

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



COMMONWEALTH REGISTER

**VOLUME 44
NUMBER 07
JULY 28, 2022**

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COMMONWEALTH REGISTER

VOLUME 44 NUMBER 07 JULY 28, 2022

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Subject:	Renewing the Authority of the Secretary of Finance to Reprogram or Transfer Funds from Accounts of any Department, Agency, Office, Board, Commission, Corporation, Instrumentality or other entity of any branch of the Commonwealth Government in order to meet the threat of Covid-19	
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Office of the Governor		048722
E.O. No.	2021-21	
Subject:	Order Creating the Commonwealth of the Northern Mariana islands (CNMI) Universal Garbage Collection Taskforce	
Authority:	NMI Const. art. III § 1 provides that “(t)he executive power of the Commonwealth shall be vested in a governor who shall be responsible for the faithful execution of the laws;” and NMI Const. art. III § 14 grants the governor the power to “at any time require information in writing or otherwise from the head of any administrative department, office or agency of the Commonwealth	
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E.O. No.	2021-22	
Subject:	Renewal of Declaration of State of Public Health Emergency and Continued Declaration of State of Significant Emergency Establishing Response, Quarantine, and Preventive Containment Measures Concerning Corona Virus Disease 2019 (COVID-19); and, Renewal of Order Directing the CNMI Homeland Security & Emergency Management Office, through the CNMI Covid-19 Task Force, and in Partnership with the Commonwealth Healthcare Corporation, to Undertake Necessary Covid-19 Containment Measures by Means of the Development of Emergency Directives to protect the health and safety of the public	
	Office of the Governor	048727
E.O. No.	2021-23	
Subject:	Renewing the authority of the Secretary of Finance to reprogram or transfer funds from accounts of any department, agency, office, board, commission, corporation, instrumentality or other entity of any branch of the Commonwealth government in order to meet the threat of Covid-19	
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Subject:	Renewal of Declaration of State of Public Health Emergency And continued declaration of state of significant emergency Establishing response, quarantine, and preventive containment measures concerning Coronavirus Disease 2019 *COVID-19); and, Renewal of Order directing the CNMI Homeland Security & Emergency Management Office, through the CNMI Covid-19 Task Force, and in partnership with the Commonwealth Healthcare Corporation, to undertake necessary Covid-19 containment measures by means of the development of emergency directives to protect the health and safety of the public	
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E.O. No.	2021-25	
Subject:	Renewing the authority of the Secretary of Finance to reprogram or transfer funds from accounts of any department, agency, office, board, commission, corporation, instrumentality or other entity of any branch of the Commonwealth government in order to meet the threat of Covid-19	
	Office of the Governor	048733

E.O. No.	2021-26	
Subject:	Renewal of declaration of state of public health emergency and continued declaration of state of significant emergency establishing response, quarantine, and preventive containment measures concerning coronavirus disease 2019 (covid-19); and, Renewal of order directing the CNMI homeland security & emergency management office, through the CNMI Covid-19 Task Force, and in partnership with the Commonwealth Healthcare Corporation, to undertake necessary Covid-19 containment measures by means of the development of emergency directives to protect the health and safety of the public.	
	Office of the Governor	048735
E.O. No.	2021-27	
Subject:	Renewing the authority of the Secretary of Finance to reprogram or transfer funds from accounts of any department, agency, office, board, commission, corporation, instrumentality or other entity of any branch of the Commonwealth government in order to meet the threat of Covid-19	
	Office of the Governor	048737
E.O. No.	2022-01	
Subject:	Renewal of declaration of state of public health emergency and continued declaration of state of significant emergency establishing response, quarantine, and preventive containment measures concerning coronavirus disease 2019 (Covid-19); and, Renewal of order directing the CNMI Homeland Security & Emergency Management Office, through the CNMI Covid-19 Task Force, and in partnership with the Commonwealth Healthcare Corporation, to undertake necessary Covid-19 containment measures by means of the development of emergency directives to protect the health and safety of the public.	
	Office of the Governor	048739
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Subject:	Renewing the authority of the Secretary of Finance to reprogram or transfer funds from accounts of any department, agency, office, board, commission, corporation, instrumentality or other entity of any branch of the Commonwealth government in order to meet the threat of Covid-19	
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E.O. No.	2022-03	
Subject:	Renewal of declaration of state of public health emergency and continued declaration of state of significant emergency establishing response, quarantine, and preventive containment measures concerning corona virus disease 2019 (Covid-19); and, Renewal of order directing the CNMI Homeland Security & Emergency Management Office, through the CNMI Covid-19 Task Force, and in partnership with the Commonwealth Healthcare Corporation, to undertake necessary Covid-19 containment measures by means of the development of emergency directives to protect the health and safety of the public	
Office of the Governor		048743
E.O. No.	2022-04	
Subject:	Renewal of declaration of state of public health emergency and continued declaration of state of significant emergency establishing response, quarantine, and preventive containment measures concerning corona virus disease 2019 (Covid-19); and, Renewal of order directing the CNMI Homeland Security & Emergency Management Office, through the CNMI Covid-19 Task Force, and in partnership with the Commonwealth Healthcare Corporation, to undertake necessary Covid-19 containment measures by means of the development of emergency directives to protect the health and safety of the public	
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E.O. No.	2202-05	
Subject:	Establishment of the Governor’s Environmental Council	
Authority:	Article I, Section 9 of the Commonwealth of the Northern Mariana Islands Constitution states “Each person has the right to a clean and healthful public environment in all areas, including the land, air, and water”; and	
Office of the Governor		048747

E.O. No.	2022-06	
Subject:	Renewal of declaration of state of public health emergency and continued declaration of state of significant emergency establishing response, quarantine, and preventive containment measures concerning coronavirus disease 2019 (Covid-19); and, Renewal of order directing the CNMI Homeland Security & Emergency Management Office, through the CNMI Covid-19 Task Force, and in partnership with the Commonwealth Healthcare Corporation, to undertake necessary Covid-19 containment measures by means of the development of emergency directives to protect the health and safety of the public	
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E.O. No.	2022-09	
Subject:	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	
Office of the Governor		048758
Amended		
E.O. No.	2022-09	
Subject:	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.	
Office of the Governor		048761
E.O. No.	2022-10	
Subject:	Renewal of declaration of state of public health emergency and continued declaration of state of significant emergency establishing response, quarantine, and preventive containment measures concerning coronavirus disease 2019 (Covid-19); and, Renewal of order directing the CNMI Homeland Security & Emergency Management Office, through the CNMI Covid-19 Task Force, and in partnership with the Commonwealth Healthcare Corporation, to undertake necessary Covid-19 containment measures by means of the development of emergency directives to protect the health and safety of the public	
Office of the Governor		048764
E.O. No.	2022-11	
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	
Office of the Governor		048766



NORTHERN MARIANAS HOUSING CORPORATION

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

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED REGULATIONS

Volume 44, Number 02, pp. 048150-048205 of February 28, 2022

ACTION TO ADOPT PROPOSED REGULATIONS: The Northern Marianas Housing Corporation (NMHC) HEREBY ADOPTS AS PERMANENT the Proposed Regulations which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC § 9104(a). The NMHC announced that they intended to adopt these regulations as permanent, and now do so.

I also certify by signature below that as published, Adopted Regulations are a true, complete, and correct copy of the referenced Proposed Amendments to the NMHC's Procurement Regulations, and they are being adopted without modification or amendment.

PRIOR PUBLICATION: The prior publication was as stated above.

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY: NONE.

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

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

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



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"NMHC is an equal employment and fair housing public agency"

Tinian Field Office
Tel: (670)433-9213
Fax: (670)433-3690

CDBG-DR Office
Tel: (670)233-9447/9448/9449

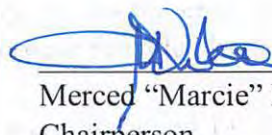
Rota Field Office
Tel: (670)532-9410
Fax: (670)532-9441

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

The Adopted Regulations were approved by the Northern Marianas Housing Corporation through the approval of the Board of Directors during its meeting on October 15, 2021 and the Board of Directors was authorized to promulgate these regulations on behalf of the Northern Marianas Housing Corporation.

I DECLARE under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on ____ day of _____, 2022, at Saipan, Commonwealth of the Northern Mariana Islands.

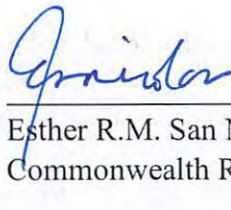
Certified and ordered by:



Merced "Marcie" M. Tomokane
Chairperson
NMHC Board of Directors

01/15/2022
Date

Filed and
Recorded by:



Esther R.M. San Nicolas
Commonwealth Register

7.28.2022
Date



**SUBCHAPTER 100-60
PROCUREMENT REGULATIONS**

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Part 001 - General Provisions

Subpart A - General

§ -60-001 Purposes

(a) Interpretation. The regulations in this subchapter 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 subchapter are:

- (1) To simplify, clarify, and modernize the procurement policies and practices of Northern Marianas Housing Corporation (NMHC);
- (2) To make as consistent as possible the procurement policies and practices for NMHC;
- (3) To provide for increased public confidence in the procedures followed in public procurement;
- (4) To insure the fair and equitable treatment of persons who deal with the procurement system of NMHC;
- (5) To provide increased economy in the NMHC procurement activities and to maximize to the fullest extent practicable the purchasing value of public funds;
- (6) To foster effective broad-based competition within the free enterprise system; and
- (7) To provide safeguards for the maintenance of a procurement system of quality and integrity.

§ 100-60-005 Authority

The regulations in this subchapter are promulgated under the authority of 2 CMC § 4432(t) which permits the Northern Marianas Housing Corporation (NMHC) to establish and adopt its own procurement rules and regulations for purchasing or leasing supplies, goods, materials, professional services and commodities and for furnishing and supplying services for the operation of NMHC.

§ 100-60-010 Supplementary General Principles of Law Applicability

Unless displaced by the particular provisions of this subchapter, 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 the regulations in this subchapter.

§ 100-60-015 Requirement of Good Faith

The regulations in this subchapter require all parties, including NMHC employees, contractors, and suppliers, involved in the negotiation, bidding, performance, or administration of NMHC contracts to act in good faith.

§ 100-60-020 Application of Regulations

The regulations in this subchapter apply to every expenditure of public funds irrespective of source, including federal assistance monies. The regulations, however, do not apply to contracts between NMHC and the Commonwealth, any of its agencies including public corporations or autonomous agencies, or political subdivisions, or other governments. The regulations in this subchapter also do not apply to employment contracts.

§ 100-60-025 Severability

If any provision of the regulations in this subchapter or any application thereof to any person or circumstances is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or application of the regulations in this subchapter which can be given effect without the invalid provision or application, and to this end, the provisions of this subchapter are declared to be severable.

§ 100-60-030 Validity of Contract

No NMHC contract shall be valid unless it complies with the regulations in this subchapter.

§ 100-60-035 Remedy Against Employee

Any procurement action of an employee of the NMHC in violation of the regulations in this subchapter is an action outside the scope of his or her employment. The NMHC 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

§ 100-60-040 Definitions

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

- (a) “Attorney General” means the Attorney General of the Commonwealth of the Northern Mariana Islands.
- (b) “Chairperson” means the Chairperson of the NMHC Board of Directors.
- (c) “Chief Financial Officer” means the Chief Financial Officer of NMHC.
- (d) “Construction” means the process of building, altering, repairing, improving, or demolishing of 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, including purchase orders.
- (f) “Cost-reimbursement contract” means a contract under which a contractor is reimbursed for costs which are allowable and in accordance with the contract terms and the regulations in this subchapter, and a fee, if any.
- (g) “Corporate Director” means the principal administrative executive of NMHC.
- (h) “Definite-quantity contract” means a contract which provides for delivery of a definite quantity of specific supplies or services for a fixed period. This type of contract may be used when it can be determined in advance that a definite quantity of supplies or services will be required during the contract period.
- (i) “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.

- (j) “Employee” means an individual receiving a salary from NMHC including non-salaried individuals performing personal services for the Northern Marianas Housing Corporation. This definition extends to NMHC Board of Directors. Consultants, independent contractors and part-time workers shall be considered employees only with respect to ethics in public contracting in Part 700.
- (k) “Firm-fixed-price contract” means a contract which provides for a price that is not subject to any subsequent adjustment as a result of the contractor’s cost experience in performing the contract. This type of contract places upon the contractor maximum risk and full responsibility for all costs and resulting profit or loss.
- (l) “Goods” means all property, including but not limited to equipment, materials, supplies, and other tangible personal property of any kind or nature, printing, insurance, and leases of real and personal property.
- (m) “Government” or “Commonwealth” means the Government of the Commonwealth of the Northern Mariana Islands, which includes the executive, legislative, and judicial branches. It also includes government agencies, political subdivisions, public corporations and agencies of local government, all collectively referred to herein as “public agencies.”
- (n) “Governor” means the Governor of the Commonwealth of the Northern Mariana Islands.
- (o) “Invitation for bids” means all documents, whether attached or incorporated by reference, utilized for soliciting bids.
- (p) “Official with expenditure authority” means the Chairman of the NMHC Board of Directors or other director, officer or employee of NMHC duly authorized to expend, obligate, encumber, or otherwise commit public funds under the Planning and Budgeting Act or under any annual appropriation act.
- (r) “Person” means an individual, sole proprietorship, partnership, joint venture, corporation, other unincorporated association, private non-profit/non-government organization or a private legal entity.
- (s) “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 contracts, and all phases of contract administration.
- (t) “Procurement Officer” means the principal head of the Division of Procurement and Supply within the NMHC.

(u) “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.

(v) “Requirements contract” means a contract which provides for filling all actual purchase requirements of designated NMHC activities for supplies or services during a specified contract period, with deliveries or performance to be scheduled with the contractor.

(w) “Responsible” in reference to a bidder, means a person who has the capacity, competence, and capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

(x) “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.

(y) “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.

Subpart C - Public Access

§ 70-30.045 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 Procurement Officer.

Part 100 - Procurement Organization

Subpart A - Officer of Procurement and Supply

§ 100-60-101 Creation of Procurement and Supply Division

There is created in the NMHC a Division of Procurement and Supply to assist the Corporation in the execution of those duties authorized under 2 CMC § 4432(t).

§ 100-60-105 Procurement Officer

The Corporate Director shall appoint a Procurement Officer to administer and supervise the day-to-day activities of the Division. The Procurement Officer shall be assisted in carrying out his functions and duties by employees of the Procurement and Supply Division.

§ 100-60-110 Duties of the Procurement Officer

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

- (a) Ensure that the regulations in this subchapter are observed in all NMHC procurement;
- (b) Provide advance planning for the centralized purchase of NMHC supplies;
- (c) Procure or supervise the procurement of all supplies, goods, and services needed by the NMHC;
- (d) Conduct bidding, procurement, negotiation, or administration of NMHC contracts upon request of the official with expenditure authority;
- (e) Sell, trade, or otherwise dispose of surplus property belonging to and no longer needed by the NMHC;
- (f) Exercise general supervision and control over all inventories of supplies belonging to the NMHC;
- (g) Exercise general oversight and control on the use of physical assets and other capital equipment to prevent waste or abuse or other unauthorized use;
- (h) Establish and maintain programs for the inspection, testing, and acceptance of supplies;
- (i) Hear all protests and disputes; and
- (j) Oversee the administration of the NMHC contracts.

§ 100-60-115 Contract Review, Processing and Oversight

- (a) All contracts must first be prepared by the Procurement Officer for the official with expenditure authority or his/her designee and who shall certify that he/she has complied with the Procurement Regulations, codified in this subchapter, and that the proposed contract is for a public purpose, and does not constitute a waste or abuse of public funds. All contract documents must be complete including attachments and exhibits, if they are incorporated into the contract by reference.
- (b) The contract shall then be approved by the Chief Financial Officer (CFO) or his designee who shall certify the availability of funds. If the CFO finds any aspect of the

contract to be deficient or defective in any respect, he shall return the contract to the Procurement Officer for appropriate resolution with the official with expenditure authority.

(c) The third review is that of the Attorney General or his designee who shall certify the contract as to form and legal capacity.

(d) The contract is then reviewed and approved by the Corporate Director.

(e) The contract shall then be approved by the Chairperson of the Board of Directors.

(f) After the Chairperson's approval, the Procurement Officer shall forward the contract to the contractor for his approval and signature.

(g) After the signature of the contractor, the Procurement Officer shall review the contract documents for completeness. If he is satisfied, he shall sign in the appropriate space and shall:

(1) Inform in writing the official with the expenditure authority, the Corporate Director and the Chairperson of the Board of Directors that the contract has been signed by all parties and that he may proceed with contract implementation according to the terms contained therein; and

(2) Provide copies of said contract to the:

(i) CFO

(ii) Attorney General, and

(iii) Contractor.

(h) A contract may be referred back to the Procurement Officer by the CFO or the Attorney General for further review based on additional evidence that it may not comply with this subchapter. The Procurement Officer then informs the expenditure authority, the Corporate Director and the Chairperson of the situation. The contract may be disapproved or rescinded with a written determination by the expenditure authority.

(i) It is the responsibility of the Procurement Officer 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, inspection, and administration of an NMHC contract is the primary responsibility of the Corporate Director.

(j) No contract is effective against the NMHC until all of the parties whose signatures are required on the contract form have signed the contract. A contract shall contain a right to audit records clause.

§ 100-60-120 Split Contracts

If the Procurement Officer determines that a contract has been split into two or more contracts for the purpose of avoiding bidding, then he may require the contract to be competitively bid.

§ 100-60-125 Acceptance of Gratuities by the Procurement Officer and Procurement and Supply Division Employees

In addition to the restrictions found in § 100-60-725, the Procurement Officer and the employees of the Procurement and Supply Division shall not accept from any person any gift of value given to them with the intent to influence their business judgment.

Subpart B - Procurement Function

§ 100-60-130 Procurement Services

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

§ 100-60-140 Centralized Procurement of Supplies

The Procurement Officer may, with the approval of the Corporate Director, purchase certain supplies in large quantities to be relied upon by all division of the agency. No separate contract or purchase order for these supplies will be approved.

Part 200 - Source Selection and Contract Formation

Subpart A - Source Selection

§ 100-60-201 Requirements for Competition

The NMHC shall provide for full and open competition through use of the competitive procedure that is best suited to the circumstances of the contract action. The competitive procedures available for use in fulfilling the requirement for full and open competition are as follows:

- (a) Competitive sealed bidding (§ 100-60-205)
- (b) Competitive sealed proposals (§ 100-60-210)
- (c) Architect-engineer services (§ 100-60-305); and
- (d) Competitive selection procedures for professional services (§ 100-60-310).

§ 100-60-205 Competitive Sealed Bidding

(a) All NMHC procurement shall be awarded by competitive sealed bidding under this section, except as provided in:

- (1) § 100-60-210 (Competitive Sealed Proposals);
- (2) § 100-60-220 (Small Purchases);
- (3) § 100-60-225 (Sole Source Procurement);
- (4) § 100-60-230 (Emergency Procurement);
- (5) § 100-60-235 (Expedited Purchasing in Special Circumstances);
- (6) § 100-60-305 (Architect-Engineer Services); and
- (7) § 100-60-310 (Competitive Selection Procedures for Professional Services)

(b) Invitation for Bids.

(1) An invitation for bids shall be issued and shall include at the minimum:

- (i) An invitation for bids number;
- (ii) Date of issuance;
- (iii) Name, address, and location of issuing office;
- (iv) Specific location where bids must be submitted;
- (v) Date, hour, and place of bid opening;
- (vi) A purchase description in sufficient detail to permit full and open competition and allow bidders to properly respond;
- (vii) Quantity to be furnished;
- (viii) Time, place, and method of delivery or performance requirements;
- (ix) Essential contractual terms and conditions; and
- (x) Any bonding requirements.

(2) Purchase descriptions of construction, goods, or services shall detail to the greatest extent practicable the specific requirements the contractor is expected to perform or deliver. An adequate purchase description shall adequately set forth the essential physical and functional characteristics of the construction, goods, or services necessary to fulfill NMHC's minimum requirements.

(c) Application for Brand Name Descriptions. An acquisition that uses a brand name description or other purchase description to specify a particular brand name, product, or feature of a product peculiar to one manufacturer is not normally allowed regardless of the number of sources solicited. It shall be allowed only when justified and approved in accordance with the procedures on justifying sole-source procurement. Specifically, the justification shall indicate that the use of such descriptions in the acquisition is essential to the NMHC's requirements, thereby precluding consideration of a product manufactured by another company. "Brand-name or equal" descriptions, and other purchase descriptions that permit prospective contractors to offer products other than those specifically referenced by brand name, provide for full and open competition and do not require justifications and approvals to support their use.

(d) Bid Solicitation Accuracy. The bid solicitation shall accurately reflect the NMHC requirement. It shall adequately state what is to be done or what is to be delivered to NMHC in order to allow bidders to properly respond and evaluations to be made on a uniform basis. Exact quantities shall be stated in the statement of deliverables, unless use of a requirements contract is justified under § 100-60-265.

(e) **Publication.** The Procurement Officer shall publicize all invitation for bids in order to increase competition and broaden industry participation. The bidding time (i.e., the time between issuance of the solicitation to the public and opening of bids) shall be prescribed as follows:

(1) **Minimum Bidding Time.** A bidding period of at least thirty (30) calendar days shall be provided unless the Procurement Officer determines that a shorter time is reasonable and necessary. Such shorter bidding period must afford potential bidders a reasonable opportunity to respond considering the circumstances of the individual acquisition, such as the complexity, and urgency. The bidding period, however, shall never be less than fourteen (14) calendar days.

(2) **Extended Bidding Period.** Because of limited bidding time in certain cases, potential sources may be precluded from bidding and others may be forced to include contingencies that, with additional time, could be eliminated. To avoid unduly restricting competition or paying higher-than-necessary prices, the Procurement Officer may increase the 30-day bidding period by not more than 60 additional calendar days, considering such factors as:

- (i) Degree of urgency;
- (ii) Complexity of requirements;
- (iii) Anticipated extent of subcontracting;
- (iv) Geographic distribution of bidders; and
- (v) Normal transmittal time for invitations and bids.

(f) **Public Notice.** The Procurement Officer shall advertise the invitation for bids in the following forms of advertisement: in a newspaper of general circulation in the Commonwealth; website; and all forms of social media or public media outlets, at least once in each week from the time the solicitation is issued, including the week when the bidding period expires.

(1) Before advertising the invitation for bids, the official with expenditure authority shall certify in writing to the Procurement Officer whether there is adequate local competition for the solicited goods or services based on past experience, or if necessary, based on a survey of available local vendors. If there is adequate local competition (i.e., evidence of two or more vendors preliminarily determined to be responsible bidders or offerors), the advertisement shall be made only within the Commonwealth. The Procurement Officer may choose to have a separate solicitation package for bid details which cannot be practically stated within the advertisement; in such case, the advertisements shall state that solicitation package(s) are available at the particular agency. For solicitations amounting to \$50,000 and above, the advertisement shall be printed in a separate box and shall appear prominently among other advertisements.

(2) If there is no adequate local competition, the invitation for bids shall also be advertised in at least one regional newspaper or at least one national publication or on the internet; in such case, the Procurement Officer shall consider extending the bidding period as provided in § 100-60-205(e)(2).

