⁷
7. Appellant resided and worked in the CNMI at the time of the disaster.
8. On June 14, 2019, Appellant submitted an application⁸ for unemployment assistance under the DUA program. In the application,⁹ Appellant self-certified under penalty of perjury that:
 - a. Appellant worked full time as a Steward/Kitchen Helper for Imperial Pacific International (“Employer”) for \$8.00 per hour from June 2017 to December 2018; and
 - b. Appellant’s employment was affected by the disaster when her place of employment closed.
9. Appellant’s Application included a copy of a letter from Employer.¹⁰ On November 15, 2018, Employer issued a memorandum to all employees explaining that the damage sustained from the disaster and lack of tourist is forcing the company to temporarily shut down, effective November 16, 2018. Notably, no investigation was conducted on the veracity of statements in the Letter.
10. Appellant’s application also included a copy of her Social Security Card, Passport and Employment Authorization Cards.¹¹ At the time relevant to this appeal, Appellant was a foreign worker with employment authorization under Category C11.¹² Appellant’s employment authorization under this category was valid from April 6, 2017 to June 29, 2019.¹³

⁵ “An initial application for DUA shall be filed by an individual with the State agency of the applicable State within 30 days after the announcement date of the major disaster as the result of which the individual became unemployed . . .” 20 CFR § 625.8

⁶ Exhibit 2.

⁷ Exhibit 3.

⁸ Exhibit 6.

⁹ *Id.*

¹⁰ Exhibit 7.

¹¹ Exhibit 8.

¹² *Id.*

¹³ *Id.*

- 1 11. On June 26, 2019, the Department initiated a SAVE verification using the Appellant's
2 provided documents and identifying information. The SAVE results¹⁴ indicated that
3 Appellant is a Parolee with valid employment authorization during the relevant time
4 period.
- 5 12. Appellant's application is incomplete and Appellant failed to submit sufficient supporting
6 documents for the Department to determine eligibility.¹⁵
- 7 a. First, there is no employment certification confirming Appellant's employment.
 - 8 b. Second, there is no record of which weeks Appellant is claiming unemployment
9 benefits.
 - 10 c. Third, there is no record from Appellant or Employer as to how much Appellant
11 earned during the claimed weeks.
 - 12 d. Fourth, there is no record confirming when or whether Appellant returned to work.
- 13 13. On June 27, 2019, the Department denied Appellant's initial application for the entire
14 disaster unemployment period.¹⁶ Therein, the Department found that Appellant's
15 application was untimely and she failed to show good cause for filing late.
- 16 14. On July 15, 2019, Appellant filed a request for an appeal.¹⁷
- 17 15. The appeal was transmitted to the Hawaii Employment Security Appeals Referee's Office
18 (ESARO), who was originally designated to decide appeal cases for this disaster. Due to
19 the ESARO's extensive backlog, the CNMI Department of Labor's Administrative
20 Hearing Office was redesignated to hear first level appeals on April 6, 2022.
- 21 16. On May 9, 2022, the Administrative Hearing Office issued a Notice of Hearing¹⁸
22 informing the parties of the scheduled hearing and issues on appeal.
- 23 17. Because Appellant failed to show, it is unclear why Appellant filed her application after
24 the application period or the Disaster Assistance Period. It is further unclear why

25 ¹⁴ Exhibit 9.

26 ¹⁵ See Exhibits 6-8.

27 ¹⁶ Exhibit 10.

28 ¹⁷ The Department lost the appeal letter. Further, there is contradicting information as to whether Appellant filed an appeal or a request for reconsideration. The handwritten case note identified the filing as a request for reconsideration. The server identified the filing as an appeal letter. Further, the Department official who received the document is no longer employed with the Department. Nonetheless, the Department treated the filing as an appeal considering a redetermination was never issued by the Department.

¹⁸ Exhibit 11.

1 Appellant failed to supply the above-stated supporting documents or clarify the above-
2 stated eligibility issues.

3 **V. CONCLUSIONS OF LAW**

4 In consideration of the above-stated findings and applicable law, the undersigned issues the
5 following conclusions of law:

6 **1. Appellant is not eligible for DUA benefits.**

7 Under the DUA program, federal assistance is made available to eligible claimants from a
8 specific geographic area that is adversely affected by a declared disaster. Pursuant to 20 CFR
9 625.4, an individual is eligible to receive a payment of DUA with respect to a week of
unemployment if:

- 10 (a) That week begins during a Disaster Assistance Period;
- 11 (b) The applicable State for the individual has entered into an
12 Agreement which is in effect with respect to that week;
- 13 (c) The individual is an unemployed worker or an unemployed self-
14 employed individual;
- 15 (d) The individual's unemployment with respect to that week is
caused by a major disaster...
- 16 (e) The individual has filed a timely initial application for DUA and,
17 as appropriate, a timely application for a payment of DUA with
18 respect to that week;
- 19 (f) That week is a week of unemployment for the individual;
- 20 (g) The individual is able to work and available for work within the
21 meaning of the applicable State law...
- 22 (h) The individual has not refused a bona fide offer of employment
23 in a suitable position, or refused without good cause to resume or
commence suitable self-employment ...
- 24 (i) The individual is not eligible for compensation ... or for waiting
25 period credit for such week under any other Federal or State law ...