(g) **Bid Receipt.**

(1) All bids shall be submitted to the office of the Procurement Officer. Bids shall be received prior to the time set for opening and shall be maintained sealed in a locked receptacle at the office. Bids submitted from vendors outside the Commonwealth must be postmarked by the date set in the invitation for bids and must be received within seven working days of that date. Bidders outside the Commonwealth must notify the Procurement Officer in writing of their intent to bid in order to receive this additional seven days for the receipt of the actual bid documents. This notice of intent to bid may be by any mode of written communication including telex, facsimile, or other electronic transmission.

(2) 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.

(h) **Bid Opening.** The bid opening shall be conducted by the Procurement Officer or designee at the NMHC Central Office. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The Procurement Officer or designee 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 or designee shall prepare a written summary of the bid opening.

(i) **Bid Acceptance and Bid Evaluation.** Bids shall be unconditionally accepted without alteration or correction, except as authorized in this subchapter. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria as is necessary to reasonably permit a determination as to the acceptability of the bid for the particular purpose intended.

(j) **Responsiveness of Bids.** To be considered for award, a bid must comply in all material respects with the invitation for bids. Bids must be filled out, executed, and submitted in accordance with the bid instructions. A bid may be considered only if

- (1) The bidder accepts all material terms and conditions of the invitation, and
- (2) Any future award based upon the bid would result in a binding contract with terms and conditions that do not vary from the requirements of the invitation. Electronic or facsimile bids shall not be considered unless permitted by the invitation.

(k) **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 NMHC. 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 time of delivery; or
 - (iv) Limits the rights of NMHC.
 - (3) Unreasonableness as to price;
 - (4) A bid from a non-responsible bidder as defined in § 100-60-245.
- (l) Correction or Withdrawal of Bids; Cancellation of Awards. Correction or withdrawal of inadvertently erroneous bids, before or after award, or cancellation of awards 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 NMHC or fair competition shall be allowed. Whenever a bid mistake is suspected, NMHC shall request confirmation of the bid prior to award. In such an instance, if the bidder alleges an error, NMHC shall only permit correction of the bid or withdrawal of the bid in accordance with subsection (l)(1) or (l)(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. Examples 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 shall not be permitted to correct a bid mistake resulting from an error in judgment.
 - (2) Withdrawal of bids. Withdrawal of a bid shall only be permitted where the otherwise low bidder alleges a mistake and there is a 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) There exists no clear and convincing evidence to support the bid intended; and
 - (iii) Performance of the contract at the award price would be unconscionable.
- (m) 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 the regulations in this subchapter. Unsuccessful bidders shall also be promptly notified.
 - (2) 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. No acceptance of an offer shall occur nor shall any contract be formed until a contract is written and has been approved by all the officials required by law and regulation. Contracts 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 government 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 percent, and time or

economic considerations preclude re-solicitation of work of a reduced scope, the official with expenditure authority may authorize the Procurement Officer to negotiate an adjustment of the bid price including changes in bid requirements, with the lowest responsive and responsible bidder in order to bring the bid price within the amount of available funds. The negotiation shall be documented in writing and attached to the bidding documents.

§ 100-60-210 Competitive Sealed Proposals

- (a) Conditions for use. When the official with expenditure authority determines in writing that the use of a competitive sealed bidding is either not practical or not advantageous to NMHC, 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 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. Price or cost to NMHC shall be included as an evaluation factor in every solicitation of proposals. The Procurement Officer must ensure that the following requirements are complied with in any evaluation of proposals.
 - (1) All evaluation factors stated in the solicitation shall be considered in determining proposals in the competitive range (i.e., those allowed to participate further in the selection process), and any subsequent evaluations (including evaluation of best and final offers from the competitive range offerors).
 - (2) Competitive range. The official with expenditure authority shall determine which proposals are in the competitive range, based on the recommendations of the evaluator or evaluation team, for the purpose of conducting written or oral discussions, and shall include all proposals that have a reasonable chance of being selected for award. When there is doubt as to whether a proposal is in the competitive range, the proposal shall be included. Proposals determined to have no reasonable chance of being selected for contract award shall no longer be considered for selection. A proposal is not reasonably susceptible of being selected for award and can be excluded from the competitive range if it is clear that:
 - (i) Its contents are so unacceptable that a revision of the proposal in the negotiation stage would be equivalent to accepting a new proposal, or
 - (ii) In comparison with other proposals, such proposal clearly has no chance of being selected for award.
 - (3) Technical evaluation. If any technical evaluation is necessary beyond ensuring that the proposal meets the minimum requirements in the solicitation, the evaluator or evaluation team shall document the technical evaluation which shall include:

- (i) The basis for the evaluation;
 - (ii) An assessment of each offeror's ability to accomplish the technical requirements;
 - (iii) A summary, matrix, or quantitative ranking of each technical proposal in relation to the best rating possible; and
 - (iv) A summary of findings. The supporting documentation prepared for the selection decision shall show the proposals' comparative strengths, weaknesses, and risks in terms of the evaluation factors.
- (4) When technical criteria (generally, criteria other than price) are involved, the Procurement Officer shall determine in writing that appropriate qualified personnel are assigned to conduct a technical evaluation of the proposals. In forming an evaluation team, the Procurement Officer shall insure that --
- (i) The evaluators, including any other personnel responsible for the selection of competitive range offerors or final selection of an offeror, are formally designated to exercise such responsibility by the official with expenditure authority; and
 - (ii) Before conducting any evaluation, the official with expenditure authority in consultation with the Procurement Officer, approves an evaluation plan which at a minimum shall include: —
 - (A) A statement of the evaluation factors and any significant subfactors and their relative importance;
 - (B) A description of the evaluation process, methodology, and techniques to be used; and
 - (C) Documentation requirements.
- (f) Notification to offerors excluded in the competitive range. The Procurement Officer shall promptly notify offerors when they are excluded from the competitive range or otherwise excluded from further consideration. The notice shall state the basis for the exclusion.
- (g) 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.
- (h) Award. Award shall be made to the responsible offeror whose proposal is determined in writing to be most advantageous to NMHC taking into consideration price and the evaluation factors set forth in the request for proposals. 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. Within five (5) working days after the date of contract award, the Procurement Officer shall provide written notification to each unsuccessful offeror (unless pre-award notice was given under § 100-60-210(f)). The notice shall include, as applicable:
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- (1) The number of offerors solicited;
- (2) The number of proposals received;
- (3) The name and address of each offeror receiving an award;
- (4) The items, quantities, and unit prices of each award (if the number of items or other factors makes listing unit prices impracticable, only the total contract price need be furnished); and
- (5) In general terms, the reason the offeror's proposal was not accepted, unless the price information in item (h)(4) of this subsection readily reveals the reason. In no event shall an offeror's cost breakdown, profit, overhead rates, trade secrets, manufacturing processes and techniques, or other confidential business information be disclosed to any other offeror.

§ 100-60-215 Circumstances Permitting Other than Full and Open Competition

- (a) The following procurement methods permit contracting without using full and open competition.
 - (1) Small purchases (§ 100-60-220);
 - (2) Sole source procurement (§ 100-60-225);
 - (3) Emergency procurement (§ 100-60-230); and
 - (4) Expedited purchasing in special circumstances (§ 100-60-235).
- (b) Use of the methods in (a)(2), (a)(3), and (a)(4) above is subject to the following requirements.
 - (1) Requesting official with expenditure authority, before executing the contract, shall provide a written justification to the Procurement Officer in writing on the following:
 - (i) The need for contracting, the purpose of the contract, how the expected outcome would help the agency achieve its objectives, and that the services do not unnecessarily duplicate any previously performed work or services.
 - (ii) The non-availability of resources within and without the agency;
 - (iii) Vendor qualifications. The official with expenditure authority shall review any contractor evaluation on file with the Procurement Officer. For professional services contract, a completed resume for each contractor participant who will exercise a major role in the completion of the contract will be required; and
 - (iv) Reasonableness of price. No presumption of reasonableness shall be attached to the incurring of costs by a contractor. The following factors will be used in determining whether costs are justified: cost information in sufficient detail to support and justify the contract; cost information for similar services, with differences noted and explained; and special factors affecting the costs under the contract. For contract amendments, the agency shall examine price considerations in the same manner as one would examine them for a basic contract. If the independent NMHC estimate appears to be defective, other means of comparison, such as a history of contracts with similar requirements, or current market prices, shall be used.
 - (v) Documentation of the above should be contained in a form prescribed by the Procurement Officer.

(2) If the expenditure authority's written determination was that the request for contract execution was not justified based on the analysis of items in subsection (b)(1) above, he shall promptly notify the NMHC officials of his disapproval in writing.

§ 100-60-220 Small Purchases

(a) Any procurement not exceeding the amounts established herein may be made in accordance with small purchase procedures. However, procurement requirements shall not be artificially divided so as to constitute a small purchase.

(b) Bidding is not required for procurement under \$3,000.00.

(c) Bidding is not required but is encouraged for procurement valued at \$250,000.00 or below the *Prevailing Simplified Acquisition Threshold set forth in 2 CFR §200.88*, which is periodically updated based on inflation.

(1) **Simplified Acquisition Threshold (SAT).** The simplified acquisition threshold authorizes purchase of goods, services, or property using small purchase procurement method not to exceed the prevailing SAT threshold (\$250,000).

(2) **Simplified Acquisition Procedures.**

(i) The official with expenditure authority must obtain price quotations from at least three vendors and base the selection on competitive price and quality for procurement valued at no more than the prevailing SAT (\$250,000). Any price quotations obtained must be written, documented, and submitted for the record.

(ii) The official with expenditure authority shall document all informal solicitation of bids/prices obtained through Request for Quotations (RFQs) and solicitation information shall be uniform and consistent for all vendors.

(iii) The official with expenditure authority shall perform and document cost/price reasonableness.

(iv) The official with expenditure authority shall ensure that required and applicable federal contracting language, e.g., Davis Bacon and Related Acts, is in the contract.

(v) The prevailing SAT includes modifications, e.g., change orders, that increase total cost.

(d) Purchase orders may be utilized for small purchases under subsections (b) and (c).

(e) Any lease or purchase of vehicles shall be procured pursuant to § 100-60-315. Any lease or purchase of machinery and equipment in excess of \$3,000 shall be procured pursuant to § 100-60-205 or other applicable provisions of the regulations in this subchapter.

§ 100-60-225 Sole Source Procurement

(a) A contract may be awarded for a supply, service, or construction without competition when:

- (1) The unique capabilities required and why they are required and the consideration given to alternative sources.
- (2) The Procurement Officer determines in writing that there is only one source for the required supply, service, or construction; or
- (3) To obtain professional services for the purpose of facilitating the process of obtaining needed critical infrastructure funding in order to harden and enhance the capability of protecting critical infrastructure of the NMHC property assets or the Commonwealth; or
- (4) Solely for the purpose of obtaining expert witnesses for litigation; or
- (5) For legal services; or
- (6) For policy consultants for NMHC.

(b) For any sole source procurement pursuant to subsection (a)(1), a written justification for sole source procurement shall be prepared by the official with expenditure authority and shall contain the specific unique capabilities required; the specific unique capabilities of the contractor; the efforts made to obtain competition; and the specific considerations given to alternative sources and specific reasons why alternative sources were not selected.

(c) For any sole source procurement pursuant to subsections (a)(2) or (a)(4), the official with expenditure authority shall provide a written copy of the applicable federal grant or act under which the services are authorized or required.

§ 100-60-230 Emergency Procurement

(a) Notwithstanding any other provision of the regulations in this subchapter, the Board of Directors may make emergency procurement when there exists a threat to its clients' health, safety or welfare under emergency conditions. An emergency procurement must be as competitive as practicable under the circumstances.

i. three-fourth ($\frac{3}{4}$) majority vote from the Board of Directors to utilize the emergency procurement

ii. The Board of Directors shall dictate the timeframe utilization of the emergency procurement (e.g. 30 days, 60 days, 90 days).

(b) Emergency declarations made by the Governor (e.g. Disaster Declaration, State of Emergency Declarations).

(c) 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.

§ 100-60-235 Expedited Purchasing in Special Circumstances

(a) When special circumstances require the expedited procurement of goods or services including professional services for the purpose of facilitating the process of obtaining needed critical infrastructure funding in order to harden and enhance the capability of protecting critical infrastructures of the NMHC, the official with expenditure authority may opt for expedited procurement without the solicitation of bids for proposals.

(b) The factor to be considered in approving or disapproving this request shall be:

(1) The comparative costs of procuring the goods or service from a sole source or through the competitive process;

(2) The availability of the goods or service in the Commonwealth and the timeliness in acquiring it; and

(3) Any other factors establishing the expedited procurement is in the best interest of the NMHC.

(c) Upon the expenditure authority's written determination that the factors in (b) above justify an expedited purchase, he shall process the necessary document(s) and assist the Procurement Officer in procuring the required goods or services in the most efficient manner.

(d) The expedited procurement shall be as competitive as possible under the circumstances.

(e) The total amount of goods or service that may be approved under this section shall not exceed \$100,000, except when such goods or services are procured for the purpose of facilitating the process of obtaining needed critical infrastructure funding in order to harden and enhance the capability of protecting critical infrastructures of the NMHC.

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

§ 100-60-240 Cancellation

An invitation for bids or request for proposals may be canceled, and any and all bids or proposals may be rejected, when such action is determined in writing by the official with expenditure authority in consultation with the Procurement Officer to be in the best interest of the NMHC 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 NMHC in the solicitation;

- (e) Bids or proposals received indicate that the needs of NMHC can be satisfied by a less expensive good or service;
- (f) All offers with acceptable bids or proposals received are at unreasonable prices;
- (g) Bids were collusive; or
- (h) Cancellation is determined to be in the best interest of NMHC.

Subpart C - Qualifications and Duties

§ 100-60-245 Responsibility of Bidders and Offerors

- (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) Provide evidence of validity to conduct business in the Commonwealth (valid business license(s), up-to-date BGRT payments, Certificate of Good Standing from NMI Department of Labor, Certificate of Insurance Compliance from NMI Department of Commerce, Payment and Performance Bond Insurance (as applicable), Employees listing with valid permits and identification to reside and work in the Commonwealth, etc.); and
 - (8) Be otherwise qualified and eligible to receive an award under applicable laws and rules.
- (b) Obtaining information. Prior to award, the Procurement Officer 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 Procurement Officer, or any other NMHC official involved 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 Procurement Officer stating the basis for the determination and this shall be placed in the contract file.

§ 100-60-250 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

§ 100-60-255 Permissible Types of Contracts

NMHC contracts shall utilize a firm fixed price unless the use of a cost reimbursement contract is justified under § 100-60-260. NMHC contracts shall also use definite-quantity contracts unless a requirements contract is justified under § 100-60-265. Use of cost-plus-a-percentage-of-cost and percentage of construction cost methods of contracting are prohibited.

§ 100-60-260 Cost-reimbursement Contracts

(a) Policy. Cost-reimbursement contracts must contain a ceiling which the contractor shall not exceed without the recommendation of the official with expenditure authority and in consultation with the Procurement Officer.

(b) Application. A cost-reimbursement contract may be used when the Procurement Officer attaches to the contract a written determination 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 cost reimbursement contract is likely to be less costly to NMHC than any other type due to the nature of the work to be performed under the contract.

(c) Limitations.

- (1) A cost-reimbursement contract may only be used when the Procurement Officer determines that the contractor's accounting system is adequate for determining costs applicable to the contract, and NMHC surveillance in the form of a construction management contract will be obtained to ensure the use of efficient methods and effective cost controls in the performance of the contract;
- (2) The use of cost-reimbursement contracts is prohibited for the acquisition of commercially available items.

(d) Cost-plus-fixed-fee contracts.

- (1) Description. A cost-plus-fixed-fee contract is a cost-reimbursement contract that provides for payment to the contractor of a negotiated fee that is fixed at the inception of

the contract. The fixed fee does not vary with actual cost, but may be adjusted as a result of changes in the work to be performed under the contract, authorized pursuant to § 100-60-410(a).

(2) Application.

(i) A cost-plus-fixed-fee contract is suitable for use when the conditions of § 100-60-260(b) are present and the contract is for the performance of research or preliminary exploration or study, and the level of effort required is unknown.

(ii) A cost-plus-fixed-fee contract normally must not be used in development of major systems once preliminary exploration, studies, and risk reduction have indicated a high degree of probability that the development is achievable and NMHC has established reasonably firm performance objectives and schedules.

(3) Limitations. No cost-plus-fixed-fee contract shall be awarded unless the official with expenditure authority complies with all limitations in § 100-60-260(c).

§ 100-60-265 Requirements Contracts

(a) For the information of offerors and contractors, the official with expenditure authority shall state a realistic estimated total quantity in the solicitation and resulting contract. This estimate is not a representation to an offeror or contractor that the estimated quantity will be required or ordered, or that conditions affecting requirements will be stable or normal. The official with expenditure authority may obtain the estimate from records of previous requirements and consumption, or by other means, and shall base the estimate on the most current information available.

(b) The contract shall state, if feasible, the maximum limit of the contractor's obligation to deliver and the NMHC's obligation to order. The contract may also specify maximum or minimum quantities that NMHC may order under each individual order and the maximum that it may order during a specified period of time. The contract shall specify that failure of NMHC to order such estimated minimum or maximum quantities will not entitle the contractor to any equitable adjustment in unit price.

(c) Application. A requirements contract may be appropriate for acquiring supplies or services when NMHC anticipates recurring requirements but cannot predetermine the precise quantities of supplies or services that designated NMHC activities will need during a definite period.

Subpart E - Inspection and Audit

§ 100-60-270 Right to Inspect Place of Business

The NMHC, 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 NMHC.

§ 100-60-275 Right to Audit Records

As required by § 404 of Public Law No. 3-91 (1 CMC § 7845), the contractor and subcontractor or grantee and subgrantee at all levels shall provide the NMHC Board of Directors with access to and the right to examine and copy any records, data, or papers relevant to an NMHC contract or grant for a period of three (3) years after the final payment under the contract or grant. A clause to this effect shall appear in all NMHC contracts and obligations.

Subpart F - Reports and Records

§ 100-60-280 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 by the Procurement Officer to the Attorney General 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.

§ 100-60-285 Retention of Procurement Records

(a) All procurement records shall be retained by the Procurement Officer for a period of five (5) years after completion of construction, or full delivery of the goods or services under the contract.

(b) The Procurement Officer shall maintain a record listing all contracts for a minimum of five (5) 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; and
- (4) A listing of contracts per agency and by fiscal year.

(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, Professional Services, Vehicles and Special Conditions for Computer Software and Hardware

§ 100-60-301 Construction Procurement

(a) Invitation for Bids.

- (1) **Deposit.** The Procurement Officer 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 § 100-60-205(b). In addition, the following items shall be included in the invitation for bids:
 - (i) **Notice to Bidders.** General information regarding the project;
 - (ii) **Instructions 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 construction contracts where the price is estimated by the Procurement Officer to exceed \$25,000.00 or when the Procurement Officer determines it is in the interest of the NMHC. Bid security shall be on a bid bond, in cash, by certified check, cashiers' check or other form acceptable to NMHC. 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 Attorney General.
- (2) **Amount.** Bid security shall be an amount equal to at least fifteen percent (15%) of the amount of the bid or other amount as specified in the invitation 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) For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, HUD may accept the bonding policy and requirements of NMHC provided that HUD has made a determination that the Federal interest is adequately protected.

If such a determination has not been made, the minimum requirements must be as follows:

- (1) A bid guarantee from each bidder equivalent to 5 percent of the bid price. The bid guarantee must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- (2) A performance bond on the part of the contractor for 100 percent of the contract price. A performance bond is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- (3) A payment bond on the part of the contractor for 100 percent of the contract price. A payment bond is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work

provided for in the contract.

(4) The Procurement Officer shall ensure that the bonding company's pledged assets are sufficient to cover the bond obligation. Prior to the execution of the contract, the Procurement Officer shall require the selected contractor to submit:

(i) A current license from the bonding company showing that it has authority to issue bonds, and

(ii) A certification from the bonding company that the unencumbered value of its assets (exclusive of all outstanding commitments on other bond obligations) exceed the penal amount of each bond.

(d) **Right to Sue on Payment Bonds; 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 therefor before the expiration of a period of ninety days (90) 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 lawsuit 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 (90) days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material 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. 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) **Lawsuit on Payment Bonds; Where and When Brought.** Every lawsuit instituted upon a payment bond shall be brought in a court of competent jurisdiction for the Commonwealth. The obligee named in the bond need not be joined as a party in any such lawsuit.

(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 Corporate Director or his designee 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 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.

§ 100-60-305 Architect-Engineer Services

(a) Procurement Method. Architect-engineer services shall be procured as provided in this section except when authorized as a small purchase, expedited, 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 Procurement Officer and the Corporate Director or its designee shall jointly maintain files of current statements of qualifications of architect-engineer firms. After public announcement of requirement 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 (3) of the firms regarding the contract requirements and technical approach and selection made therefrom, in order of preference, of no less than three (3) firms determined to be the most highly qualified to perform the services required. Fee proposals may be solicited upon public announcement; however, this information shall not be considered in the selection of the most highly qualified firms. Such fee proposals may be used by the Procurement Officer in determining a fair and reasonable contract price.

(d) Negotiation. The Procurement Officer shall negotiate a contract with the highest qualified architect-engineer firm at a price determined to be fair and reasonable to NMHC. In determining what constitutes a fair and reasonable price to NMHC, the Procurement Officer shall consider factors such as the prices proposed by other firms responding to the solicitation. If a fair and reasonable price cannot be negotiated with the highest-ranking qualified firm, then the Procurement Officer may select additional firms in order of competence and qualifications and continue negotiations until a fair and reasonable price is agreed upon.

§ 100-60-310 Competitive Selection Procedures for Professional Services

(a) Procurement method. The services of accountants, consultants, physicians, or lawyers shall be procured as provided in this section except when authorized as a small purchase, emergency procurement, expedited procurement or sole-source procurement.

(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) Discussions. The Procurement Officer or the official with expenditure authority may conduct discussions with any offeror who has submitted a proposal to determine such offerors qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(e) Award. Award shall be made to the offeror determined in writing by the Procurement Officer 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.

§ 100-60-315 Lease or Purchase of Vehicles

(a) Policy. Any lease or purchase of NMHC vehicles shall be governed by this section. It applies to both the initial acquisition of vehicles and the renewal or extension of vehicle leases. The lease or purchase of vehicles shall be procured using an invitation for bids, unless it qualifies for other procurement methods. The Procurement Officer shall establish standard vehicle specifications which shall be updated on a regular basis (not less frequently than every 2 years). All vehicles leased or purchased shall be procured in the name of the NMHC, and shall conform to CNMI and federal laws, including the CNMI Government Vehicle Act (1 CMC § 7406), and associated rules and regulations.

(b) Whether to Lease or Purchase. The NMHC shall consider whether to lease or purchase vehicles based on a case-by-case evaluation of comparative costs and other factors. The following factors are the minimum that shall be considered, and a record reflecting the application of these factors shall be provided in a form prescribed by the Procurement Officer and shall be included in the file:

- (1) Estimated length of the period in which the vehicle is to be used and the extent of use within that period.
- (2) Financial and operating advantages of alternative types and makes of vehicles.

- (3) Cumulative rental payments for the estimated period of use.
- (4) Net purchase price.
- (5) Maintenance and other service costs.
- (6) The following additional factors shall be considered, as appropriate,
 - (i) Availability of purchase options,
 - (ii) Potential for use of the vehicle by other agencies after its use by the acquiring agency is ended,
 - (iii) Trade-in or salvage value,
 - (iv) Imputed interest, and
 - (v) Availability of a servicing capability; e.g., whether the vehicles can be serviced by the NMHC or other sources if it is purchased.
- (c) Purchase method. The purchase method is appropriate if the vehicles will be used beyond the point in time when cumulative leasing costs exceed the purchase costs.
- (d) Lease Method. The lease method is appropriate if it is to the NMHC's advantage under the circumstances. The lease method may also serve as an interim measure when the circumstances require immediate use of vehicles to meet program or system goals; but do not currently support acquisition by purchase.
- (e) Lease with Option to Purchase. If a lease is justified, a lease with option to purchase is preferable. Generally, a long-term lease shall be avoided, but may be appropriate if an option to purchase or other favorable terms are included. If a lease with option to purchase is used, the contract shall state the purchase price or provide a formula which shows how the purchase price will be established at the time of purchase. The option to purchase may only be exercised by NMHC. The expenditure authority shall notify the Procurement Officer thirty (30) days in advance if it does not intend to exercise the purchase option.

§ 100-60-320 Computer Software and Hardware

- (a) Notwithstanding any other provision of these regulations, commercial computer software, including documentation, and hardware may be procured pursuant to this part.
- (b) Commercial computer software, including commercial computer software documentation, may be acquired under a license customarily provided to the public to the extent such license is lawful and satisfies the NMHC's needs.
- (c) In acquiring commercial software, the NMHC shall not generally require offerors and contractors to:
 - (1) Furnish technical information related to commercial computer software or commercial computer software documentation that is not customarily provided to the public;
 - (2) Transfer intellectual property rights or otherwise relinquish to, or otherwise provide, NMHC the rights to use, modify, reproduce, release, perform, display, or disclose commercial computer software or commercial computer software documentation, except as mutually agreed to by the parties. With regard to commercial computer software and

commercial software documentation, the NMHC shall have only those rights specified in the license therefor.

(d) Competitive bidding, or competitive procurement shall not be required for commercial software upon a showing that:

- (1) the software is advertised for sale to the public at prices which are readily determinable from public sources, including but not limited to, sources on the internet;
- (2) proof of contemporaneous pricing which is actually available to CNMI purchasers is supplied in the contract package; and
- (3) the other prices shown are within 10% of the pricing selected, or, the selected vendor will provide support for the software of a value which compensates for the difference in price.

(e) Competitive bidding, or competitive procurement shall not be required with respect to software for the following:

- (1) software purchased is an updated version of software previously purchased;
- (2) an extension of the license for previously-purchased software;
- (3) an extension of maintenance services for previously-purchased software; or

(f) The purchase of computer hardware, software, and/or related services, which is/are purchased pursuant to a US General Services Administration (GSA) blanket contract which had been negotiated by the federal government, shall be presumptively concluded to be in compliance with the competitive procurement requirements of these Regulations. This presumption shall apply not only to commercially available products, but also to products which are designed, manufactured and/or assembled according to GSA specifications.

Part 400 - Contract Terms and Administration of Contracts

§ 100-60-401 Contract Clauses

(a) **Price.** In executing contracts, agencies shall set the maximum amount that can be charged under the contract and disallow open-ended contracts, i.e. contracts which do not specify the maximum contract price. Whatever contract type is selected, the NMHC shall limit contracts to a fixed price or a ceiling price, and the contractor shall not exceed the price set unless a change order is approved (See § 100-60-410, change order). Provided, however, in the case of contracts for legal or lobbying services obtained pursuant to a contingency fee agreement, the NMHC shall put a fixed price on any cost to be borne by the agency out of the general fund, including but not limited to any price to be charged by the contractor in lieu of a percentage of an award obtained as a result of the contractor's services.

(b) **Payment Terms.** Payments shall be made only upon submission of evidence of work performed and adherence to contract terms and specifications. Generally, a one-time payment shall be made after the official with expenditure authority has certified completion of work or delivery of goods or services. Other types of payments are as follows:

(1) Advance Payments. Advance payments shall be authorized only in certain circumstances as provided in (b)(1)(i), in (b)(1)(ii), or in (b)(1)(iii) below.

(i) The contractor fails to qualify as a responsible contractor due solely to the absence of financial capability, and it is justified under § 100-60-225 that the contractor is the only available source, subject to the following conditions:

(A) General requirements - the contractor pledges adequate security, and the official with expenditure authority determines, based on written findings, that the advance payment is in the public interest.

(B) The standards for advance payment determination are:

(I) The advance payments will not exceed the contractor's interim cash needs based on an analysis of the cash flow required for contract performance, consideration of the reimbursement or other payment cycle, and employment of the contractor's own working capital;

(II) The advance payments are necessary to supplement other funds or credit available for the contract;

(III) The recipient is otherwise qualified as a responsible contractor in all areas other than financial capability; and

(IV) Paying the contractor in advance will result in specific advantages to NMHC.

(C) Advance payments shall be limited to not more than 25 percent of the contract price or an amount equivalent to a 60-day working capital requirement, whichever is lower.

(ii) The official with expenditure authority demonstrates in writing that the common business practice of a particular industry requires buyers to pay on an advance payment basis. Such advance payment shall be limited to not more than 50 percent of the contract price. Pertinent documents supporting such business practice shall be attached to the written justification.

(iii) The official with expenditure authority demonstrates in writing that the advance payment is made pursuant to procurement of goods and services as provided in § 100-60-225(a)(2), (a)(3), or (a)(4), or § 100-60-235(b)(1).

(2) Progress Payments. Contracts may provide for progress payments to contractors for work performed or costs incurred in the performance of the contract. Not less than ten percent (10%) of the contract amount shall be withheld pending final completion of the contract and an evaluation of the contractor's performance. However, if the contract consists of the performance of separate and distinct tasks, then any funds so withheld with regard to a particular task may be paid upon completion of that task and an evaluation of the contractor's performance. No official with expenditure authority shall make progress payments on a contract unless it has first been established that the covered work or service has been delivered in accordance with the contract. Payments shall be allowed on stored materials only upon arrival of materials in the CNMI, not prior to shipment, and only after inspection by the official with expenditure authority.

(c) The contract shall accurately reflect the actual NMHC requirement, stating adequately what is to be done or to be delivered to NMHC. For instance, definite quantities shall be stated in the statement of deliverables, unless use of a requirements contract was justified under § 100-60-265. Contracts with general requirements shall be disallowed.

§ 100-60-405 Contract Administration

(a) The primary responsibility for ensuring compliance in contracting rests with the official with expenditure authority. The official with expenditure authority must comply with requirements for advertising the availability of contracts, soliciting bids from potential contractors, evaluating the bidding contractors, drafting the contracts to conform with applicable requirements, obtaining the appropriate approvals, approving payment for services, and evaluating the contractors upon completion of the contracts.

(b) The oversight responsibility for the NMHC's administration and enforcement of its contracts rests primarily with the Procurement Officer. He or she shall be responsible for developing standard contract administration procedures to be used by officials with expenditure authority, maintaining a central depository of contractor evaluations, and making the evaluations available to other agencies upon request.

(c) Contract Monitoring.

(1) Contract monitoring shall be accomplished through "production surveillance and reporting." Production surveillance is a function which the official with expenditure authority uses to determine contractor progress and to identify any factors that may delay performance. It shall involve NMHC review and analysis of:

(i) Contractor performance plans, schedules, controls, and industrial processes, and

(ii) The contractor's actual performance under them.

(2) When information on contract performance status is needed, officials with expenditure authority shall require contractors to submit production progress reports. The official with expenditure authority shall review and verify the accuracy of contractor reports and advise the Procurement Officer of any action he plans to take because of any potential or actual delay in performance, including withholding of payments.

(d) The Procurement Officer shall verify, whenever necessary and practicable, the results of monitoring by the official with expenditure authority. The Procurement Officer shall determine the extent of surveillance based on several factors such as the contractor's history of contract performance, the contractor's experience with the contract supplies or services, and the contractor's financial capability. For construction contracts (including architect-engineer services), contract monitoring is performed by the Procurement Officer or his/her designee pursuant to § 100-60-115(i).

(e) Evaluating Results.

(1) The officials with expenditure authority or designee shall complete, within 15 days of the end of the contract, a post-evaluation of each contractor which shall be kept on file for 36 months. The official with expenditure authority or designee shall report at least the following information to the Procurement Officer on a prescribed form:

(i) Whether the contracted work or service was completed as specified in the contract, and the reasons for and amount of any cost overruns or delayed completions.

(ii) Whether the contracted work or services met the quality standards specified in the contract.

(iii) Whether the contractor fulfilled all the requirements of the contract, and if not, in what ways the contractor did not fulfill the contract.

- (iv) Factors outside the control of the contractor that caused difficulties in contractor performance.
- (v) How the contract results and findings will be utilized to meet the goals of the official with expenditure authority.
- (2) The post evaluation of each contractor shall be submitted before final payment and close-out of the contract is done.
- (3) Final payment shall not be made unless the contractor has submitted a tax clearance verifying the filing of all required Commonwealth employment, excise, gross revenue, and income tax returns and payment of all amounts owing on such returns.
- (4) The Procurement Officer shall establish and maintain a central depository of all contract administration documents, which should include, but not be limited to, progress performance and post-evaluation documents. These documents shall be made available to any expenditure authority or designee upon request to the Procurement Officer.

§ 100-60-410 Change Order

- (a) Execution of a change order shall only be allowed if an increase, decrease, or change in the scope of work is substantively merited and required, which was not reasonably foreseeable at the time of the formation of the contract. However, no change order resulting in an increase in contract cost or time shall be allowed when it is a direct result of the contractor's inexperience, inefficiency, or incompetence.
- (b) Before adding significant new work to existing contracts, the NMHC shall thoroughly assess whether or not it would be more prudent to seek competition. Change orders on construction and A&E contracts, which exceed twenty-five percent (25%) of the cumulative contract price shall automatically be procured through competitive procedures pursuant to § 100-60-201, except when the procurement of the additional work is authorized without using full and open competition under § 100-60-215.
- (c) Contractors shall not be allowed to continue working beyond the expiration term of an original contract in the absence of an approved new contract or change order. Change orders shall be processed using the procedures for processing new contracts in § 100-60-115.
- (d) Extension of Services. Award of contracts for recurring and continuing service requirements are often delayed due to circumstances beyond the control of contracting offices. In order to avoid negotiation of short extensions to existing contracts, the Procurement Officer may include an option clause in solicitations and contracts which will enable NMHC to require continued performance of any services within the limits and at the rates specified in the contract. The option provision may be exercised more than once, but the total extension of performance thereunder shall not exceed 6 months.

Part 500 - Protests and Disputes

Subpart A - Bid Protests and Appeals

§ 100-60-501 Protests to the Corporate Director

(a) General

(1) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Procurement Officer. The protest shall be received by the Corporate Director in writing within ten (10) days after such aggrieved person knows or should have known of the facts giving rise thereto. The Corporate Director shall consider all protests or objections to the award of a contract, whether submitted before or after award. If a protest is made orally and the matter cannot be resolved, written confirmation of the protest must be submitted to the Corporate Director within the ten-day period which shall state fully the factual and legal grounds for the protest;

(2) The Corporate Director shall give notice of the protest to all persons who submitted bids or proposals and appear to have a substantial and reasonable prospect of receiving an award if the protest is denied. Notice may be satisfied by fax or through email as indicated in the contact information provided to NMHC. These persons shall also be advised that they may submit their views and relevant information to the Corporate Director within one week of the date of the notice sent by NMHC. NMHC may extend the deadline based on exceptional circumstances and will do so only sparingly;

(3) The Corporate Director shall decide the protest within ten (10) calendar days after all interested parties have submitted their views unless he certifies that the complexity of the matter requires a longer time, in which event he shall specify the appropriate longer time;

(4) When a protest, before or after award, has been appealed to the NMHC Board of Directors, as provided in these procedures, and the Corporate Director shall submit a report to the NMHC Board of Directors, including his decision of the protest and 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;

(iii) The solicitation, including the specifications on portions relevant to the protest;

(iv) The abstract of offers or relevant portions;

(v) Any other documents that are relevant to the protest; and

(vi) The Corporate Director'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 Corporate Director's report will include the determination prescribed in subsection (b)(4) below.

(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 Corporate Director's decision has been taken to the NMHC Board of Directors, the Corporate Director shall immediately begin compiling the information necessary for a report as provided in subsection (a)(4) above. To further expedite processing, the Corporate Director, upon request of the appellant or the NMHC Board of Directors, shall simultaneously furnish a complete copy (except for information privileged by law or which the Corporate Director deems must be confidential in order to benefit from competitive bidding) to the NMHC Board of Directors and the appellant. In such appeals, the appellant shall furnish a copy of any comments on

the NMHC's administrative report directly to the NMHC Board of Directors, as well as to the Corporate Director.

(b) Protest Before Award

(1)(i) The Corporate Director shall require that written confirmation of an oral protest be submitted by the time specified in subsection (a)(1) and may inform the protester that the award will be withheld until the specified time. If the written protest is not received by the time specified, the oral protest may be disregarded.

(ii) An award may be made in the normal manner unless the Corporate Director finds it necessary in his discretion to take remedial action.

(2) When a proper written protest against the making of an award is received, the award will 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 proceed with an award under subsection (b)(3) below.

(3) When the Corporate Director receives a protest, a contract may not be awarded pending the resolution of the protest and appeal to the NMHC Board of Directors, if any, (including the time period for filing an appeal), unless it is determined in writing that urgent and compelling circumstances which significantly affect the interest of NMHC will not permit awaiting the decision of the Corporate Director or the NMHC Board of Directors.

(4) The Corporate Director is authorized to make the determination in subsection (b)(3) above after receiving the recommendation of the expenditure authority. The determination of the urgent and compelling situation shall be submitted to the Attorney General for review, and absent objection from the Attorney General within five (5) working days of such submittal, the Procurement Officer's determination becomes final. A contract award shall not be authorized until the Procurement Officer has notified the NMHC Board of Directors of his determination in subsection (b)(3) above. The Corporate Director also shall give written notice to the protester and other bidders or proposers who have received notice of the protest in accordance with subsection (a)(2) of the decision to proceed with the award.

(c) Protests After Award

Although persons involved in or affected by the filing of a protest after award may be limited, in addition to the Procurement Officer, at least the contractor shall be furnished the notice of protest and its basis in accordance with subsection (a)(2) above. When it appears likely that an award may be invalidated and a delay in receiving the supplies or services is not prejudicial to the NMHC's interest, the Procurement Officer should consider seeking a mutual agreement with the contractor to suspend performance on a no-cost basis.

(d) Computation of Time

(1) Except as otherwise specified, all "days" referred to in this part are deemed to be working days of the NMHC. 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.

§ 100-60-505 Appeals of Corporate Director's Decisions to the NMHC Board of Directors

(a) **Jurisdiction; Exhaustion of Remedies.** A written appeal to the NMHC Board of Directors from a decision by the Procurement Officer may be taken provided that the party taking the appeal has first submitted a written protest to the Corporate Director as provided in section § 100-60-501 of these procedures, and the Corporate Director has denied the protest or has failed to act on the protest within the time provided for in § 100-60-501(a)(3) above.

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

- (1) Include the name and address, email, fax number of the appellant;
- (2) Identify the 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 NMHC Board of Directors.

(c) **Time for Filing Appeal.** An appeal from the Procurement Officer's decision must be received by the NMHC Board of Directors not later than five (5) days after the appellant receives the decision of the Corporate Director, or, in the event that the Corporate Director has not decided the protest within ten (10) days from the date that he should have decided the protest pursuant to § 100-60-501(a)(3) above. Any appeal received after these time limits shall not be considered by the NMHC Board of Directors unless good cause is shown or unless the NMHC Board of Directors determines that the appeal presents issues significant to procurement practices that are not outweighed by the detriment to the NMHC should the appeal be considered.

(d) **Notice of Appeal, Submission of Corporate Director's Report and Time for Filing of Comments on Report**

(1) The NMHC Board of Directors shall notify the Corporate Director by telephone, through email and in writing within one (1) day of the receipt of an appeal, requesting the Corporate Director to give notice of the appeal to the contractor if award has been made or, if no award has been made, to all bidders or proposers who appear to have a substantial and reasonable prospect of receiving an award if the appeal is denied. The Corporate Director shall include in its notice of the appeal a statement that copies of the protest and appeal documents (except for information privileged by law or which the Corporate Director deems must be confidential in order to benefit from competitive bidding) are available for inspection at the NMHC office with further instructions to communicate directly with the NMHC Board of Directors. Copies will be made available upon request for a reasonable fee assessed by NMHC.

(2) Material submitted by an appellant will not be withheld from any Commonwealth or federal agency which may be involved in the appeal except to the extent that the withholding of information is permitted or required by law or regulation. If the appellant considers that the protest contains material which should be withheld, a statement advising of this fact must be affixed to the front page of the appeal document and the allegedly proprietary information must be so identified wherever it appears.

(3) The NMHC Board of Directors shall request the Corporate Director to submit a complete report on the appeal to the NMHC Board of Directors as expeditiously as possible (generally within ten (10) working days) in accordance with § 100-60-501(a)(4) of these procedures and to make available a copy of the report as provided in in § 100-60-501(a)(5) of these procedures.

(4) Any comments on the agency report shall be filed with the NMHC Board of Directors within ten (10) days after the NMHC Board of Directors receipt of the report, with a copy to NMHC and to the other bidders or proposers who appear to have a substantial and reasonable prospect of receiving an award if the appeal is denied. Any rebuttal to such comments by an appellant, other bidders or proposers shall be filed with the NMHC Board of Directors within five (5) days after receipt of the comments by the NMHC Board of Directors. NMHC may file rebuttals to comments to the report which shall be considered if filed within five (5) days after receipt by the NMHC Board of Directors.

(5) The failure of an appellant or any other bidder or proposer 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, the Procurement Officer, will not make an award prior to resolution of the protest except as provided in this section. In the event the Corporate Director determines that award is to be made during the pendency of an appeal, the Corporate Director will notify the NMHC Board of Directors.

(f) Furnishing of Information on Protests. The NMHC Board of Directors shall, upon request, make available to any interested party information bearing on the substance of the appeal, which has been submitted by interested parties or agencies except to the extent that withholding of information is permitted or required by law or regulation. Any comments thereon shall be submitted within a maximum of ten (10) days as determined by the NMHC Board of Directors.

(g) Time for Submission of Additional Information. Any additional information requested by the NMHC Board of Directors from the appellant or interested parties shall be submitted no later than five (5) days after the receipt of such request.

(h) Conference.

(1) A conference on the merits of the appeal with the NMHC Board of Directors may be held at the request of the appellant, any other interested party, or the Corporate Director. Request for a conference should be made prior to the expiration of the time period allowed for filing comments on the agency report. Except in unusual circumstances, requests for a

conference received after such time will not be honored. The NMHC Board of Directors will determine whether a conference is necessary for resolution of the appeal.

(2) Conferences normally will be held prior to expiration of the period allowed for filing comments on the agency report. All interested parties shall be invited to attend the conference. Ordinarily, only one conference will be held on an appeal.

(3) Any written comments to be submitted and as deemed appropriately by the NMHC Board of Directors as a result of the conference must be received by the NMHC Board of Directors within five (5) days of the date on which the conference was held.

(4) Time for Decision - Notice of Decision: The NMHC Board of Directors shall, if possible, issue a decision on the appeal within twenty-five (25) days after all information necessary for the resolution of the appeal has been received. A copy of the decision shall be immediately transmitted to the appellant, other participating parties, and the Procurement Officer by fax, email or regular mail.

(i) Request for Reconsideration.

(1) Reconsideration of a decision of the NMHC Board of Directors may be requested by the appellant, any other bidder or proposer who submitted comments during consideration of the appeal and appears to have a substantial and reasonable prospect of receiving an award if the appeal is denied, and NMHC. The request for reconsideration shall contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law made or information not previously considered.

(2) Request for reconsideration of a decision of the NMHC Board of Directors shall be filed not later than ten (10) days after the date of the NMHC Board of Directors decision. The term "filed" as used in this section means receipt by the NMHC Board of Directors.

(3) A request for reconsideration shall be subject to these bid protest procedures consistent with the need for prompt resolution of the matter.

§ 100-60-510 Remedies

(a) Remedies Prior to Award. If prior to award the Corporate Director or the NMHC Board of Directors determines that a solicitation or proposed award of a contract is in violation of law or regulation, then the Corporate Director or the NMHC Board of Directors shall have the solicitation or proposed award:

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

(b) Remedies After an Award. If after an award the Corporate Director or the NMHC Board of Directors determines that a solicitation or award of a contract is in violation of law or regulation, then the Corporate Director or the NMHC Board of Directors may:

- (1) If the person awarded the contract has not acted fraudulently or in bad faith:
 - (i) Ratify or affirm the contract provided it is determined that doing so is in the best interest of the Commonwealth; or
 - (ii) Terminate the contract and the person awarded the contract shall be compensated for the actual expenses reasonably incurred under the contract, plus a reasonable profit, prior to termination;

- (2) If the person awarded the contract has acted fraudulently or in bad faith:
 - (i) Declare the contract null and void; or
 - (ii) Ratify or affirm the contract if such action is in the best interests of the Commonwealth, without prejudice to the Commonwealth's rights to such damages as may be appropriate.

§ 100-60-515 Effective Date

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

Subpart B - Disputes

§ 100-60-520 Disputes

- (a) Any dispute between the NMHC and a contractor relating to the performance, interpretation of or compensation due under a contract, which is the subject of the regulations in this subchapter, must be filed in writing with the Corporate Director and the official with the expenditure authority within ten calendar days after knowledge of the facts surrounding the dispute.
- (b)(1) The official with contracting authority or designee will attempt to resolve the dispute by mutual agreement. If the dispute cannot be settled either party may request a decision on the dispute from the Corporate Director. The Corporate Director shall review the facts pertinent to the dispute, secure necessary legal assistance and prepare a decision that shall include:
 - (i) Description of the dispute;
 - (ii) Reference to pertinent contract terms;
 - (iii) Statement of the factual areas of disagreement or agreement; and
 - (iv) Statement of the decision as to the factual areas of disagreement and conclusion of the dispute with any supporting rationale.
- (2) The Corporate Director may require a hearing or that information be submitted on the record, in his discretion.
- (c) Duty to Continue Performance. A contractor that has a dispute pending before the official with expenditure authority or the Corporate Director must continue to perform according to the terms of the contract and failure to do so continue shall be deemed to be a material breach of the contract unless he obtains a waiver of this provision by the official with the expenditure authority.

Part 600 - Additional Requirements

§ 100-60-601: Agency Internal Policies

- (a) NMHC shall promulgate internal policies and procedures determining procurement methods for \$0.01 to \$3,000.00 and \$3,001.00 to \$250,000.00.
- (b) NMHC shall promulgate internal policies and procedures to ensure efficient and prompt delivery of goods and services for the agency.