26 Here, there are a number of eligibility issues implicated by the exhibits and testimony
27 provided. However, the initial issue of timeliness is insurmountable. Pursuant to 20 CFR §
28 625.8(a), “[a]n initial application for DUA shall be filed by an individual with the State agency

1 of the applicable state within 30 days after the announcement date of the major disaster as the
2 result of which the individual became unemployed An initial application filed later than 30
3 days after the announcement date of the major disaster shall be accepted as time by the State
4 agency if the applicant had good cause for the late filing, but in no event shall an initial application
5 be accepted by the State agency if it is filed *after the expiration of the Disaster Assistance*
6 *Period.*” (Emphasis added). Under the applicable state law, good cause is defined as (1) illness or
7 disability of the individual; (2) keeping an appointment for a job interview; (3) attending a funeral
8 for a family member; and (4) any other reason which would prevent a reasonable person from
9 complying as directed. HRS § 12-5-81.

10 For the reasons stated below, the undersigned finds that Appellant’s initial application is
11 untimely. First, Appellant failed to apply by the February 14, 2019 application deadline. Second,
12 Appellant failed to apply before the end of the April 27, 2019 Disaster Assistance Period. Instead,
13 Appellant submitted her initial application on June 14, 2019 – almost two months later. For that
14 reason, Appellant’s initial application is untimely and Appellant is not eligible for DUA benefits.

15 **VI. DECISION**

16 For the reasons stated above, it is ORDERED that:

- 17 1. The CNMI Department of Labor’s Disqualifying Determination, dated June 27, 2019, is
18 **AFFIRMED**;
19 2. The Appellant is **NOT ELIGIBLE** to receive disaster unemployment benefits for the
20 entire Disaster Assistance Period.

21 So ordered this **3rd** day of August, 2022.

22 /s/

23 **JACQUELINE A. NICOLAS**
24 Administrative Hearing Officer

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Second Level Appeal Rights

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This decision becomes final unless you file a request for review by the Regional Employment and Training Administrator, U.S. Department of Labor, within fifteen (15) days after the date of this order, shown above. The request for review can be filed directly with the Regional Administrator by mailing the request to: ETA Regional Administrator, U.S. Department of Labor; 90 7th Street, Ste. 17-300; San Francisco, CA 94103, or through the CNMI Department of Labor, Administrative Hearing Office at 1357 Mednilla Ave, Capitol Hill, Saipan, 96950 for transmittal to the Regional Administrator. The timely request can also be emailed to the Regional Administrator at RO6-RA-SF@dol.gov. *The request for review should include the Appellant's name, claimant ID/or case docket number, and a copy of this decision.*



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2022-13

SUBJECT: RENEWAL OF DECLARATION OF MAJOR DISASTER AND STATE OF SIGNIFICANT EMERGENCY ARISING FROM THE BURNING OF THE SUPER TYPHOON WASTE AND DEBRIS SITE ON THE ISLAND OF TINIAN

WHEREAS, on or about June 19, 2022, a grass fire started on the island of Tinian. This fire spread and grew in intensity until it reached a location where waste and debris from Super Typhoon Yutu was being sorted and stored for disposal. Much of the waste and debris stored at the site included “white good” waste, e-waste, tires, batteries and other debris that contained toxic chemicals dangerous or otherwise unhealthy for humans.

WHEREAS, upon reaching the Super Typhoon waste and debris storage site, much of the waste and debris was consumed by fire.

WHEREAS, the burning of the waste and debris has potentially released toxic chemicals into the ground where it may seep into Tinian’s aquifer if it is not cleaned up and disposed of in a timely manner. The aquifer is the sole source of Tinian’s drinking water and contamination of the aquifer would threaten the public health and welfare of the people of Tinian. This threat cannot be understated. Immediate action is necessary to protect the health and safety of the people of Tinian.

WHEREAS, such threat to the people of Tinian and their health necessitates an organized response by a public, private, and government entities to protect life, public health and safety.

WHEREAS, the Office of the Governor has consulted with the CNMI Homeland Security & Emergency Management Office and other agencies, and believes a renewal of the declaration of major disaster and a state of significant emergency is warranted.

WHEREAS, authorizing the Secretary of Finance to be able to access, reprogram or transfer funds from accounts of Executive Branch departments and agencies, including autonomous or independent entities, in order to fund the containment, mitigation, and remediation of the threat to the health and welfare of the people of Tinian is a reasonably necessary response in order to ensure that the government is able to meet the threat.

NOW THEREFORE, I, RALPH DLG. TORRES, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, § 10 of the Commonwealth Constitution, the Homeland Security and Emergency Management Act of 2013, 1 CMC § 20144, do hereby declare a Major Disaster and State of Significant Emergency for the island of Tinian due to the threat posed by toxic chemicals to the people of Tinian caused by the burning of the Super Typhoon Yutu waste and debris site:

Additionally, I hereby invoke my authority under Article III, § 10 of the Commonwealth Constitution and the Homeland Security and Emergency Management Act of 2013, 1 CMC § 20144, to take all necessary measures to address the threat facing the people of the island of Tinian.

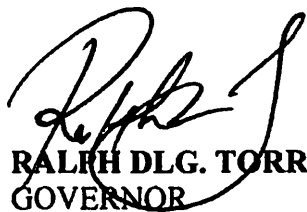
Further, under the authority of this Declaration and with the goal of mitigating and ameliorating the above described threat, I immediately direct the following:

1. The Declaration of Major Disaster and State of Significant Emergency embodied in Executive Order 2022-09, as amended, is hereby renewed and shall thus continue for an additional thirty (30) days from the effective date.

2. This renewal of Executive Order 2022-09, as amended, is effective immediately and shall remain in effect for thirty (30) days from the date of this Executive Order. All memoranda, directives, waivers of regulations, and other measures taken in accordance with Executive Order 2022-09, as amended, shall remain in effect for thirty (30) days from the date of this Executive Order.

This Executive Order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the CNMI, its departments, agencies, its officers, employees, or agents, or any other person.

SIGNED AND PROMULGATED ON THIS 23rd day of August, 2022



RALPH DLG. TORRES
GOVERNOR