§ 100-60-602: Compliance with Federal Regulations

- (a) NMHC shall ensure full compliance with 2 CFR 200 in all procurement matters.
- (b) NMHC shall comply with all applicable laws and regulations governing the use of funds provided by the U.S. Department of Housing and Urban Development (HUD).

Part 700 - Ethics in Public Contracting

Subpart A - Definitions

§ 100-60-701 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 NMHC, and is not a matter of public knowledge.
- (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:
 - (1) 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
 - (2) 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.
- (f) “Immediate family” means spouse, children, parents, brothers, and sisters.

Subpart B - Standards of Conduct

§ 100-60-705 Policy

Public employment is a public trust. In governmental contracting, employees of NMHC shall discharge their duties impartially so as to:

- (a) Ensure fair and competitive access to governmental procurement by responsible contractors in a transparent and accountable manner; and
- (b) Conduct themselves in a manner as to foster public confidence in the integrity of the government procurement process.

§ 100-60-710 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 the a public trust. In order to fulfill this ethical standard, employees must adhere with the requirements of the regulations in this subchapter.
- (b) Contractors. Any effort to influence any public employee to breach the standards of ethical conduct set forth in this subchapter is also a breach of ethical standards. Thus, subject to any number of standard adverse actions to preserve the public trust.

§ 100-60-715 Employee Disclosure Requirements

- (a) Disclosure of benefit received from contract. Any employee who has, or obtains any benefit from, any NMHC contract with a business in which the employee has a financial interest shall report such benefit to the Procurement 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.

§ 100-60-720 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; or
 - (2) 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 Procurement 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 NMHC Board of Directors for an advisory opinion as to what further participation, if any, the employee may have in the transaction.

§ 100-60-725 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 therefor.

(b) **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 tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

§ 100-60-730 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 NMHC 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 NMHC 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.

§ 100-60-735 Contract Clauses

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

§ 100-60-740 Restrictions on Employment of Present and Former Employees

(a) **Present employees.** 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 governmental body by whom the employee is employed.

(b) Restrictions on former employees 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 NMHC, 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 NMHC is a party or has a direct or substantial interest.

(c) Disqualification of business when an employee has a financial interest. It shall be a breach of ethical standards for a business in which an employee has a financial interest knowingly to act as a principal, or as an agent for anyone other than NMHC, 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 either participates personally and substantially through decision, approval, disapproval recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of the employee's official responsibility, where NMHC is a party or has a direct and substantial interest.

§ 100-60-745 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.

§ 100-60-750 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 official with the expenditure authority may declare the contract void if he finds sufficient evidence after a contract has been let that contract was obtained by a bidder or bidders by reason of collusive or secret agreement among the bidders to the disadvantage of the government.

§ 100-60-755 Civil and Administrative Remedies

In addition to existing remedies provided by law, any person who violates any of the provisions of the regulations in this subchapter may be subject to one or more of the following:

(a) NMHC employees.

(1) NMHC employee is any person whether appointed, excepted service or civil service, and includes the members of the Board of Directors. An employee who violates the provisions of the rules and regulations in this subchapter is subject to adverse action as may be appropriate in his or her particular circumstances.

(2) This action includes but is not limited to reprimand, suspension without pay, termination of employment, civil injunction, civil suit for damages or return of NMHC money, or criminal prosecution.

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

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

§ 100-60-760 Authority to Debar or Suspend

(a) Authority. 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 Procurement Officer after consultation with the official with expenditure authority and the Attorney General, shall have authority to debar a person for cause from consideration for award of contracts. The debarment shall not be for a period of more than three (3) years. The same officer, after consultation with the official with expenditure authority and the Attorney General, 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 (3) 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 to 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 government 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 Procurement 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
 - (ii) 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;
 - (5) Any other cause that the Procurement Officer determines to be so serious and compelling as to affect responsibility as a government contractor, including debarment by another governmental entity; or
 - (6) For violation of any of the ethical standards set forth in part 700.
- (c) Decision. The Procurement 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. A copy of the decision shall also be provided to other Commonwealth procurement offices.



STATE BOARD OF EDUCATION

Commonwealth of the Northern Mariana Islands ---- *Public School System*
PO Box 501370 Saipan, MP 96950. Tel. 670 664-3711. E-mail: boc.admin@cnmipss.org



Voting Members

Gregory P. Borja
Chairperson

Antonio L. Borja
Vice Chairperson

Maisie B. Tenorio
Secretary/Treasurer

Ierman M. Atalig, SGM (Ret)
Member

Andrew L. Orsini
Member

Non-Voting Members

Phyllis M. Ain, J.D.
Teacher Representative

Ronald Snyder, EdD
Non Public School Rep.

Student Representative

PUBLIC NOTICE OF CERTIFICATION AND ADOPTION ON REGULATIONS OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS STATE BOARD OF EDUCATION

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED REGULATIONS

60-40-210 Small Purchases

Volume 44, Number 03, pp 042853-042861, of March 28, 2022

Regulations of the State Board of Education

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, State Board of Education (the Board), HEREBY ADOPTS AS PERMANENT regulations the PSS Procurement Rules and Regulations which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Board announced that it intended to adopt as permanent and now does so.

The Proposed Amendment to Proposed Regulations §60-40-210 Small Purchases subsection g. to increase the threshold limit for Contracts procured for Capital Improvement Projects from \$30,000.00 to \$50,000.00 as published, such adopted regulations are a true, complete, and correct copy of the referenced Proposed PSS Rules and Regulations, and that they are being adopted.

PRIOR PUBLICATION: The prior publication was as stated above. The Board adopted the regulation at its September 1, 2021, Special Board meeting.

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY:

To include changes to §§60-40-210 Small Purchases subsection g. which was published in the Commonwealth Register Volume 44, Number 03, March 28, 2022 Pages 042853-042861.

AUTHORITY: The Board is required by the Legislature to adopt rules and regulations regarding those matters over which the State Board of Education has jurisdiction.

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

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC §9104(a) (2), the agency has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the agency, if requested to do so by an interested person, either prior to adoption or within thirty (30) days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption. Please see the following pages for this agency's concise statement, if there are any, in response to filed comments.

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the _____ day of June 2022, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



Gregory P. Borja, Chairperson
17th CNMI State Board of Education

6/28/22
Date

Filed and
Recorded by: 

Esther R.M. San Nicolas
Commonwealth Registrar

07-28-22
Date

§ 60-40-210 Small Purchases

(a) Any procurement not exceeding the amounts established herein may be made in accordance with small purchase procedures. However, procurement requirements shall not be artificially divided so as to constitute a small purchase.

(b) Purchases not exceeding \$500.00 may be made without securing bids or price quotations if the Chief of Procurement and Supply considers the price reasonable. Such determination shall be made in writing and shall indicate: (1) the reason why price quotations were not sought; (2) the utility of the purchase; (3) an explanation of why the price is reasonable under the circumstances.

(c) The Capital Improvements Projects office shall be permitted to make small purchases according to subsection (b), but a small purchase shall be considered \$1,000.

(d) Bidding is not required but is encouraged for

procurement under \$10,000. Price quotations from at least three vendors must be obtained and the selection based on competitive price and quality for procurement valued at under \$10,000. Any price quotations obtained must be written, documented, and submitted to the Chief for approval. However, if it is an emergency and three price quotations are not practicable, the purchase shall function as an emergency procurement and follow § 60-40-220.

(e) Purchase orders may be utilized for small purchases in subsections (b) and (c) only. Purchase orders may also be utilized instead of contracts for purchasing instructional materials, books, and publications.

(f) This section shall not apply to lease or purchase of vehicles, machinery and equipment or to the purchase of professional services.

(g) Construction services may be procured by obtaining three price quotations from qualified contractors. Procurement under this subsection shall be limited to renovations of existing structures, repairs, maintenance, materials, and construction equipment. No new buildings or structures shall be built using this subsection. **Contracts procured hereunder shall not exceed \$50,000 and shall be accompanied by a justification, in writing, by the Capital Improvements Projects office and agreed to and signed by the Commissioner of Education.**

§ 60-40-210 Small Purchases

(a) Any procurement not exceeding the amounts established herein may be made in accordance with small purchase procedures. However, procurement requirements shall not be artificially divided so as to constitute a small purchase.

(b) Purchases not exceeding \$500.00 may be made without securing bids or price quotations if the Chief of Procurement and Supply considers the price reasonable. Such determination shall be made in writing and shall indicate: (1) the reason why price quotations were not sought; (2) the utility of the purchase; (3) an explanation of why the price is reasonable under the circumstances.

(c) The Capital Improvements Projects office shall be permitted to make small purchases according to subsection (b), but a small purchase shall be considered \$1,000.

(d) Bidding is not required but is encouraged for

procurement under \$10,000. Price quotations from at least three vendors must be obtained and the selection based on competitive price and quality for procurement valued at under \$10,000. Any price quotations obtained must be written, documented, and submitted to the Chief for approval. However, if it is an emergency and three price quotations are not practicable, the purchase shall function as an emergency procurement and follow § 60-40-220.

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Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands

1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF RULES AND REGULATIONS OF THE COMMONWEALTH HEALTHCARE CORPORATION

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED RULES AND REGULATIONS

Volume 44, Number 04, pp. 048397-48405, of April 28, 2022

AMENDMENTS TO THE CHCC CHARGEMASTER FOR VARIOUS FEES

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, COMMONWEALTH HEALTHCARE CORPORATION ("CHCC"), HEREBY ADOPTS AS PERMANENT regulations the Proposed Regulations which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The CHCC announced that it intended to adopt them as permanent, and now does so. (Id.) A true copy is attached. I also 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 as published.

PRIOR PUBLICATION: The prior publication was as stated above.

MODIFICATIONS FROM PROPOSED REGULATIONS: Adoption as Amendments to the Chargemaster.

AUTHORITY: The Corporation is empowered by the Legislature to adopt these rules and regulations pursuant to 3 CMC Section 2826(c).

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

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC sec. 9104(a)(2), the Corporation has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the Corporation, if requested to do

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Telephone: (670) 236-8201/2 FAX: (670) 233-8756

THE ATTORNEY GENERAL
Civil Division
RECEIVED
SW 07/06/22

so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e)

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 6th day of July, 2022 at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



ESTHER L. MUNA
Chief Executive Officer, CHCC



EDWARD DELEON GUERRERO
Board Chair

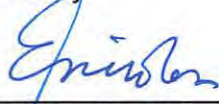
Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the certified final regulations, modified as indicated above from the cited proposed regulations, have been reviewed and approved as to form and legal sufficiency by the CNMI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

Dated the 7 day of July, 2022.



EDWARD MANIBUSAN
Attorney General

Filed and
Recorded by:



ESTHER SAN NICOLAS
Commonwealth Registrar

07.28.22
Date



Eli D. Cabrera
Administrator

Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Bureau of Environmental and Coastal Quality –
Division of Environmental Quality

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DCRM Tel.: (670) 664-8300; Fax: (670) 664-8315
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Zabrina C. Shai
Director, DEQ

**PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF
AMENDMENTS TO WATER QUALITY STANDARDS
TO REGULATE CERTAIN PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS)**

ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands, Office of the Governor, Bureau of Environmental and Coastal Quality (BECQ) HEREBY ADOPTS AS PERMANENT amendments to the Division of Environmental Quality (DEQ) Water Quality Standards regulations at NMIAC Chapter 65-130 pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC § 9101 et seq. and the Environmental Protection Act, 2 CMC §§ 3101 et seq.

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 04, pp 048390-048396 of the Commonwealth Register dated April 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 BECQ pursuant to 2 CMC § 3121 to issue regulations to carry out its policies and purposes, including to develop and administer programs to prevent or regulate activities as necessary to protect the public health or welfare from any significant adverse effect of the discharge of pollutants. 2 CMC § 3122.

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: No written comments regarding the proposed regulations were submitted during the 30-day comment period. BECQ will, if requested to do so by any interested person within 30 days of this adoption of the amendments, 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:



Eli Cabrera
Administrator, BECQ

7/7/2022
Date

Filed and Recorded by:



Ms. Esther R.M. San Nicolas
Commonwealth Registrar

7-28-2022
Date



PUBLIC NOTICE

OF CERTIFICATION AND ADOPTION OF THE AMENDMENTS TO THE DEVELOPMENT CORPORATION DIVISION (DCD) RULES AND REGULATIONS OF THE COMMONWEALTH ECONOMIC DEVELOPMENT AUTHORITY (CEDA)

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED
AMENDMENTS TO REGULATIONS
VOLUME 44, NUMBER 05, PP 048537-048545 OF MAY 28, 2022

ACTION TO ADOPT THE AMENDMENTS TO THE DCD RULES AND

REGULATIONS: In accordance with the Administrative Procedures Act ("APA"), the Commonwealth of the Northern Mariana Islands Commonwealth Economic Development Authority HEREBY ADOPTS the amendments to the DCD Rules and Regulations. The CEDA Board of Directors and the DCD Board of Directors announced that it intended to adopt them as permanent, and now do so.

The Chairwoman of the CEDA Board of Directors and the Acting Chairman of the DCD Board of Directors certify that by signing below, that the amendments to the DCD Rules & Regulations being adopted were approved by the CEDA Board of Directors at its meeting on July 26, 2022.

AUTHORITY: The Board of Directors of CEDA thru its Chairwoman and the DCD Board of Directors thru its Acting Chairman are authorized to promulgate and amend, if necessary, the DCD Rules and Regulations pursuant to §6 of the P.L. 4-49, as amended, 4 CMC §10203(a)(7) and 4 CMC §10203(a)(35), and NMIAC § 25-10-015 .

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

ATTORNEY GENERAL APPROVAL: The adopted DCD Rules and Regulations were approved for promulgation by the Attorney General. (1 CMC §2153(e), duty to review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency, or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law).

CEPA

PUBLIC NOTICE

NOTICE OF THE PUBLIC HEARING ON THE PROPOSED
REVISIONS TO THE ZONING BY-LAW

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I DECLARE under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on the 26th day of July 2022, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



AUBRY M. HOCOG
Chairwoman, CEDA Board of Directors

7/27/22

Date



ISIDRO K. SEMAN
Acting Chairman, DCD Board of Directors

7/26/22

Date

Pursuant to 1 CMC §2153(e) (AG's approval of regulations to be promulgated as to form) and 1 CMC §9104(3) (obtain AG's approval), the certified final regulations, modified as indicated above from the cited proposed 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) (publication of rules and regulations)).

Dated this 26th day of July 2022



EDWARD MANIBUSAN
Attorney General

7/28/2022

Date

Filed and recorded by:



ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

7.28.2022

Date

All meetings of the Board shall be held in the Commonwealth and pursuant to Public Law 8-41; "the Open Government Act of 1992", as amended. Members of the Board of Directors who are in the Commonwealth but unable to attend a meeting in person may appear by means of internet or online video conferencing, teleconferencing, or other electronic means of communication.

- (a) Members attending a meeting via internet or online video conferencing, teleconferencing, or other electronic means of communication must make sure that they are in a secured location where public is not present unless declaration is made or requested, on record, to participate.
- (b) 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.
- (c) Notice of Intent to Attend Remotely. Members who plan to attend a meeting of the Board of Directors by means of internet or online video conferencing, teleconferencing, or other electronic means of communication shall inform the Chairman of the Board and the Executive Assistant at least three (3) days prior to the meeting.



Commonwealth Utilities Corporation

P.O. Box 501220, Third Floor, Joeten DanDan Building, Saipan, MP 96950

Tel: (670) 664-4282 * Fax: (670) 235-5131

CUC is an Equal Opportunity Provider and Employer



PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS OF THE COMMONWEALTH UTILITIES CORPORATION BOARD OF DIRECTORS MEETING REGULATIONS

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED REGULATIONS

**Volume 44, Number 04, pp. 048323 - 048329
of April 28, 2022**

ACTION TO ADOPT PROPOSED REGULATIONS: The Executive Director and the Chairperson of the Board of the Directors of the Commonwealth Utilities Corporation (“CUC”) hereby adopts as permanent regulations the proposed regulations which shall amend the additional provisions and revisions to its Board of Directors Meeting Regulations, which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Act (“APA”), 1 CMC § 9104(a).

TERMS, SUBSTANCE, AND DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED. The proposed revision shall amend 4 CMC § 8132 to permit CUC to allow for meeting appearances of its Board of Directors via the internet or online video conference, teleconferencing, or other electronic means of communication in the event that a member is in the Commonwealth of the Northern Mariana Islands (“CNMI”) but unable to attend a meeting in person at the meeting place. A member’s appearance by electronic means shall be considered as present for purposes of a quorum.

AUTHORITY: The Commonwealth Utilities Corporation Board of Directors is authorized to promulgate rules and regulations necessary to carry out the purposes of this chapter, 4 CMC § 8157.

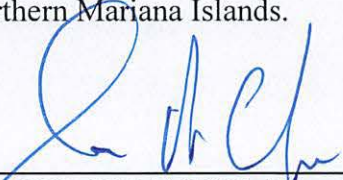
PRIOR PUBLICATION: The prior publication was stated above.

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY: NONE.

The proposed regulations to its Board of Directors Meeting Regulations, will become effective ten (10) days after adoption and publication in the Commonwealth Register. 1 CMC § 9105(b).

The Executive Director and the Chairperson of the CUC Board of Directors also certify by signature below that as published, the Adopted Regulations are a true, complete, and correct copy of the referenced Proposed Amendments to the CUC Board of Directors Meeting Regulation.

WE DECLARE under penalty of perjury that the foregoing is true and correct, and this Declaration was executed on this 25th day of July 2022, at Saipan, Commonwealth of the Northern Mariana Islands.



GARY P. CAMACHO, Executive Director



MIRANDA V. MANGLONA, Chairperson

Pursuant to 1 CMC §2153(e) (AG's approval of regulations to be promulgated as to form) and 1 CMC §9104(3) (obtain AG's approval), the certified final regulations, modified as indicated above from the cited proposed 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) (publication of rules and regulations)).

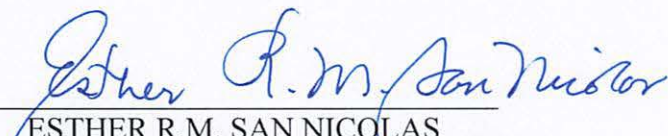
Dated this _____ day of July, 2022



EDWARD MANIBUSAN
Attorney General

7/28/2022
Date

Filed and recorded by:



ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

07-28-2022
Date

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



In Re the Matter of:

Labor Case No. 22-003

Luzhou Zhao,

Complainant,

v.

ORDER OF DISMISSAL

Success International Corporation and Miao
Guojun,

Respondent.

I. INTRODUCTION

On July 19, 2022, the matter came before the Administrative Hearing Office for an online hearing to clarify issues and confirm Complainant's immigration status. Complainant Luzhou Zhao ("Complainant") was present and represented by Interpreter Wang Yue. Respondent Success International Corporation and Miao Guojun ("Respondent") was present and represented by President Guojun Miao, Bookkeeper Jarelyn Villacanas and Attorney Cong Nie. Department of Labor, Enforcement, Compliance, and Monitoring was present and represented by Labor Investigator III Norman Rasiang. Interpreter Brandon Doggett was also present and facilitated communications.

For the reasons stated below, Respondent's Motion to Dismiss is **GRANTED**. Labor Case No. 22-003 is dismissed for lack of jurisdiction.

II. BACKGROUND

On April 19, 2022, Complainant, a tourist, filed a complaint against Respondent for unpaid wages, overtime, and unsafe working conditions. Based on the allegations, the matter was referred to Enforcement for further investigation and agency violations. On July 6, 2022, Respondent filed a motion to dismiss for lack of jurisdiction over tourist claims. The matter was scheduled for a hearing.

III. DISCUSSION

Pursuant to 3 CMC § 4942(a):

The Administrative Hearing Office shall have original jurisdiction to resolve all actions involving alleged violations of the labor and wage laws of the Commonwealth, including but not limited to any violation of this chapter and *regulations promulgated thereunder*. The Commonwealth Superior Court shall have concurrent jurisdiction to resolve all labor and wage violations that are criminal in nature.

Furthermore, "[t]he Administrative Hearing Office does **not** have jurisdiction with respect to the claims of **tourists**. Those claims are pursued in the Commonwealth Superior Court." NMIAC § 80-20.1-450(e) (emphasis added). The above-referenced CNMI statute and regulation are clear and unambiguous. Although the Administrative Hearing Office has original jurisdiction to resolve violations of labor and wage laws and violations of the regulations, the Administrative Hearing Office clearly does not have jurisdiction to hear claims of tourists.

Here, Complainant is not a U.S. citizen, CNMI permanent resident, U.S. permanent resident, a foreign national worker or a worker possessing some other non-immigrant status. *See* NMIAC § 80-20.1-450(b). Rather, Complainant admits to entering the CNMI as a tourist and continuing to illegally reside in the CNMI. Further, Complainant admits that he has no valid authorization to work in the US. Accordingly, the Administrative Hearing Office does not have jurisdiction over Complainant's claims and dismissal is appropriate.

IV. CONCLUSION

Accordingly, Respondent's Motion to Dismiss is hereby **GRANTED**. This matter is hereby **DISMISSED** pursuant to NMIAC § 80-20.2-130(c). Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.

So ordered this **19th** day of July, 2022.

/s/

JACQUELINE A. NICOLAS
Administrative Hearing Officer



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

In Re the Matter of:

Labor Case No. 22-008

Melchor Lerum,

Complainant,

ORDER OF DISMISSAL

v.

SMJ Corporation,

Respondent.

On June 27, 2022, Complainant filed a complaint against Respondent for unpaid wages. On July 7, 2022, Complainant filed a written request to withdraw his appeal as the parties settled their dispute outside the Administrative Hearing Office. There are no other issues pending.

Accordingly, pursuant to NMIAC § 80-20.1-485(b),¹ this matter is hereby **DISMISSED**, with prejudice. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.²

So ordered this 8th day of July, 2022.

/s/

JACQUELINE A. NICOLAS
Administrative Hearing Officer

¹ Pursuant to NMIAC § 80-20.1-485 (b), “[a] complaint may be dismissed upon its abandonment or settlement by the parties.”

² The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

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



In Re Matter of:) PUA Case No. 21-0137
)
Eduardo O. Flores,)
)
Appellant,) ADMINISTRATIVE ORDER
)
v.)
)
CNMI Department of Labor,)
Division of Employment Services-PUA,)
)
Appellee.)

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on November 30, 2021 at approximately 9:00 a.m. at the Administrative Hearing Office. Appellant Eduardo Flores (“Appellant”) was not present or represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program (“Department”) was present and represented by PUA Coordinator Francene Kileleman and Labor Certification Worker Dennis Cabrera.

Exhibits:

1. Exhibit 1: Copy of Appellant’s Application Snapshot (initial), filed June 17, 2020;
2. Exhibit 2: Copy of Appellant’s Application Snapshot (reopen), filed July 28, 2020;
3. Exhibit 3: Copy of Appellant’s Weekly Certifications for week beginning September 13, 2020 and ending September 19, 2020;
4. Exhibit 4: Copies of Appellant’s US passport, CNMI drivers’ license, and Social Security Card;
5. Exhibit 5: Copy of Notice Furlough from Employer Imperial Pacific International (CNMI), LLC, dated April 6, 2020;
6. Exhibit 6: Copy of Email from Department’s Benefit Payment Control Unit, dated October 4, 2021;
7. Exhibit 7: Copy of Department’s Disqualifying Determination, dated September 28, 2021;

8. Exhibit 8: Copies of Appellant's Flight Itinerary from Saipan to Florida, for September 10, 2020;
9. Exhibit 9: Copies of Emails between Department and Appellant, dated July 2, 2021 to November 30, 2021;
10. Exhibit 10: Copy of Department Witness' Handwritten Notes, dated July 2, 2021;
11. Exhibit 11: Copy of Appellant's Request to file an Appeal, filed July 15, 2021;
12. Exhibit 12: Copy of the Notice of Hearing, issued July 15, 2021;
13. Exhibit 13: Copies of Emails from Appellant to CNMI Administrative Hearing Office, dated September 28, 2021 to October 6, 2021;
14. Exhibit 14: Copy of Order Continuing Hearing, issued October 7, 2021.
15. Exhibit 15: Copies of Emails from Appellant to CNMI Administrative Hearing Office, dated October 29, 2021 to November 3, 2021; and
16. Exhibit 16: Copy of Order Continuing Hearing, issued November 10, 2021.

For the reasons stated below, the Department's Determination dated September 28, 2021 is **AFFIRMED**. Claimant is not eligible for benefits for the period of September 13, 2020 to September 4, 2021.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")¹ and Federal Pandemic Unemployment Compensation ("FPUC").² On December 27, 2020, the Continued Assistance for Unemployed Workers Act of 2020 ("Continued Assistance Act") amended and created new provisions of said federal unemployment insurance programs, which, among other things, extended the PUA and FPUC programs to March 13, 2021.³ On March 11, 2021, the American Rescue Plan Act of 2021 ("ARPA") extended the programs to September 6, 2021. The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI in accordance to applicable law.⁴ The

¹ See Section 2102 of the CARES Act of 2020, Public Law 116-136.

² See Section 2104 of the CARES Act of 2020, Public Law 116-136.

³ See Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A ("Continued Assistance for Unemployed Workers Act of 2020" or "Continued Assistance Act").

⁴ Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI

1 CNMI Department of Labor Administrative Hearing Office has been designated to preside over
2 appeals of agency decisions.

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

4 III. PROCEDURAL BACKGROUND & ISSUES

5 Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon
6 review of Appellant's application and supporting documents, the Department issued a Disqualifying
7 Determination on July 6, 2021, effective from March 15, 2020 to September 4, 2021. On July 15,
8 2021, Appellant filed the present appeal and the matter was scheduled for a hearing. As stated in the
9 Notice of Hearing, the issues on appeal are: (1) whether Appellant is eligible for PUA; and (2) whether
an overpayment occurred and funds should be returned.

10 Subsequently, while the Appeal was pending, on September 28, 2021, the Department issued a
11 second Disqualifying Determination, effective September 13, 2020 to September 4, 2021.⁵ The
12 Department also confirmed with the Benefit Payment Control Unit ("BPC") that there was no
overpayment issue in this case.⁶ Accordingly, the overpayment issue is not discussed further.

13 IV. FINDINGS OF FACT

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

- 15 1. Prior to the COVID-19 pandemic, Appellant was employed as a Pit Supervisor at Imperial
16 Pacific International (CNMI), LLC ("Employer"), located in Saipan Island.⁷ As a full-time Pit
Supervisor, Appellant was paid \$769.20 per week.⁸
- 17 2. Due the economic impact of the pandemic, Employer implemented cost-cutting measures that
18 affected Appellant's employment. Specifically, due to the COVID-19 pandemic public health
19 emergency, Appellant's place of employment closed, and Employer issued a Furlough Notice
to Appellant, effective April 6, 2020.⁹
- 20 3. On or around June 17, 2020, Appellant submitted an initial application¹⁰ for unemployment

21
22 Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state
law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

23 ⁵ Exhibit 7.

⁶ Exhibit 6.

⁷ Exhibit 1.

⁸ *Id.*

⁹ Exhibit 5.

¹⁰ Exhibit 1.

1 assistance under the PUA and FPUC programs administered by the Department. In the initial
2 application,¹¹ Appellant self-certified under penalty of perjury that:

- 3 a. Appellant was still employed but furloughed;
- 4 b. Appellant's last day that he physically worked for Employer was March 17, 2020; and
- 5 c. Employer did not intend to recall Appellant within 6 weeks.¹²

6 4. Subsequently, on or around July 28, 2020, Appellant submitted an application to reopen¹³ in
7 which Appellant self-certified under penalty of perjury that:

- 8 a. Appellant was not working;
- 9 b. Appellant recently received a notice of termination, layoff or military separation;
- 10 c. The date of layoff, termination or military separation is March 17, 2020; and
- 11 d. Appellant's place of employment was closed as a direct result of the COVID-19 public
12 health emergency.¹⁴

13 5. Appellant also submitted a weekly certification to claim continued benefits from week ending
14 September 19, 2020.¹⁵ In this weekly certification, Appellant reported that:

- 15 a. His employment was still affected by COVID-19 because his place of employment is
16 closed as a direct result of the COVID-19 public health emergency; and
- 17 b. Other than for the reasons that were the direct result of the COVID-19 public health
18 emergency, he is able and available for work during the claimed week.¹⁶

19 6. The answers provided in Appellant's initial application and weekly certification were
20 submitted under penalty of perjury. It is Appellant's responsibility to provide true, accurate,
21 and complete answers.

22 7. On September 10, 2020, Appellant departed Saipan, CNMI to Florida.¹⁷ As of the date of the
23 Administrative Hearing, Appellant had exited the CNMI and was in Puerto Rico.¹⁸

24 8. To date, Appellant has not been recalled back to work by Employer.

25 9. On July 6, 2021, the Department issued a determination disqualifying Appellant from PUA
and FPUC benefits from March 15, 2020 to September 4, 2021 because the Department found

¹¹ *Id.*

¹² *Id.*

¹³ Exhibit 2.

¹⁴ *Id.*

¹⁵ Exhibit 3.

¹⁶ *Id.*

¹⁷ Exhibit 8.

¹⁸ See Exhibits 9, 10, and 13.

1 that Appellant was not available for work based on the e-ticket provided which shows that
2 Appellant exited the CNMI on September 10, 2020.¹⁹

3 10. On July 15, 2021, Appellant filed the present appeal and the matter was scheduled for an
4 Administrative Hearing.²⁰ Appellant is appealing the Department's Determination because his
5 place of employment is closed a direct result of COVID-19.²¹

6 11. In his Appeal Form, Appellant provided mailing and physical addresses in "San Juan, PR
7 00907."²²

8 12. On September 28, 2021, the Department issued a second Disqualifying Determination finding
9 that Appellant was not eligible for PUA benefits from September 13, 2020 to September 4,
10 2021.²³ The Department stated the same reason and finding that Appellant was not eligible for
11 that period of time because he was not available for work based on the e-ticket provided which
12 shows that Appellant exited the CNMI on September 10, 2020.²⁴

13 V. CONCLUSIONS OF LAW

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

16 1. Appellant is not able and available to work in the CNMI.

17 In accordance with the CARES Act, an individual must be able and available to work in the CNMI
18 during the week that benefits are claimed. "An individual shall be deemed able and available for work
19 . . . if the individual is able and available for suitable work during the customary work week of the
20 individual's customary occupation which falls within the week for which a claim is filed."²⁵ "An
21 individual shall be deemed *able* to work if the individual has the physical and mental ability to perform
22 the usual duties of the individual's customary occupation or other work for which is the individual is
23 reasonably fitted by training and experience."²⁶ "An individual shall be deemed *available* for work
24 only if the individual is ready and willing to accept employment for which the individual is reasonably
25 fitted by training and experience. The individual must intend and wish to work, and there must be no

26 ¹⁹ Exhibit 11.

²⁰ *Id.* See also Exhibits 12-16.

²¹ Exhibit 11.

²² *Id.*

²³ Exhibit 7.

²⁴ *Id.*

²⁵ HAR § 12-5-35(a)

²⁶ HAR § 12-5-35(a)(1) (emphasis added).

1 undue restrictions either self-imposed or created by force of circumstances which prevent the
2 individual from accepting employment.”²⁷

3 In determining whether an individual is able and available, it is proper to consider the individual’s
4 geographical location at the time benefits are claimed.²⁸ Generally, a claimant must be in the CNMI
5 to be able and available to work. 42 Com. Reg. 044471 (Nov. 28, 2020); 43 Com. Reg. 045423 (Feb.
6 28, 2021); 43 Com. Reg. 045555 (Mar. 28, 2021). If a claimant is not physically able or available for
7 work, he or she may be disqualified for PUA, unless the reason he or she is unable or unavailable is
8 directly related to a COVID-19 reason, such as illness and orders to quarantine.

9 Here, Appellant was denied benefits because the Department found that he was not “able” and
10 “available” to work in the CNMI, in accordance with state law. In his initial application, application
11 to reopen, and weekly certification for week beginning September 13, 2020 to September 19, 2020,
12 Appellant self-certified that he was able and available to work.²⁹ While Appellant was in fact
13 furloughed by Employer, effective on April 6, 2020, due to COVID-19 qualifying reasons,³⁰ Appellant
14 chose to leave the CNMI on September 10, 2020 for reasons unrelated to COVID-19.³¹ As of the date
15 of the Administrative Hearing, Appellant had exited the CNMI and travelled to Puerto Rico, and he
16 was still in Puerto Rico. Logically, Appellant is neither able nor available to work because he is in
17 Puerto Rico and not in Saipan from September 10, 2020 to September 4, 2021. Accordingly, Appellant
18 is not “able” and “available” to work in the CNMI, for reasons unrelated to the qualifying COVID-19
19 reasons listed under the CARES Act. Since Appellant does not meet the “able” and “available”
20 requirements, Appellant is not eligible for PUA benefits.

21 VI. DECISION

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

- 23 1. The CNMI Department of Labor’s Disqualifying Determination, dated September 28, 2021,
24 is **AFFIRMED**; and
- 25 2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of September 13,
2020 to September 4, 2021.

27 HAR § 12-5-35(a)(2) and (b) (emphasis added).

28 See HAR § 12-5-3(b) (“The geographical extent of such area is limited to the area in which the individual lives
and within which the individual reasonably can be expected to commute to work.”)

29 Exhibits 1-3.

30 Exhibit 5.

31 Exhibit 8.

1 If a party is aggrieved by this Order and would like to contest the decision, he or she must submit
2 a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The written
3 request should be supported by legal, factual, or evidentiary reasons to reopen the decision. The
4 written request must be submitted to the Administrative Hearing Office, either in person at 1357
Mednilla Avenue, Capitol Hill Saipan MP 96950 or via email at hearing@dol.gov.mp.

5 In the event a request to reopen the decision is granted, the matter shall be scheduled for a
6 subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant still
7 disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI Superior
8 Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms, filings fees, and
filing deadlines for judicial review will be as established by the applicable law and court rule.

9 So ordered this 22nd day of June, 2022.

10 /s/

11 **CATHERINE J. CACHERO**

12 Administrative Hearing Officer, *Pro Tem*
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**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE**



In Re Matter of:	)	PUA Case No. 21-0169
	)	
Dong Hee Han,	)	
	)	
Appellant,	)	ADMINISTRATIVE ORDER
	)	
v.	)	
	)	
CNMI Department of Labor,	)	
Division of Employment Services-PUA,	)	
	)	
Appellee.	)	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on March 8, 2022 at approximately 9:00 a.m. at the Administrative Hearing Office, Saipan. Appellant Dong Hee Han ("Appellant") was not present and unrepresented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by Labor Certification Worker Dennis Cabrera and PUA Coordinator Annamae Adaza. There were no other witnesses that provided testimony at the hearing.

Exhibits:

1. Exhibit 1: Copy of the Appellant's Application Snapshot (new), filed July 29, 2020;
2. Exhibit 2: Copy of the Appellant's Application Snapshot (reopen), filed October 20, 2020;
3. Exhibit 3: Copy of Appellant's Weekly Certification for June 28, 2020 to July 4, 2020;
4. Exhibit 4: Copy of Appellant's Weekly Certification for August 29, 2021 to September 4, 2021;
5. Exhibit 5: Copy of the Disqualifying Determination, dated October 6, 2021;
6. Exhibit 6: Copy of Appellant's Employment Authorization Card ("EAD") A19 Category, valid from April 12, 2019 to April 11, 2023;
7. Exhibit 7: Copy of Appellant's Request to File an Appeal and supporting documents filed on October 15, 2021;
8. Exhibit 8: Copy of Notice of Hearing, issued on October 15, 2021;
9. Exhibit 9: Copy of Proof of Service of Notice of Hearing, filed October 15, 2021;
10. Exhibit 10: Copy of Email from Department's Benefit Payment Control Unit, dated February 25, 2022;
11. Exhibit 11: Copy of USCIS Form I797A and Form I-94, valid from April 12, 2019 to April 11, 2023;

12. Exhibit 12: Copy of Email from U.S. Department of Labor, dated December 1, 2020;
13. Exhibit 13: Copies of Department's Case Notes, dated October 4, 2021 and October 6, 2021;
14. Exhibit 14: Copy of Department's SAVE Verification Result, initiated on August 4, 2021;
15. Exhibit 15: Copy of Employer's Notice of Temporary Furlough, dated July 4, 2020; and
16. Exhibit 16: Copy of NMI Portal - Email Log Detail View and Preview Message, dated October 6, 2021.

For the reasons stated below, the Department's Determination dated October 6, 2021 is **AFFIRMED**. Claimant is not eligible for benefits from June 28, 2020 to September 4, 2021.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")¹ and Federal Pandemic Unemployment Compensation ("FPUC").² On December 27, 2020, the Continued Assistance for Unemployed Workers Act of 2020 ("Continued Assistance Act") amended and created new provisions of said federal unemployment insurance programs, which, among other things, extended the PUA and FPUC programs to March 13, 2021.³ On March 11, 2021, the American Rescue Plan Act of 2021 ("ARPA") extended the programs to September 6, 2021. The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI in accordance to applicable law.⁴ The CNMI Department of Labor Administrative Hearing Office has been designated to preside over appeals of agency decisions.

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

III. PROCEDURAL BACKGROUND & ISSUES

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued a Disqualifying

¹ See Section 2102 of the CARES Act of 2020, Public Law 116-136.

² See Section 2104 of the CARES Act of 2020, Public Law 116-136.

³ See Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A ("Continued Assistance for Unemployed Workers Act of 2020" or "Continued Assistance Act").

⁴ Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

1 Determination dated October 6, 2021. On October 15, 2021, Appellant filed the present appeal and
2 the matter was scheduled for a hearing.

3 As stated in the Notice of Hearing, the issues on appeal are: (1) whether Appellant is eligible for
4 PUA; and (2) whether an overpayment occurred and funds should be returned.

4 IV. FINDINGS OF FACT

5 In consideration of the evidence provided and credibility of witnesses' testimony, the undersigned
6 issues the following findings of fact:

- 7 1. Prior to the COVID-19 pandemic, Appellant was employed as a Sales Associate at UNI
8 Company ("Employer"), located in Saipan, CNMI.⁵
- 9 2. Due to the economic impact of the COVID-19 pandemic, Employer implemented cost-cutting
10 measures that affected Appellant's employment.⁶ Specifically, Appellant was furloughed,
11 effective July 4, 2020.⁷
- 12 3. On or around July 29, 2020, Appellant submitted an initial application⁸ for unemployment
13 assistance under the PUA and FPUC programs administered by the Department. In the initial
14 application,⁹ Appellant self-certified under penalty of perjury that:
 - 15 a. Appellant is an Alien/Refugee Lawfully Admitted to U.S.;
 - 16 b. Appellant's employment was directly affected by COVID-19 when his place of
17 employment closed as a direct result of COVID-19 public health emergency; and
 - 18 c. Appellant's employment was affected since July 3, 2020.¹⁰
- 19 4. Subsequently, on October 20, 2020, Appellant applied to reopen his claim for unemployment
20 assistance.¹¹ In the application to reopen,¹² Appellant self-certified under penalty of perjury
21 that:
 - 22 a. Appellant is an Alien/Refugee Lawfully Admitted to U.S.;
 - 23 b. Appellant's employment was directly affected by COVID-19 when he was scheduled
24 to commence employment and did not have a job or was unable to reach the job as a
25 direct result of the COVID-19 public health emergency; and

⁵ Exhibit 1.

⁶ See Exhibit 15.

⁷ *Id.*

⁸ Exhibit 1.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Exhibit 2.

¹² *Id.*

1 c. Appellant's employment was affected since July 4, 2020.¹³

2 5. Subsequently, Appellant submitted weekly certifications to claim continued benefits from
3 June 28, 2020 to July 4, 2020 and from August 29, 2021 to September 4, 2021.¹⁴ In each
4 weekly application, Appellant self-certified that:

5 a. His employment was still affected by COVID-19 because it is closed as a direct result
6 of the COVID-19 public health emergency; and

7 b. He is able and available for work during the claimed week.¹⁵

8 6. In addition, in his weekly certifications,¹⁶ Appellant reported that:

9 a. He earned a gross income of \$240.00 during the week beginning Sunday, June 28,
10 2020 to July 4, 2020;¹⁷ and

11 b. He earned zero income during the week beginning August 29, 2021 and ending
12 September 4, 2021.¹⁸

13 7. The answers provided in Appellant's applications and weekly certifications were submitted
14 under penalty of perjury.¹⁹ It is Appellant's responsibility to provide true, accurate, and
15 complete answers.

16 8. With respect to Appellant's immigration status and employment authorization, there is
17 substantiating evidence to demonstrate that Appellant has employment authorization to work
18 in the CNMI under EAD Category A19, valid from April 12, 2019 to April 11, 2023.²⁰

19 9. On or about December 1, 2020, the Department received guidance and clarification from U.S.
20 Department of Labor that an EAD under Category A19 alone is not a qualified alien under the
21 PUA program.²¹ The U.S. Department of Labor also clarified that victims of certain criminal
22 activity are not part of the qualified alien definition.²²

23 10. On August 4, 2021, the Department entered Appellant's information into the Systematic Alien
24 Verification for Entitlements (SAVE) database maintained by USCIS, Verification Division.²³

25 ¹³ *Id.*

¹⁴ Exhibits 3-4.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Exhibit 3.

¹⁸ Exhibit 4.

¹⁹ *See* Exhibits 1-4.

²⁰ Exhibits 6 and 11.

²¹ Exhibit 12.

²² *Id.*

²³ Exhibit 14.

1 This database is used to determine the immigration status of PUA applicants so only those
2 entitled to benefits receive them. The SAVE result confirmed that Appellant's employment
3 authorization is approved under Category A19.²⁴

4 11. On or about October 4, 2021, Department PUA Coordinator/Adjudicator communicated with
5 the Appellant to provide court documents relating to his A19 EAD category and U-1
6 nonimmigrant status, or in the alternative, Appellant provide a self-certification as to why he
7 is unable to provide the court records.²⁵

8 12. On October 6, 2021, the Department issued a determination disqualifying Appellant from
9 PUA and FPUC benefits, effective from June 28, 2020 to September 4, 2021.²⁶ The
10 Determination is based on the Department's finding that Appellant's status and employment
11 authorization under Category is not included in the definition of qualified alien.²⁷

12 13. On October 15, 2021, Appellant filed the present appeal²⁸ and the matter was scheduled for
13 an Administrative Hearing.²⁹ Appellant was properly served with the Notice of Hearing.³⁰

14 14. As of the date of the Administrative Hearing, Appellant had not submitted to the Department
15 or to the Administrative Hearing Office any court records relating to his U-1 nonimmigrant
16 status, his A19 EAD category, or any other documents or substantiating evidence to
17 demonstrate that he is a qualified alien during the period that he is claiming benefits.

18 15. On February 25, 2022, while this Appeal was pending, the Department's Benefit Payment
19 Control Unit confirmed that Appellant has not been paid any benefits and there was no
20 overpayment issue in this case.³¹ Accordingly, the overpayment issue is not discussed further.

21 V. CONCLUSIONS OF LAW

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

24 1. Appellant is not a qualified alien.

25 ²⁴ *Id.*

²⁵ Exhibit 13.

²⁶ Exhibit 5.

²⁷ *Id.*

²⁸ Exhibit 7

²⁹ Exhibit 8.

³⁰ Exhibit 9.

³¹ Exhibit 10.

1 PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of
2 eligibility for any federal public benefit, the claimant must be a “qualified alien” at the time relevant
3 to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term “qualified alien” is:

- 4 1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
- 5 2. An alien granted asylum under § 208 of the INA;
- 6 3. A refugee admitted to the US under § 207 of the INA;
- 7 4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
- 8 5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
- 9 6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
- 7 7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
- 8 8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

10 Further, Section 265 of the Continued Assistance Act provides that a Commonwealth Only
11 Transitional Worker (CW-1) shall be considered a qualified alien for purposes of eligibility under the
12 PUA and FPUC programs. As provided in UIPL 16-20, change 4, page I-16, “CW-1 workers may
13 receive PUA and FPUC if they meet all PUA eligibility requirements beginning with claims filed after
14 December 27, 2020 (*i.e.*, claim effective dates beginning on or after January 3, 2021).”

15 Based on the applicable law and evidence provided, Appellant is not a qualified alien eligible for
16 federal public benefits, such as PUA or FPUC, during the claim period. Appellant has an EAD, valid
17 from April 12, 2019 to April 11, 2023, showing an “A19” code.³² The “A19” is a code that USCIS
18 utilizes for U-1 nonimmigrants who are victims of certain criminal activity. While this A19 EAD
19 granted Appellant certain rights and privileges to live and work in the CNMI, an A19 EAD alone is
20 not enough to establish eligibility for PUA and FPUC benefits. One definition above that Appellant
21 may have qualified for is an alien who (or whose child or parent) has been battered or subjected to
22 extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act. However,
23 without further proof or testimony that Appellant was granted an EAD under A19 Category because
24 he is an applicant who (or whose child or parent) has been battered or subjected to extreme cruelty in
25 the U.S. and otherwise satisfies the requirements of Section 431 of the Act, then the Appellant is not
granted any rights to PUA and FPUC benefits. The Department testified and substantiated that

³² Exhibit 6. *See also* Exhibits 11, 13 and 14.

1 Applicant's EAD under A19 Category alone is not part of the qualified alien definition.³³ Moreover,
2 there is no other substantiating evidence or testimony presented at the Administrative Hearing to
3 establish that Appellant meets any of the other qualified alien definition, above. Accordingly,
4 Appellant was not a qualified alien during the weeks claimed and he is not eligible to receive PUA or
FPUC benefits.

5 VI. DECISION

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

- 7 1. The CNMI Department of Labor's Disqualifying Determination, dated October 6, 2021, is
AFFIRMED; and
- 8 2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of June 28, 2020
9 to September 4, 2021.

10 If a party is aggrieved by this Order and would like to contest the decision, he or she must submit
11 a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The written
12 request should be supported by legal, factual, or evidentiary reasons to reopen the decision. The
written request must be submitted to the Administrative Hearing Office, either in person at 1357
Mednilla Avenue, Capitol Hill Saipan MP 96950 or via email at hearing@dol.gov.mp.

13 In the event a request to reopen the decision is granted, the matter shall be scheduled for a
14 subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant still
15 disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI Superior
16 Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms, filings fees, and
filing deadlines for judicial review will be as established by the applicable law and court rule.

17 So ordered this **6th** day of July, 2022.

18 /s/

19 **CATHERINE J. CACHERO**
Administrative Hearing Officer

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25 ³³ Exhibit 12.



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

In Re Matter of:	)	PUA Case No. 22-0196
	)	
Megumi Takaku,	)	
	)	
Appellant,	)	
	)	ADMINISTRATIVE ORDER
v.	)	
	)	
CNMI Department of Labor,	)	
Division of Employment Services-PUA,	)	
	)	
Appellee.	)	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on June 16, 2022 at approximately 9:00 a.m. at the Administrative Hearing Office. Appellant Megumi Takaku ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Department") was present and represented by PUA Coordinator Joseph Pangelinan. There were no other witnesses that provided testimony at the Administrative Hearing. An interpreter, Hiroko Tajima, assisted in the Administrative Hearing. The following were admitted into evidence at the Administrative Hearing:

Exhibits:

1. Exhibit 1: Copy of Appellant's Application Snapshot, filed June 30, 2020;
2. Exhibit 2: Copy of Disqualifying Determination, dated February 15, 2022;
3. Exhibit 3: Copy of Appellant's Request to File an Appeal and supporting documents, filed February 22, 2022;
4. Exhibit 4: Copy of the Notice of Hearing, issued February 22, 2022;
5. Exhibit 5: Copy of Benefit Payment Control Unit Email Communication, dated June 7, 2022;
6. Exhibit 6: Copy of Layoff Letter from Employer IRIE INC, dba Blue Palms Dive Service, dated March 27, 2020, effective April 1, 2020;
7. Exhibit 7: Copy of Appellant's E2 Visa, issued on April 2, 2018 and valid until March 28, 2023;
8. Exhibit 8: Copies of Case Note, dated February 15, 2022; and

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For the reasons stated below, the Department's Determination dated February 15, 2022 is **AFFIRMED**. Claimant is not eligible for benefits for the period of June 28, 2020 to September 4, 2021.

I. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security (“CARES”) Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance (“PUA”)¹ and Federal Pandemic Unemployment Compensation (“FPUC”).² On December 27, 2020, the Continued Assistance for Unemployed Workers Act of 2020 (“Continued Assistance Act”) amended and created new provisions of said federal unemployment insurance programs, which, among other things, extended the PUA and FPUC programs to March 13, 2021.³ On March 11, 2021, the American Rescue Plan Act of 2021 (“ARPA”) extended the programs to September 6, 2021. The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI in accordance to applicable law.⁴ The CNMI Department of Labor Administrative Hearing Office has been designated to preside over appeals of agency decisions.

Upon review of the records, the Appellant's appeal is timely filed. Accordingly, jurisdiction is established.

II. PROCEDURAL BACKGROUND & ISSUES

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued a Disqualifying Determination on February 15, 2022. On February 22, 2022, Appellant filed the present appeal and the matter was scheduled for an Administrative Hearing for June 16, 2022 at

¹ See Section 2102 of the CARES Act of 2020, Public Law 116-136.

² See Section 2104 of the CARES Act of 2020, Public Law 116-136.

³ See Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A (“Continued Assistance for Unemployed Workers Act of 2020” or “Continued Assistance Act”).

⁴ Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

1 9:00 a.m. As stated in the Notice of Hearing, the issues on appeal are: (1) whether Appellant is
2 eligible for PUA; and (2) whether an overpayment occurred and funds should be returned.

3 III. FINDINGS OF FACT

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

- 5 1. Prior to the COVID-19 pandemic, Appellant was employed as a Diving Instructor at IRIE,
6 Inc., doing business as Blue Palms Dive Service ("Employer"), located in Rota, CNMI.⁵
7 As a Diving Instructor, Appellant was paid a monthly salary of \$1,200.00.⁶
- 8 2. Due the economic impact of the pandemic, Employer implemented cost-cutting measures
9 that affected Appellant's employment.⁷ Specifically, effective April 1, 2020, Appellant
was laid off by Employer.⁸
- 10 3. On or around June 30, 2020, Appellant submitted an application⁹ for unemployment
11 assistance under the PUA and FPUC programs administered by the Department.¹⁰ In the
12 initial application,¹¹ Appellant self-certified under penalty of perjury that:
 - 13 a. Appellant is an Alien/Refugee Lawfully Admitted to U.S.;
 - 14 b. Appellant's employment was directly affected by COVID-19 when her place of
15 employment closed as a direct result of the COVID-19 public health emergency;
and
 - 16 c. Appellant's employment was affected since June 30, 2020.¹²
- 17 4. With respect to Appellant's immigration status and employment authorization, Appellant
18 provided testimony and substantiating evidence to demonstrate that she currently has an
19 E2 visa, issued on April 2, 2018 and valid until March 28, 2023.¹³ Appellant provided
20 testimony that she has no other documents or evidence to demonstrate that she is a
qualified alien during the time period she is claiming benefits.

21 ⁵ Exhibit 1.

22 ⁶ *Id.*

23 ⁷ Exhibit 6

⁸ *Id.*

24 ⁹ Exhibit 1.

¹⁰ *See id.*

¹¹ *Id.*

¹² *Id.*

25 ¹³ Exhibit 7.

- 1 5. On February 15, 2022 and May 9, 2022, the Department entered Appellant's information
2 into the Systematic Alien Verification for Entitlements (SAVE) database maintained by
3 USCIS, Verification Division.¹⁴ This database is used to determine the immigration status
4 of PUA applicants so only those entitled to benefits receive them. The SAVE results
5 confirmed that Appellant is an E2 visa holder.¹⁵
- 6 6. On February 15, 2022, the Department issued a determination disqualifying Appellant
7 from PUA and FPUC benefits effective June 28, 2020 to September 4, 2021 because the
8 Department determined that Appellant is not a US Citizen, Non-citizen National, or a
9 Qualified Alien during the period that Appellant applied for.¹⁶
- 10 7. On February 22, 2022, Appellant filed the present appeal and argued that she has been
11 residing in Rota for seventeen years and been paying business taxes.¹⁷
- 12 8. On February 22, 2022, the matter was scheduled for an Administrative Hearing for
13 June 16, 2022 at 9:00 a.m.¹⁸
- 14 9. While the appeal was pending, and through supporting documents from the Benefit
15 Payment Control Unit and Department's testimony during the Administrative Hearing,
16 the Department confirmed there was no overpayment issue in this case because the
17 Appellant has not received any unemployment benefits.¹⁹

18 IV. CONCLUSIONS OF LAW

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

21 **1. Appellant is not a qualified alien.**

22 PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of
23 eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time
24 relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

- 25 1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);

¹⁴ Exhibits 8-9

¹⁵ Exhibit 9.

¹⁶ Exhibit 2.

¹⁷ Exhibit 3.

¹⁸ See Exhibit 4.

¹⁹ See Exhibit 5.

2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

Further, Section 265 of the Continued Assistance Act provides that a Commonwealth Only Transitional Worker (CW-1) shall be considered a qualified alien for purposes of eligibility under the PUA and FPUC programs. As provided in UIPL 16-20, change 4, page I-16, "CW-1 workers may receive PUA and FPUC if they meet all PUA eligibility requirements beginning with claims filed after December 27, 2020 (*i.e.*, claim effective dates beginning on or after January 3, 2021)."

Here, the Department disqualified Appellant from PUA and FPUC from June 28, 2020 to September 4, 2021 because the Department found that Appellant is not a US Citizen, Non-citizen National, or a Qualified Alien for the period she applied for benefits.²⁰ Based on the evidence and testimony provided, the undersigned finds that Appellant does not meet the qualified alien definition above. Appellant has an E2 visa issued on April 2, 2018 and valid until March 28, 2023.²¹ In her Appeal and during the Hearing, Appellant argued that she has lived on Rota, CNMI for seventeen years and paid business taxes.²² However, Appellant's residence and business tax does not qualify her for benefits. As an E2 visa holder, Appellant is not a U.S. Citizen, Non-citizen National, or Qualified Alien, as defined above. In addition, Appellant testified she did not have any other status under any of the qualified alien definition during the period that she claimed unemployment benefits. Accordingly, Appellant was not a qualified alien at the time she claimed for unemployment benefits and she is not eligible to receive benefits.

V. DECISION

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Disqualifying Determination, dated February 15, 2022, is **AFFIRMED**; and

²⁰ See Exhibit 2. See also Exhibits 8-9.

²¹ See Exhibit 7. See also Exhibit 9.

²² See Exhibit 3.

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If a party is aggrieved by this Order and would like to contest the decision, he or she must submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The written request should be supported by legal, factual, or evidentiary reasons to reopen the decision. The written request must be submitted to the Administrative Hearing Office, either in person at 1357 Mednilla Avenue, Capitol Hill Saipan MP 96950 or via email at hearing@dol.gov.mp.

In the event a request to reopen the decision is granted, the matter shall be scheduled for a subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms, filings fees, and filing deadlines for judicial review will be as established by the applicable law and court rule.

So ordered this **27th** day of June, 2022.

/s/

CATHERINE J. CACHERO
Administrative Hearing Officer, *Pro Tem*

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



In Re Matter of:) DUA Case No. 22-002
)
Desiree A. Guerzon,)
)
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 June 29, 2022 at 9:00 a.m. at the Administrative Hearing Office. Appellant Desiree A. Guerzon (“Appellant”) was not present. 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 the Appellant’s Initial Application;
2. Exhibit 2: Copy of Appellant’s Tax Withholding Form;
3. Exhibit 3: Copy of Appellant’s US Passport;
4. Exhibit 4: Copy of Appellant’s Employment Certification Letter;
5. Exhibit 5: Copy of Appellant’s Paystub;
6. Exhibit 6: Copy of Department’s Notice of Determination;
7. Exhibit 7: Copy of Appellant’s Appeal Letter;
8. Exhibit 8: Copy of ETA Letter;
9. Exhibit 9: Copy of Claimant Benefit Rights and Responsibilities Handbook;
10. Exhibit 10: Copy of DUA Press Release, dated November 16, 2018;
11. Exhibit 11: Copy of DUA Press Release, dated November 30, 2018; and

1 12. Exhibit 12: Copy of Saipan Tribune Article, published November 16, 2018.

2 For the reasons stated below, the Department's Determination dated May 3, 2019 is
3 **AFFIRMED**. Appellant is not eligible for benefits for the period outside the Disaster
4 Unemployment Assistance Period.

5 II. JURISDICTION

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

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

16 III. PROCEDURAL BACKGROUND & ISSUES

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

20 On November 16, 2018, the Department began to administer and accept applications for the
21 DUA program. Appellant filed a claim for unemployment benefits under the DUA program for
22 the above-mentioned disaster (DR-4404-MP). Appellant's claim was ultimately denied by the
23 CNMI Department of Labor and Appellant sought to appeal the Department's denial. Originally,
24 the Hawaii Employment Security Appeals Referee's Office (ESARO) was the designated entity
25 to decide appeal cases for this disaster. Due to the ESARO's extensive backlog, the CNMI
26 Department of Labor's Administrative Hearing Office was redesignated to hear first level appeals
27 on April 6, 2022.

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

IV. FINDINGS OF FACT

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

1. On October 24, 2018, Super Typhoon Yutu struck the CNMI. On October 26, 2018, President Trump authorized federal disaster aid to help individuals in the CNMI recover from the onslaught of Super Typhoon Yutu. The assistance was authorized under major disaster declaration number 4404-DR. Among other things, the declaration authorized federal aid for the Disaster Unemployment Assistance (DUA) program to individuals who become unemployed as a direct result of the major disaster.¹
2. The Department announced the program and issued a number of press releases to notify the public. Additionally, the Department published a Benefit Rights Information Handbook to inform claimants about the program parameters.²
3. The Department began to accept applications for the DUA program on November 16, 2018. Originally, the filing deadline for DUA applications was December 16, 2018. The filing deadline was then extended to January 15, 2019. Once again, the filing deadline was extended to February 14, 2019.
4. With respect to this disaster, DUA benefits in the amount of \$336 per week were available for eligible claimants starting with week beginning date of October 28, 2018 and can be paid up to week ending April 27, 2019.³
5. Appellant is a US Citizen.⁴
6. Prior to the disaster, Appellant was employed as a Site Supervisor at PAE ("Employer"). Appellant worked 40 hours a week at the rate of \$13.82 per hour.⁵
7. Due to Super Typhoon Yutu, Employer was closed on October 24, 2018 through October 26, 2018 and employees were unable to work.⁶

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¹ Exhibits 8-12.

² Exhibit 9-12.

³ Exhibits 8 and 9.

⁴ Exhibit 3.

⁵ Exhibit 4.

⁶ *Id.*

- 1 8. To compensate or supplement wages during the closure, employees were allowed to
2 utilize paid leave to cover the missed days.⁷ Based on the applicable pay stub, Appellant
3 utilized her paid leave and earned her customary wages for that week.⁸
4 9. On or around January 4, 2019, Appellant submitted an application⁹ for unemployment
5 assistance under the DUA program. In the application,¹⁰ Appellant sought unemployment
6 benefits for October 24 – 26, 2018 and self-certified under penalty of perjury that her place
7 of employment was closed due to the typhoon.
8 10. Appellant is a U.S. Citizen.¹¹
9 11. The answers provided in Appellant's initial application and weekly certifications were
10 submitted under penalty of perjury.¹² It is Appellant's responsibility to provide true,
11 accurate, and complete answers. To that effect, claimants must be informed about the
12 program by reading the DUA Benefit Rights Information Handbook¹³ and other official
13 written material regarding DUA and comply with a DUA coordinator's requests for
14 information in the adjudication phase.
15 12. On May 3, 2019, the Department denied Appellant's initial application.¹⁴ Therein, the
16 Department stated that Appellant is unable to seek benefits outside the disaster assistance
17 period.
18 13. On June 14, 2019, Appellant filed an appeal letter, dated June 1, 2019.¹⁵ The letter contests
19 the Department's denial but does not provide any legal support for claiming benefits
20 outside the allowable disaster assistance period.
21 14. The appeal was transmitted to the Hawaii Employment Security Appeals Referee's Office
22 (ESARO), who was originally designated to decide appeal cases for this disaster. Due to
23 the ESARO's extensive backlog, the CNMI Department of Labor's Administrative
24 Hearing Office was redesignated to hear first level appeals on April 6, 2022.

⁷ *Id.*

⁸ Exhibit 5.

⁹ Exhibit 1.

¹⁰ *Id.*

¹¹ Exhibit 3; Exhibit 5.

¹² Exhibit 1.

¹³ Exhibit 9.

¹⁴ Exhibit 6.

¹⁵ Exhibit 7.

1 15. On May 9, 2022, the Administrative Hearing Office issued a Notice of Hearing informing
2 the parties of the scheduled hearing and issues on appeal.

3 16. Subsequently, Appellant informed the Administrative Hearing Office that she has
4 relocated off-island and would not be present for the hearing.

5 17. Appellant did not appear for the hearing on June 29, 2022.

6 18. During the hearing, the Department did not contest the issue of timeliness and Appellant's
7 citizenship. However, the Department presented the above-cited evidence to argue that
8 Appellant is not eligible for DUA benefits outside the disaster assisted period and
9 requested that the Department's denial be affirmed.

10 V. CONCLUSIONS OF LAW

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

13 1. Appellant is not eligible for benefits outside the Disaster Assistance Period.

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

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

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

3 Here, the issue of eligibility hinges on the disaster assistance period. Each declared disaster creates
4 a specific disaster assistance period, generally up to 26 payable weeks.¹⁶ The disaster assistance period
5 begins the first week following the date the major disaster began and ends with the last week that
6 begins prior to 26 weeks after the date the major disaster was declared.¹⁷ DUA is not payable for any
7 period of unemployment that occurs prior to the disaster date nor for the week of employment which
8 begins subsequent to the last date of the disaster assistance period.

9 Here, the typhoon occurred on October 24, 2018 and the major disaster was declared on October
10 26, 2018. The first payable week was the week beginning date October 28, 2018. The last payable
11 week was the week ending April 27, 2019. However, Appellant is claiming benefits outside the
12 disaster assistance period. Since Appellant is claiming benefits outside the designated disaster
13 assistance period, DUA benefits cannot be paid to Appellant.

13 VI. DECISION

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

- 15 1. The CNMI Department of Labor's Disqualifying Determination, dated May 3, 2019 is
16 **AFFIRMED**;
17 2. The Appellant is **NOT ELIGIBLE** to receive DUA benefits for the period of October
18 24, 2018 to October 26, 2018.

19 So ordered this **7th** day of July, 2022.
20

21 /s/

22 **JACQUELINE A. NICOLAS**
23 Administrative Hearing Officer
24
25
26
27

28 ¹⁶ Pursuant to 20 CFR 625.2, the CNMI shall apply Hawaii Employment Security Law as the applicable state law. Thereunder, a week is defined as the calendar week starting from Sunday to Saturday. See HAR § 12-5-1.

¹⁷ See 20 CFR 625.2(f).

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

In Re Matter of:) **DUA Case No. 22-003**
)
Manuel Muna,)
)
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 13, 2022 at 9:00 a.m. at the Administrative Hearing Office. Appellant Manuel Muna (“Appellant”) was not present but represented by Arlene Muna (Authorized Representative). 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;

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

6. Exhibit 6: Copy of Appellant's Initial Application;

7. Exhibit 7: Copy of Appellant's US Passport;

8. Exhibit 8: Copy of Appellant's Employment Certification from PIC, dated April 23, 2019;

9. Exhibit 9: Copy of Department's Initial Determination, dated May 8, 2019;

10. Exhibit 10: Copy of Appellant's Request for Reconsideration, dated May 13, 2019;

11. Exhibit 11: Copy of Determination Redetermination, dated May 29, 2019;

12. Exhibit 12: Copy of Appellant's Appeal Letter, dated June 20, 2019; and

13. Exhibit 13: Copy of Appellant's Notice of Hearing.

For the reasons stated below, the Department's Redetermination dated May 29, 2019 is **REVERSED**. Appellant is eligible for disaster unemployment benefits from October 28, 2018 to December 1, 2018.

II. JURISDICTION

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

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

III. PROCEDURAL BACKGROUND & ISSUES

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

On November 16, 2018, the Department began to administer and accept applications for the DUA program. Appellant filed a claim for unemployment benefits under the DUA program for

1 the above-mentioned disaster (DR-4404-MP). Appellant's claim was ultimately denied by the
2 CNMI Department of Labor and Appellant sought to appeal the Department's denial. Originally,
3 the Hawaii Employment Security Appeals Referee's Office (ESARO) was the designated entity
4 to decide appeal cases for this disaster. Due to the ESARO's extensive backlog, the CNMI
5 Department of Labor's Administrative Hearing Office was redesignated to hear first level appeals
6 on April 6, 2022.

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

9 IV. FINDINGS OF FACT

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

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

28 ¹ Exhibit 1.

² Exhibit 4

³ Exhibit 5.

⁴ Exhibits 1 and 5.

1 6. Originally, the filing deadline for DUA applications was December 16, 2018.⁵ Due to
2 ongoing hardships, the filing deadline was then extended to January 15, 2019.⁶ Once
3 again, the filing deadline was extended to February 14, 2019.⁷

4 7. Appellant is a US Citizen.⁸

5 8. On April 25, 2019, Appellant submitted an application⁹ for unemployment assistance
6 under the DUA program. In the application,¹⁰ Appellant self-certified under penalty of
7 perjury that his place of employment suffered structural damage and normal operations
8 were reduced to 30 hours per week, from October 28, 2018 to December 1, 2018.

9 9. Appellant's application included an Employment Certification¹¹ that stated:

10 a. Prior to the disaster, Appellant was employed as a Waitstaff at Pacific Islands
11 Club, Saipan ("Employer").

12 b. Appellant worked 40 hours a week at the rate of \$7.25 per hour.

13 c. Due to the damage sustained by Typhoon Yutu, including power and water loss,
14 Employer's temporarily closed operations effective November 2, 2018.

15 d. From November 2, 2018 to December 21, 2018, Appellant's hours were reduced
16 from 40 to 30 hours per week.

17 10. On May 3, 2019, the Department denied Appellant's initial application.¹² Therein, the
18 Department found that Appellant's application was untimely and he failed to show good
19 cause for filing late.

20 11. On May 14, 2019, Appellant submitted a request for reconsideration.¹³ Therein, Appellant
21 stated that he has been busy looking for work and attending to his house which was totally
22 damaged by the disaster.

23 ///

24 ⁵ "An initial application for DUA shall be filed by an individual with the State agency of the applicable State within
25 30 days after the announcement date of the major disaster as the result of which the individual became unemployed .
26 . . ." 20 CFR § 625.8

27 ⁶ Exhibit 2.

28 ⁷ Exhibit 3.

⁸ Exhibit 7.

⁹ Exhibit 1.

¹⁰ *Id.*

¹¹ Exhibit 8.

¹² Exhibit 9.

¹³ Exhibit 10.

1 12. On May 29, 2019, the Department issued a redetermination.¹⁴ Therein, the Department
2 restated that Appellant's initial application was not filed within the DUA Application
3 Period and Appellant failed to show good cause for filing late.

4 13. On June 29, 2019, Appellant filed an appeal letter, dated June 20, 2019.¹⁵ The Appeal
5 letter reiterated Appellant's difficult situation.

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

10 15. On May 9, 2022, the Administrative Hearing Office issued a Notice of Hearing¹⁶
11 informing the parties of the scheduled hearing and issues on appeal.

12 16. Subsequently, Appellant informed the Administrative Hearing Office that he has relocated
13 off-island and has authorized his mother, Mrs. Arlene Muna, to represent him in this
14 matter.

15 17. During the hearing, the Department did not contest the following issues:

- 16 a. The timeliness of the appeal;
- 17 b. The Appellant's citizenship; and
- 18 c. Appellant's unemployment was a direct result of the disaster.

19 18. Appellant recognizes that the initial application was filed late.

20 19. When asked why the application was filed late, Mrs. Arlene Muna testified:

- 21 a. The family home, which was previously made of roofing tin, was completely
22 destroyed;
- 23 b. The family's belonging and basic necessities flew away or were destroyed by the
24 disaster;
- 25 c. Appellant and the family were living in a FEMA tent for months after the typhoon;
- 26 d. Appellant and the family did not have running water or power restored until April
27 of 2020.

28 ///

¹⁴ Exhibit 11.

¹⁵ Exhibit 12.

¹⁶ Exhibit 13.

- 1 e. When he was not working, Appellant was very busy trying to find extra work and
2 take care of his mother, who suffered severe stress and medical issues following
3 the disaster.

4 20. Upon hearing Mrs. Arlene Muna's testimony, the Department did not contest that
5 Appellant had good cause for filing late.

6 **V. CONCLUSIONS OF LAW**

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

9 **1. Appellant is eligible for DUA benefits.**

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

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

///

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

12 For the reasons stated below, the undersigned finds that Appellant’s initial application is timely.
13 First, there is no question that Appellant had good cause for filing late. Aside from the fact that
14 Appellant was still maintaining 30 hours of work per week, Appellant was dealing with the
15 devastation and destruction of Super Typhoon Yutu. Specifically, Appellant’s family home was
16 completely destroyed and he lost all his belongings. During the hearing, Mrs. Muna testified that the
17 only clothes they had left were the clothes on their back. In addition to the severely stressful
18 circumstances, Appellant and his family were living in a tent and did not have running water or power
19 for several months. This means that Appellant had little time to submit the application or access to
20 notices. Considering Appellant’s needs to prioritize his job and rebuilding his access to basic
21 necessities, Appellant has demonstrated good cause. Second, despite the Department’s arguments,
22 Appellant applied within the Disaster Assistance Period. As shown above, the Disaster Assistance
23 Period ended on April 27, 2019. However, Appellant submitted his initial application, in person, on
24 April 25, 2019 – two days before. In summation, Appellant’s initial application is timely and the
25 Department concedes to all other issues of eligibility.

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VI. DECISION

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Disqualifying Determination, dated May 29, 2019, is **REVERSED**;
2. The Appellant is **ELIGIBLE** to receive disaster unemployment benefits from October 28, 2018 to December 1, 2018.

The Department is ordered to review application for claimed weeks and timely process DUA payment to Appellant.

So ordered this **14th** day of July, 2022.

/s/

JACQUELINE A. NICOLAS
Administrative Hearing Officer

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.*



RALPH DLG. TORRES
Governor

ARNOLD I. PALACIOS
Lieutenant Governor

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2021-17

SUBJECT: RENEWAL OF DECLARATION OF STATE OF PUBLIC HEALTH EMERGENCY AND CONTINUED DECLARATION OF STATE OF SIGNIFICANT EMERGENCY ESTABLISHING RESPONSE, QUARANTINE, AND PREVENTIVE CONTAINMENT MEASURES CONCERNING CORONAVIRUS DISEASE 2019 (COVID-19); AND,

RENEWAL OF ORDER DIRECTING THE CNMI HOMELAND SECURITY & EMERGENCY MANAGEMENT OFFICE, THROUGH THE CNMI COVID-19 TASK FORCE, AND IN PARTNERSHIP WITH THE COMMONWEALTH HEALTHCARE CORPORATION, TO UNDERTAKE NECESSARY COVID-19 CONTAINMENT MEASURES BY MEANS OF THE DEVELOPMENT OF EMERGENCY DIRECTIVES TO PROTECT THE HEALTH AND SAFETY OF THE PUBLIC

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a novel virus that is the cause of severe acute respiratory illness. It was first detected in Wuhan, Hubei Province, People's Republic of China in December of 2019. As of August 10, 2021, more than 203 million cases of COVID-19 have been reported world-wide resulting in more than 4.31 million deaths.

WHEREAS, COVID-19 is a highly contagious disease that can lead to serious illness and death, especially for the elderly and people who have underlying medical conditions. The potential pandemic impact of COVID-19 on the vulnerable population of the Commonwealth cannot be understated. Vaccines and treatments are available but measures such as quarantine, isolation and containment are still important in the fight against COVID-19. Action is necessary to protect the health and safety of our senior citizens, medically vulnerable, and all other CNMI residents and visitors.

WHEREAS, COVID-19 continues to pose a significant and imminent threat of harm to the community, environment and people of the CNMI and thus emergency declarations are necessary to respond, quarantine and ensure the prevention of or containment of COVID-19 in the CNMI.

WHEREAS, by renewing the Declaration of State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, as amended, and by renewing Executive Order 2020-07, I intend to direct the Commonwealth Healthcare Corporation, the CNMI Homeland Security & Emergency Management Office and all other necessary Commonwealth agencies to undertake containment measures as necessary to meet the threat of COVID-19.

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, and the CNMI Emergency Health Powers Act of 2003, 3 CMC §§ 2181-2195, do hereby declare a State of Public Health Emergency and State of Significant Emergency for the

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entire Commonwealth of the Northern Mariana Islands due to the imminent threat posed by COVID-19 and order the following:

(A) Renewal of Executive Order 2020-04:

- (1) The Declaration of a State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, 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 2020-04, as amended, shall take effect immediately and 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 2020-04, as amended, shall remain in effect for thirty (30) from the date of this Executive Order.

(B) Renewal of Executive Order 2020-07:

- (1) Executive Order 2020-07, which ordered the CNMI Homeland Security & Emergency Management Office, through the CNMI COVID-19 Task Force in partnership with the Commonwealth Healthcare Corporation, to undertake necessary COVID-19 containment measures by means of the development of emergency directives to protect the health and safety of the public, is hereby renewed and shall continue for an additional thirty (30) days from the effective date.
- (2) This renewal of Executive Order 2020-07 shall take effect immediately and 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 2020-07 shall remain in effect for thirty (30) 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 11th day of August, 2021


RALPH DLG. TORRES
GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2021-18

SUBJECT: RENEWING THE AUTHORITY OF THE SECRETARY OF FINANCE TO REPROGRAM OR TRANSFER FUNDS FROM ACCOUNTS OF ANY DEPARTMENT, AGENCY, OFFICE, BOARD, COMMISSION, CORPORATION, INSTRUMENTALITY OR OTHER ENTITY OF ANY BRANCH OF THE COMMONWEALTH GOVERNMENT IN ORDER TO MEET THE THREAT OF COVID-19.

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a novel virus that is the cause of severe acute respiratory illness. It was first detected in the People's Republic of China in December of 2019. As of August 16, 2021, more than 207 million cases of COVID-19 have been reported world-wide resulting in more than 4.36 million deaths.

WHEREAS, COVID-19 is a highly contagious disease that can lead to serious illness and death, especially for the elderly and people who have severe underlying medical conditions. The potential impact of COVID-19 on the CNMI cannot be understated. Vaccines and treatments are available but measures such as quarantine, isolation and containment are still important in the fight against COVID-19. Action is necessary to protect the health and safety of the people of the CNMI.

WHEREAS, on January 29, 2020, the Governor issued Executive Order 2020-01 declaring a state of significant emergency regarding the COVID-19 outbreak that ordered the Commonwealth Healthcare Corporation to implement quarantine and preventive containment measures and directed the Secretary of Finance and the Special Assistant for Management and Budget to assess the fiscal impact of the outbreak on the government's budget.

WHEREAS, on March 16, 2020, following discovery of COVID-19 infected individuals on Guam, the Governor issued Executive Order 2020-04 declaring a State of Public Health Emergency and a continued Declaration of a State of Significant Emergency for the CNMI due to the significant and imminent threat of harm to the community, environment and people of the CNMI.

WHEREAS, on March 18, 2020, the Governor issued Executive Order 2020-05 which authorized the Secretary of Finance to reprogram or transfer funds from accounts of any department, agency, office, board, commission, corporation, instrumentality or other entity of any branch of the Commonwealth government in order to meet the threat of COVID-19.

WHEREAS, the declaration of a state of public health emergency and continued declaration of a state of significant emergency embodied in Executive Order 2020-04, as amended, has been recently renewed by Executive Order 2021-17.

WHEREAS, meeting the COVID-19 threat requires a "whole of government" approach such as what the government utilizes in responding to and recovering from typhoons. This requires the

utilization or potential utilization of all government agencies, personnel, facilities, equipment and other resources as necessary to respond to the COVID-19 threat.

WHEREAS, because the COVID-19 pandemic has brought our tourism industry to a standstill, it has depressed economic activity and drastically reduced tax revenue. Such a reduction in revenue jeopardizes the government's ability to meet the COVID-19 threat by limiting the government's ability to utilize all necessary personnel, facilities and equipment due to lack of funds.

WHEREAS, renewing the authority of the Secretary of Finance to access, reprogram or transfer funds from accounts of any department, agency, office, board, commission, corporation, instrumentality or other entity of any branch of the Commonwealth government, including autonomous or independent entities, in order to fund the government's "whole of government" approach to the prevention and mitigation of the COVID-19 threat is a reasonably necessary response in order to ensure that the government is able to meet the COVID-19 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, the CNMI Emergency Health Powers Act of 2003, 3 CMC §§ 2181-2195, Executive Order 2020-04, as amended and renewed, order and direct as follows:

1. Executive Order 2020-05, and all powers, duties and responsibilities embodied in that executive order, is hereby renewed and shall thus continue for an additional thirty (30) days.
2. This renewal shall take effect immediately and remain in effect for thirty (30) days from the effective date of this Executive Order. All memoranda, directives, waivers of regulations, and other measures taken in accordance with Executive Order 2020-05 shall remain in effect for thirty (30) days from the date of this Executive Order.

SIGNED AND PROMULGATED ON THIS 18th day of August, 2021



RALPH DLG. TORRES
GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2021-19

SUBJECT: RENEWAL OF DECLARATION OF STATE OF PUBLIC HEALTH EMERGENCY AND CONTINUED DECLARATION OF STATE OF SIGNIFICANT EMERGENCY ESTABLISHING RESPONSE, QUARANTINE, AND PREVENTIVE CONTAINMENT MEASURES CONCERNING CORONAVIRUS DISEASE 2019 (COVID-19); AND,

RENEWAL OF ORDER DIRECTING THE CNMI HOMELAND SECURITY & EMERGENCY MANAGEMENT OFFICE, THROUGH THE CNMI COVID-19 TASK FORCE, AND IN PARTNERSHIP WITH THE COMMONWEALTH HEALTHCARE CORPORATION, TO UNDERTAKE NECESSARY COVID-19 CONTAINMENT MEASURES BY MEANS OF THE DEVELOPMENT OF EMERGENCY DIRECTIVES TO PROTECT THE HEALTH AND SAFETY OF THE PUBLIC

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a novel virus that is the cause of severe acute respiratory illness. It was first detected in Wuhan, Hubei Province, People's Republic of China in December of 2019. As of September 8, 2021, more than 222 million cases of COVID-19 have been reported world-wide resulting in more than 4.59 million deaths.

WHEREAS, COVID-19 is a highly contagious disease that can lead to serious illness and death, especially for the elderly and people who have underlying medical conditions. The potential pandemic impact of COVID-19 on the vulnerable population of the Commonwealth cannot be understated. Vaccines and treatments are available but measures such as quarantine, isolation and containment are still important in the fight against COVID-19. Action is necessary to protect the health and safety of our senior citizens, medically vulnerable, and all other CNMI residents and visitors.

WHEREAS, COVID-19 continues to pose a significant and imminent threat of harm to the community, environment and people of the CNMI and thus emergency declarations are necessary to respond, quarantine and ensure the prevention of or containment of COVID-19 in the CNMI.

WHEREAS, by renewing the Declaration of State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, as amended, and by renewing Executive Order 2020-07, I intend to direct the Commonwealth Healthcare Corporation, the CNMI Homeland Security & Emergency Management Office and all other necessary Commonwealth agencies to undertake containment measures as necessary to meet the threat of COVID-19.

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, and the CNMI Emergency Health Powers Act of 2003, 3 CMC §§ 2181-2195, do hereby declare a State of Public Health Emergency and State of Significant Emergency for the

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entire Commonwealth of the Northern Mariana Islands due to the imminent threat posed by COVID-19 and order the following:

(A) Renewal of Executive Order 2020-04:

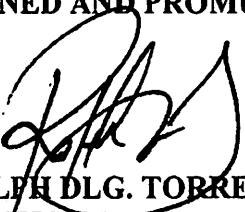
- (1) The Declaration of a State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, as amended, is hereby renewed and shall thus continue for an additional thirty (30) days from the effective date.
- (2) This renewal of Executive Order 2020-04, as amended, shall take effect immediately and 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 2020-04, as amended, shall remain in effect for thirty (30) days from the date of this Executive Order.

(B) Renewal of Executive Order 2020-07:

- (1) Executive Order 2020-07, which ordered the CNMI Homeland Security & Emergency Management Office, through the CNMI COVID-19 Task Force in partnership with the Commonwealth Healthcare Corporation, to undertake necessary COVID-19 containment measures by means of the development of emergency directives to protect the health and safety of the public, is hereby renewed and shall continue for an additional thirty (30) days from the effective date.
- (2) This renewal of Executive Order 2020-07 shall take effect immediately and 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 2020-07 shall remain in effect for thirty (30) 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 10th day of September, 2021



RALPH DLG. TORRES
GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2021-20

SUBJECT: RENEWING THE AUTHORITY OF THE SECRETARY OF FINANCE TO REPROGRAM OR TRANSFER FUNDS FROM ACCOUNTS OF ANY DEPARTMENT, AGENCY, OFFICE, BOARD, COMMISSION, CORPORATION, INSTRUMENTALITY OR OTHER ENTITY OF ANY BRANCH OF THE COMMONWEALTH GOVERNMENT IN ORDER TO MEET THE THREAT OF COVID-19.

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a novel virus that is the cause of severe acute respiratory illness. It was first detected in the People's Republic of China in December of 2019. As of September 16, 2021, more than 226 million cases of COVID-19 have been reported world-wide resulting in more than 4.66 million deaths.

WHEREAS, COVID-19 is a highly contagious disease that can lead to serious illness and death, especially for the elderly and people who have severe underlying medical conditions. The potential impact of COVID-19 on the CNMI cannot be understated. Vaccines and treatments are available but measures such as quarantine, isolation and containment are still important in the fight against COVID-19. Action is necessary to protect the health and safety of the people of the CNMI.

WHEREAS, on January 29, 2020, the Governor issued Executive Order 2020-01 declaring a state of significant emergency regarding the COVID-19 outbreak that ordered the Commonwealth Healthcare Corporation to implement quarantine and preventive containment measures and directed the Secretary of Finance and the Special Assistant for Management and Budget to assess the fiscal impact of the outbreak on the government's budget.

WHEREAS, on March 16, 2020, following discovery of COVID-19 infected individuals on Guam, the Governor issued Executive Order 2020-04 declaring a State of Public Health Emergency and a continued Declaration of a State of Significant Emergency for the CNMI due to the significant and imminent threat of harm to the community, environment and people of the CNMI.

WHEREAS, on March 18, 2020, the Governor issued Executive Order 2020-05 which authorized the Secretary of Finance to reprogram or transfer funds from accounts of any department, agency, office, board, commission, corporation, instrumentality or other entity of any branch of the Commonwealth government in order to meet the threat of COVID-19.

WHEREAS, the declaration of a state of public health emergency and continued declaration of a state of significant emergency embodied in Executive Order 2020-04, as amended, has been recently renewed by Executive Order 2021-19.

WHEREAS, meeting the COVID-19 threat requires a "whole of government" approach such as what the government utilizes in responding to and recovering from typhoons. This requires the

utilization or potential utilization of all government agencies, personnel, facilities, equipment and other resources as necessary to respond to the COVID-19 threat.

WHEREAS, because the COVID-19 pandemic has brought our tourism industry to a standstill, it has depressed economic activity and drastically reduced tax revenue. Such a reduction in revenue jeopardizes the government's ability to meet the COVID-19 threat by limiting the government's ability to utilize all necessary personnel, facilities and equipment due to lack of funds.

WHEREAS, renewing the authority of the Secretary of Finance to access, reprogram or transfer funds from accounts of any department, agency, office, board, commission, corporation, instrumentality or other entity of any branch of the Commonwealth government, including autonomous or independent entities, in order to fund the government's "whole of government" approach to the prevention and mitigation of the COVID-19 threat is a reasonably necessary response in order to ensure that the government is able to meet the COVID-19 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, the CNMI Emergency Health Powers Act of 2003, 3 CMC §§ 2181-2195, Executive Order 2020-04, as amended and renewed, order and direct as follows:

1. Executive Order 2020-05, and all powers, duties and responsibilities embodied in that executive order, is hereby renewed and shall thus continue for an additional thirty (30) days.
2. This renewal shall take effect immediately and remain in effect for thirty (30) days from the effective date of this Executive Order. All memoranda, directives, waivers of regulations, and other measures taken in accordance with Executive Order 2020-05 shall remain in effect for thirty (30) days from the date of this Executive Order.

SIGNED AND PROMULGATED ON THIS 17th **day of September, 2021**


RALPH DLG. TORRES
GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2021-21

SUBJECT: ORDER CREATING THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS (CNMI) UNIVERSAL GARBAGE COLLECTION TASKFORCE

AUTHORITY: NMI Const. art. III § 1 provides that “[t]he executive power of the Commonwealth shall be vested in a governor who shall be responsible for the faithful execution of the laws;” and NMI Const. art. III § 14 grants the Governor the power to “at any time require information in writing or otherwise from the head of any administrative department, office or agency of the Commonwealth;”

WHEREAS, since the inception of the Commonwealth of the Northern Mariana Islands (CNMI), solid waste disposal and management has been at the forefront of policy discussions and development planning efforts, and through these efforts, it has been the vision that a unified and coordinated system for the management of the Commonwealth’s solid waste be established; and

WHEREAS, today, the enhancement of the Commonwealth’s solid waste management system is critical to the CNMI’s development and will rely on coordination amongst a wide spectrum of stakeholders in order to achieve substantial transformation to overcome the years of unanticipated use caused by natural disasters, the continuing scourge of littering, development increases, and lack of funding; and

WHEREAS, in 2019, the Department of Public Works published a Solid Waste Management Feasibility Study that found that the present structure of solid waste management in the CNMI lacks centralized control and planning for the development of an integrated solid waste management system, and in this study, a set of recommendations and best practices were provided for enhancing the effectiveness of the CNMI’s solid waste management system; and

WHEREAS, this study, along with recommendations from the Governor’s Council of Economic Advisors and the Office of Planning and Development have highlighted the need for a long-term coordinated effort to support growth of our solid waste management system and to ameliorate the negative repercussions of littering and environmental degradation; and

WHEREAS, while the Office of Planning and Development, with the support of the United States Environmental Protection Agency, has established the Inter-Island Solid Waste Management Taskforce, more immediate actions can be taken to increase coordination, integration, and inter-agency collaboration; and

WHEREAS, poor accessibility to solid waste disposal services and the overall inefficiency of the solid waste management system plays a significant role in the proliferation of illegal dumping and littering resulting in the degradation of the CNMI’s environment and a poor image for our tourist-based economy; and

WHEREAS, Universal Garbage Collection is the expansion of community universal access basic to municipal solid waste disposal through the provision of curbside waste pickup and the management of community solid waste receptacles; and

WHEREAS, it is the policy of this administration that greater efforts be made to modernize access of solid waste management resources to the CNMI population and to act upon recommendations offered by a public-private collaborative system in order to provide for a Universal Garbage Collection service in the Commonwealth; and

WHEREAS, the establishment of a system for Universal Garbage Collection for the collection of solid waste throughout the CNMI will establish greater efficiencies and ameliorate the harmful practice of littering and illegal dumping once developed and implemented;

NOW THEREFORE, I, RALPH DLG. TORRES, hereby **ORDER** that:

1. The CNMI Universal Garbage Collection Taskforce is established and shall convene and work toward the creation of a collection system that will provide for greater efficiencies in the collection of solid waste among the villages and businesses in the Commonwealth, reduce the incentives for littering, provide for community receptacles, and establish greater efficiencies among private operators in the solid waste collection services.
2. The Taskforce shall be composed of professional individuals and government officials from both the public and private sectors. All Departments, Divisions, Offices, Government Corporations, Boards and Commissions of the CNMI Government appointed to this Taskforce shall assign a representative from their respective offices to participate in meetings and activities carried out by the CNMI Universal Garbage Collection Taskforce necessary to achieve its critical missions.

The Taskforce shall consist of the following agencies:

The Department of Public Works
Bureau of Environmental and Coastal Quality
Commonwealth Utilities Corporation
Office of Planning and Development

Additional government agencies may be added from time to time and as deemed necessary by the Chairman of the Taskforce.

The following organizations are invited and requested to be members of the Taskforce:

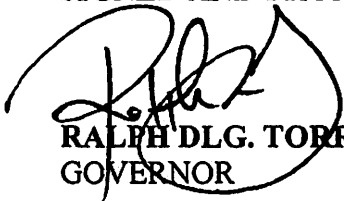
Governor's Council of Economic Advisors
Saipan Chamber of Commerce
Hotel Association of the Northern Mariana Islands
Office of the Attorney General

3. The Taskforce shall designate a Chairperson from the participating members to coordinate the efforts of the Taskforce. The Taskforce shall meet periodically as need or as called by the Chairman in order to fulfill its responsibilities.
4. The Taskforce is responsible for reviewing existing plans, studies, and recommendations for the establishment of a Universal Garbage Collection system for the CNMI, reviewing best practices in the region and the United States for the implementation of Universal Garbage Collection, and providing written plans and recommendations to the Office of the Governor regarding the establishment of a Universal Garbage Collection system which shall include any changes necessary to CNMI laws, regulations, or policies.

Any plan shall consider the establishment of a functioning and beneficial public-private partnership in the collection of solid waste and methods for funding such a system. Further, any plan shall contain the creation of community waste receptacles in the villages and on recreational sites as a component of the Universal Garbage Collection system.

5. The Taskforce is hereby granted the full authority to research and develop plans and recommendations and is empowered to hold meetings and request information from public and private sources. All government agencies and departments shall be responsive to requests of the Taskforce and support its efforts. Any delays or challenges experienced by the Taskforce in the conduct of its duties shall be reported to the Office of the Governor.
6. All reports and recommendations of the Taskforce will be provided to the Office of the Governor ninety (90) days after the issuance of this Order. At such time that reports and recommendations are submitted to the Office of the Governor, the Taskforce shall dissolve.

SIGNED AND PROMULGATED ON THIS 28 day of September, 2021


RALPH DLG. TORRES
GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2021-22

SUBJECT: RENEWAL OF DECLARATION OF STATE OF PUBLIC HEALTH EMERGENCY AND CONTINUED DECLARATION OF STATE OF SIGNIFICANT EMERGENCY ESTABLISHING RESPONSE, QUARANTINE, AND PREVENTIVE CONTAINMENT MEASURES CONCERNING CORONAVIRUS DISEASE 2019 (COVID-19); AND,

RENEWAL OF ORDER DIRECTING THE CNMI HOMELAND SECURITY & EMERGENCY MANAGEMENT OFFICE, THROUGH THE CNMI COVID-19 TASK FORCE, AND IN PARTNERSHIP WITH THE COMMONWEALTH HEALTHCARE CORPORATION, TO UNDERTAKE NECESSARY COVID-19 CONTAINMENT MEASURES BY MEANS OF THE DEVELOPMENT OF EMERGENCY DIRECTIVES TO PROTECT THE HEALTH AND SAFETY OF THE PUBLIC

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a novel virus that is the cause of severe acute respiratory illness. It was first detected in Wuhan, Hubei Province, People's Republic of China in December of 2019. As of October 10, 2021, more than 237 million cases of COVID-19 have been reported world-wide resulting in more than 4.85 million deaths.

WHEREAS, COVID-19 is a highly contagious disease that can lead to serious illness and death, especially for the elderly and people who have underlying medical conditions. The potential pandemic impact of COVID-19 on the vulnerable population of the Commonwealth cannot be understated. Vaccines and treatments are available but measures such as quarantine, isolation and containment are still important in the fight against COVID-19. Action is necessary to protect the health and safety of our senior citizens, medically vulnerable, and all other CNMI residents and visitors.

WHEREAS, COVID-19 continues to pose a significant and imminent threat of harm to the community, environment and people of the CNMI and thus emergency declarations are necessary to respond, quarantine and ensure the prevention of or containment of COVID-19 in the CNMI.

WHEREAS, by renewing the Declaration of State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, as amended, and by renewing Executive Order 2020-07, I intend to direct the Commonwealth Healthcare Corporation, the CNMI Homeland Security & Emergency Management Office and all other necessary Commonwealth agencies to undertake containment measures as necessary to meet the threat of COVID-19.

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, and the CNMI Emergency Health Powers Act of 2003, 3 CMC §§ 2181-2195, do hereby declare a State of Public Health Emergency and State of Significant Emergency for the

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entire Commonwealth of the Northern Mariana Islands due to the imminent threat posed by COVID-19 and order the following:

(A) Renewal of Executive Order 2020-04:

(1) The Declaration of a State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, 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 2020-04, as amended, is effective retroactive to October 11, 2021, and shall remain in effect for thirty (30) days from that date. All memoranda, directives, waivers of regulations, and other measures taken in accordance with Executive Order 2020-04, as amended, shall remain in effect for thirty (30) days from the date of this Executive Order.

(B) Renewal of Executive Order 2020-07:

(1) Executive Order 2020-07, which ordered the CNMI Homeland Security & Emergency Management Office, through the CNMI COVID-19 Task Force in partnership with the Commonwealth Healthcare Corporation, to undertake necessary COVID-19 containment measures by means of the development of emergency directives to protect the health and safety of the public, is hereby renewed and shall continue for an additional thirty (30) days from the effective date.

(2) This renewal of Executive Order 2020-07 is effective retroactive to October 11, 2021, and shall remain in effect for thirty (30) days from that date. All memoranda, directives, waivers of regulations, and other measures taken in accordance with Executive Order 2020-07 shall remain in effect for thirty (30) 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 12th day of October, 2021


RALPH DLG. TORRES
GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2021-23

SUBJECT: RENEWING THE AUTHORITY OF THE SECRETARY OF FINANCE TO REPROGRAM OR TRANSFER FUNDS FROM ACCOUNTS OF ANY DEPARTMENT, AGENCY, OFFICE, BOARD, COMMISSION, CORPORATION, INSTRUMENTALITY OR OTHER ENTITY OF ANY BRANCH OF THE COMMONWEALTH GOVERNMENT IN ORDER TO MEET THE THREAT OF COVID-19.

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a novel virus that is the cause of severe acute respiratory illness. It was first detected in the People's Republic of China in December of 2019. As of October 17, 2021, more than 240 million cases of COVID-19 have been reported world-wide resulting in more than 4.89 million deaths.

WHEREAS, COVID-19 is a highly contagious disease that can lead to serious illness and death, especially for the elderly and people who have severe underlying medical conditions. The potential impact of COVID-19 on the CNMI cannot be understated. Vaccines and treatments are available but measures such as quarantine, isolation and containment are still important in the fight against COVID-19. Action is necessary to protect the health and safety of the people of the CNMI.

WHEREAS, on January 29, 2020, the Governor issued Executive Order 2020-01 declaring a state of significant emergency regarding the COVID-19 outbreak that ordered the Commonwealth Healthcare Corporation to implement quarantine and preventive containment measures and directed the Secretary of Finance and the Special Assistant for Management and Budget to assess the fiscal impact of the outbreak on the government's budget.

WHEREAS, on March 16, 2020, following discovery of COVID-19 infected individuals on Guam, the Governor issued Executive Order 2020-04 declaring a State of Public Health Emergency and a continued Declaration of a State of Significant Emergency for the CNMI due to the significant and imminent threat of harm to the community, environment and people of the CNMI.

WHEREAS, on March 18, 2020, the Governor issued Executive Order 2020-05 which authorized the Secretary of Finance to reprogram or transfer funds from accounts of any department, agency, office, board, commission, corporation, instrumentality or other entity of any branch of the Commonwealth government in order to meet the threat of COVID-19.

WHEREAS, the declaration of a state of public health emergency and continued declaration of a state of significant emergency embodied in Executive Order 2020-04, as amended, has been recently renewed by Executive Order 2021-22.

WHEREAS, meeting the COVID-19 threat requires a "whole of government" approach such as what the government utilizes in responding to and recovering from typhoons. This requires the

utilization or potential utilization of all government agencies, personnel, facilities, equipment and other resources as necessary to respond to the COVID-19 threat.

WHEREAS, because the COVID-19 pandemic has brought our tourism industry to a standstill, it has depressed economic activity and drastically reduced tax revenue. Such a reduction in revenue jeopardizes the government's ability to meet the COVID-19 threat by limiting the government's ability to utilize all necessary personnel, facilities and equipment due to lack of funds.

WHEREAS, renewing the authority of the Secretary of Finance to access, reprogram or transfer funds from accounts of any department, agency, office, board, commission, corporation, instrumentality or other entity of any branch of the Commonwealth government, including autonomous or independent entities, in order to fund the government's "whole of government" approach to the prevention and mitigation of the COVID-19 threat is a reasonably necessary response in order to ensure that the government is able to meet the COVID-19 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, the CNMI Emergency Health Powers Act of 2003, 3 CMC §§ 2181-2195, Executive Order 2020-04, as amended and renewed, order and direct as follows:

1. Executive Order 2020-05, and all powers, duties and responsibilities embodied in that executive order, is hereby renewed and shall thus continue for an additional thirty (30) days.
2. This renewal shall take effect immediately and remain in effect for thirty (30) days from the effective date of this Executive Order. All memoranda, directives, waivers of regulations, and other measures taken in accordance with Executive Order 2020-05 shall remain in effect for thirty (30) days from the date of this Executive Order.

SIGNED AND PROMULGATED ON THIS 18th day of October, 2021



RALPH DLG. TORRES
GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2021-24

SUBJECT: RENEWAL OF DECLARATION OF STATE OF PUBLIC HEALTH EMERGENCY AND CONTINUED DECLARATION OF STATE OF SIGNIFICANT EMERGENCY ESTABLISHING RESPONSE, QUARANTINE, AND PREVENTIVE CONTAINMENT MEASURES CONCERNING CORONAVIRUS DISEASE 2019 (COVID-19); AND,

RENEWAL OF ORDER DIRECTING THE CNMI HOMELAND SECURITY & EMERGENCY MANAGEMENT OFFICE, THROUGH THE CNMI COVID-19 TASK FORCE, AND IN PARTNERSHIP WITH THE COMMONWEALTH HEALTHCARE CORPORATION, TO UNDERTAKE NECESSARY COVID-19 CONTAINMENT MEASURES BY MEANS OF THE DEVELOPMENT OF EMERGENCY DIRECTIVES TO PROTECT THE HEALTH AND SAFETY OF THE PUBLIC

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a novel virus that is the cause of severe acute respiratory illness. It was first detected in Wuhan, Hubei Province, People's Republic of China in December of 2019. As of November 16, 2021, more than 254 million cases of COVID-19 have been reported world-wide resulting in more than 5.11 million deaths.

WHEREAS, COVID-19 is a highly contagious disease that can lead to serious illness and death, especially for the elderly and people who have underlying medical conditions. The potential pandemic impact of COVID-19 on the vulnerable population of the Commonwealth cannot be understated. Vaccines and treatments are available but measures such as quarantine, isolation and containment are still important in the fight against COVID-19. Action is necessary to protect the health and safety of our senior citizens, medically vulnerable, and all other CNMI residents and visitors.

WHEREAS, COVID-19 continues to pose a significant and imminent threat of harm to the community, environment and people of the CNMI and thus emergency declarations are necessary to respond, quarantine and ensure the prevention of or containment of COVID-19 in the CNMI.

WHEREAS, by renewing the Declaration of State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, as amended, and by renewing Executive Order 2020-07, I intend to direct the Commonwealth Healthcare Corporation, the CNMI Homeland Security & Emergency Management Office and all other necessary Commonwealth agencies to undertake containment measures as necessary to meet the threat of COVID-19.

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, and the CNMI Emergency Health Powers Act of 2003, 3 CMC §§ 2181-2195, do hereby declare a State of Public Health Emergency and State of Significant Emergency for the

entire Commonwealth of the Northern Mariana Islands due to the imminent threat posed by COVID-19 and order the following:

(A) Renewal of Executive Order 2020-04:

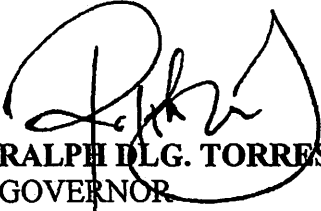
- (1) The Declaration of a State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, as amended, is hereby renewed and shall thus continue for an additional thirty (30) days from the effective date.
- (2) This renewal of Executive Order 2020-04, as amended, is effective retroactive to November 11, 2021, and shall remain in effect for thirty (30) days from that date. All memoranda, directives, waivers of regulations, and other measures taken in accordance with Executive Order 2020-04, as amended, shall remain in effect for thirty (30) days from the date of this Executive Order.

(B) Renewal of Executive Order 2020-07:

- (1) Executive Order 2020-07, which ordered the CNMI Homeland Security & Emergency Management Office, through the CNMI COVID-19 Task Force in partnership with the Commonwealth Healthcare Corporation, to undertake necessary COVID-19 containment measures by means of the development of emergency directives to protect the health and safety of the public, is hereby renewed and shall continue for an additional thirty (30) days from the effective date.
- (2) This renewal of Executive Order 2020-07 is effective retroactive to November 11, 2021, and shall remain in effect for thirty (30) days from that date. All memoranda, directives, waivers of regulations, and other measures taken in accordance with Executive Order 2020-07 shall remain in effect for thirty (30) 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 17th day of November, 2021



RALPH DLG. TORRES
GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2021-25

SUBJECT: RENEWING THE AUTHORITY OF THE SECRETARY OF FINANCE TO REPROGRAM OR TRANSFER FUNDS FROM ACCOUNTS OF ANY DEPARTMENT, AGENCY, OFFICE, BOARD, COMMISSION, CORPORATION, INSTRUMENTALITY OR OTHER ENTITY OF ANY BRANCH OF THE COMMONWEALTH GOVERNMENT IN ORDER TO MEET THE THREAT OF COVID-19.

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a novel virus that is the cause of severe acute respiratory illness. It was first detected in the People's Republic of China in December of 2019. As of November 16, 2021, more than 254 million cases of COVID-19 have been reported world-wide resulting in more than 5.11 million deaths.

WHEREAS, COVID-19 is a highly contagious disease that can lead to serious illness and death, especially for the elderly and people who have severe underlying medical conditions. The potential impact of COVID-19 on the CNMI cannot be understated. Vaccines and treatments are available but measures such as quarantine, isolation and containment are still important in the fight against COVID-19. Action is necessary to protect the health and safety of the people of the CNMI.

WHEREAS, on January 29, 2020, the Governor issued Executive Order 2020-01 declaring a state of significant emergency regarding the COVID-19 outbreak that ordered the Commonwealth Healthcare Corporation to implement quarantine and preventive containment measures and directed the Secretary of Finance and the Special Assistant for Management and Budget to assess the fiscal impact of the outbreak on the government's budget.

WHEREAS, on March 16, 2020, following discovery of COVID-19 infected individuals on Guam, the Governor issued Executive Order 2020-04 declaring a State of Public Health Emergency and a continued Declaration of a State of Significant Emergency for the CNMI due to the significant and imminent threat of harm to the community, environment and people of the CNMI.

WHEREAS, on March 18, 2020, the Governor issued Executive Order 2020-05 which authorized the Secretary of Finance to reprogram or transfer funds from accounts of any department, agency, office, board, commission, corporation, instrumentality or other entity of any branch of the Commonwealth government in order to meet the threat of COVID-19.

WHEREAS, the declaration of a state of public health emergency and continued declaration of a state of significant emergency embodied in Executive Order 2020-04, as amended, has been recently renewed by Executive Order 2021-24.

WHEREAS, meeting the COVID-19 threat requires a "whole of government" approach such as what the government utilizes in responding to and recovering from typhoons. This requires the

utilization or potential utilization of all government agencies, personnel, facilities, equipment and other resources as necessary to respond to the COVID-19 threat.

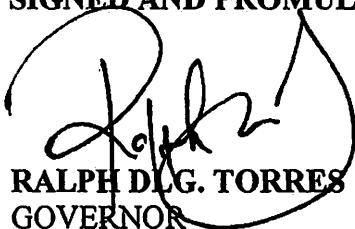
WHEREAS, because the COVID-19 pandemic has brought our tourism industry to a standstill, it has depressed economic activity and drastically reduced tax revenue. Such a reduction in revenue jeopardizes the government's ability to meet the COVID-19 threat by limiting the government's ability to utilize all necessary personnel, facilities and equipment due to lack of funds.

WHEREAS, renewing the authority of the Secretary of Finance to access, reprogram or transfer funds from accounts of any department, agency, office, board, commission, corporation, instrumentality or other entity of any branch of the Commonwealth government, including autonomous or independent entities, in order to fund the government's "whole of government" approach to the prevention and mitigation of the COVID-19 threat is a reasonably necessary response in order to ensure that the government is able to meet the COVID-19 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, the CNMI Emergency Health Powers Act of 2003, 3 CMC §§ 2181-2195, Executive Order 2020-04, as amended and renewed, order and direct as follows:

1. Executive Order 2020-05, and all powers, duties and responsibilities embodied in that executive order, is hereby renewed and shall thus continue for an additional thirty (30) days.
2. This renewal shall take effect immediately and remain in effect for thirty (30) days from the effective date of this Executive Order. All memoranda, directives, waivers of regulations, and other measures taken in accordance with Executive Order 2020-05 shall remain in effect for thirty (30) days from the date of this Executive Order.

SIGNED AND PROMULGATED ON THIS 17th day of November, 2021



RALPH DLG. TORRES
GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2021-26

SUBJECT: RENEWAL OF DECLARATION OF STATE OF PUBLIC HEALTH EMERGENCY AND CONTINUED DECLARATION OF STATE OF SIGNIFICANT EMERGENCY ESTABLISHING RESPONSE, QUARANTINE, AND PREVENTIVE CONTAINMENT MEASURES CONCERNING CORONAVIRUS DISEASE 2019 (COVID-19); AND,

RENEWAL OF ORDER DIRECTING THE CNMI HOMELAND SECURITY & EMERGENCY MANAGEMENT OFFICE, THROUGH THE CNMI COVID-19 TASK FORCE, AND IN PARTNERSHIP WITH THE COMMONWEALTH HEALTHCARE CORPORATION, TO UNDERTAKE NECESSARY COVID-19 CONTAINMENT MEASURES BY MEANS OF THE DEVELOPMENT OF EMERGENCY DIRECTIVES TO PROTECT THE HEALTH AND SAFETY OF THE PUBLIC

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a novel virus that is the cause of severe acute respiratory illness. It was first detected in Wuhan, Hubei Province, People's Republic of China in December of 2019. As of December 8, 2021, more than 267 million cases of COVID-19 have been reported world-wide resulting in more than 5.27 million deaths.

WHEREAS, COVID-19 is a highly contagious disease that can lead to serious illness and death, especially for the elderly and people who have underlying medical conditions. The potential pandemic impact of COVID-19 on the vulnerable population of the Commonwealth cannot be understated. Vaccines and treatments are available but measures such as quarantine, isolation and containment are still important in the fight against COVID-19. Action is necessary to protect the health and safety of our senior citizens, medically vulnerable, and all other CNMI residents and visitors.

WHEREAS, COVID-19 continues to pose a significant and imminent threat of harm to the community, environment and people of the CNMI and thus emergency declarations are necessary to respond, quarantine and ensure the prevention of, or containment of COVID-19 in the CNMI.

WHEREAS, by renewing the Declaration of State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, as amended, and by renewing Executive Order 2020-07, I intend to direct the Commonwealth Healthcare Corporation, the CNMI Homeland Security & Emergency Management Office and all other necessary Commonwealth agencies to undertake containment measures as necessary to meet the threat of COVID-19.

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, and the CNMI Emergency Health Powers Act of 2003, 3 CMC §§ 2181-2195, do hereby declare a State of Public Health Emergency and State of Significant Emergency for the

entire Commonwealth of the Northern Mariana Islands due to the imminent threat posed by COVID-19 and order the following:

(A) Renewal of Executive Order 2020-04:

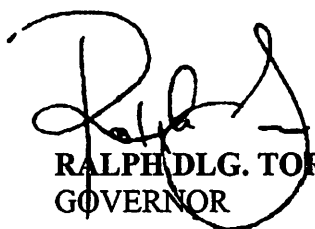
- (1) The Declaration of a State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, as amended, is hereby renewed and shall thus continue for an additional thirty (30) days from the effective date.
- (2) This renewal of Executive Order 2020-04, as amended, shall take effect immediately and 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 2020-04, as amended, shall remain in effect for thirty (30) days from the date of this Executive Order.

(B) Renewal of Executive Order 2020-07:

- (1) Executive Order 2020-07, which ordered the CNMI Homeland Security & Emergency Management Office, through the CNMI COVID-19 Task Force in partnership with the Commonwealth Healthcare Corporation, to undertake necessary COVID-19 containment measures by means of the development of emergency directives to protect the health and safety of the public, is hereby renewed and shall continue for an additional thirty (30) days from the effective date.
- (2) This renewal of Executive Order 2020-07 shall take effect immediately and 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 2020-07 shall remain in effect for thirty (30) 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 11th day of December, 2021



RALPH DLG. TORRES
GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2021-27

SUBJECT: RENEWING THE AUTHORITY OF THE SECRETARY OF FINANCE TO REPROGRAM OR TRANSFER FUNDS FROM ACCOUNTS OF ANY DEPARTMENT, AGENCY, OFFICE, BOARD, COMMISSION, CORPORATION, INSTRUMENTALITY OR OTHER ENTITY OF ANY BRANCH OF THE COMMONWEALTH GOVERNMENT IN ORDER TO MEET THE THREAT OF COVID-19.

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a novel virus that is the cause of severe acute respiratory illness. It was first detected in the People's Republic of China in December of 2019. As of December 15, 2021, more than 271 million cases of COVID-19 have been reported world-wide resulting in more than 5.32 million deaths.

WHEREAS, COVID-19 is a highly contagious disease that can lead to serious illness and death, especially for the elderly and people who have severe underlying medical conditions. The potential impact of COVID-19 on the CNMI cannot be understated. Vaccines and treatments are available but measures such as quarantine, isolation and containment are still important in the fight against COVID-19. Action is necessary to protect the health and safety of the people of the CNMI.

WHEREAS, on January 29, 2020, the Governor issued Executive Order 2020-01 declaring a state of significant emergency regarding the COVID-19 outbreak that ordered the Commonwealth Healthcare Corporation to implement quarantine and preventive containment measures and directed the Secretary of Finance and the Special Assistant for Management and Budget to assess the fiscal impact of the outbreak on the government's budget.

WHEREAS, on March 16, 2020, following discovery of COVID-19 infected individuals on Guam, the Governor issued Executive Order 2020-04 declaring a State of Public Health Emergency and a continued Declaration of a State of Significant Emergency for the CNMI due to the significant and imminent threat of harm to the community, environment and people of the CNMI.

WHEREAS, on March 18, 2020, the Governor issued Executive Order 2020-05 which authorized the Secretary of Finance to reprogram or transfer funds from accounts of any department, agency, office, board, commission, corporation, instrumentality or other entity of any branch of the Commonwealth government in order to meet the threat of COVID-19.

WHEREAS, the declaration of a state of public health emergency and continued declaration of a state of significant emergency embodied in Executive Order 2020-04, as amended, has been recently renewed by Executive Order 2021-26.

WHEREAS, despite much success in preventing the spread of COVID-19 in the community since the beginning of the pandemic, the numbers of positive cases for COVID-19 is currently rapidly

increasing in the Commonwealth with a great number of persons needing to be treated, isolated, quarantined or traced by the government.

WHEREAS, meeting the COVID-19 threat requires a “whole of government” approach such as what the government utilizes in responding to and recovering from typhoons. This requires the utilization or potential utilization of all government agencies, personnel, facilities, equipment and other resources as necessary to respond to the COVID-19 threat.

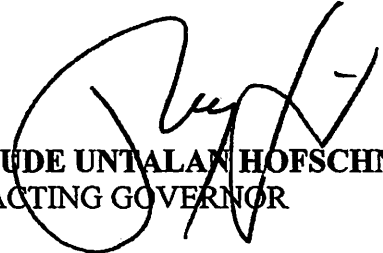
WHEREAS, because the COVID-19 pandemic has depressed our tourism industry, it has depressed economic activity and drastically reduced tax revenue. Such a reduction in revenue jeopardizes the government’s ability to meet the COVID-19 threat by limiting the government’s ability to utilize all necessary personnel, facilities and equipment due to lack of funds.

WHEREAS, renewing the authority of the Secretary of Finance to access, reprogram or transfer funds from accounts of any department, agency, office, board, commission, corporation, instrumentality or other entity of any branch of the Commonwealth government, including autonomous or independent entities, in order to fund the government’s “whole of government” approach to the prevention and mitigation of the COVID-19 threat is a reasonably necessary response in order to ensure that the government is able to meet the COVID-19 threat.

NOW THEREFORE, I, JUDE U. HOFSCHEIDER, pursuant to the authority vested in me as Acting 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, the CNMI Emergency Health Powers Act of 2003, 3 CMC §§ 2181-2195, Executive Order 2020-04, as amended and renewed, order and direct as follows:

1. Executive Order 2020-05, and all powers, duties and responsibilities embodied in that executive order, is hereby renewed and shall thus continue for an additional thirty (30) days.
2. This renewal shall take effect immediately and remain in effect for thirty (30) days from the effective date of this Executive Order. All memoranda, directives, waivers of regulations, and other measures taken in accordance with Executive Order 2020-05 shall remain in effect for thirty (30) days from the date of this Executive Order.

SIGNED AND PROMULGATED ON THIS 17th **day of December, 2021**



JUDE UNTALAN HOFSCHEIDER
ACTING GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2022-01

SUBJECT: RENEWAL OF DECLARATION OF STATE OF PUBLIC HEALTH EMERGENCY AND CONTINUED DECLARATION OF STATE OF SIGNIFICANT EMERGENCY ESTABLISHING RESPONSE, QUARANTINE, AND PREVENTIVE CONTAINMENT MEASURES CONCERNING CORONAVIRUS DISEASE 2019 (COVID-19); AND,

RENEWAL OF ORDER DIRECTING THE CNMI HOMELAND SECURITY & EMERGENCY MANAGEMENT OFFICE, THROUGH THE CNMI COVID-19 TASK FORCE, AND IN PARTNERSHIP WITH THE COMMONWEALTH HEALTHCARE CORPORATION, TO UNDERTAKE NECESSARY COVID-19 CONTAINMENT MEASURES BY MEANS OF THE DEVELOPMENT OF EMERGENCY DIRECTIVES TO PROTECT THE HEALTH AND SAFETY OF THE PUBLIC

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a novel virus that is the cause of severe acute respiratory illness. It was first detected in Wuhan, Hubei Province, People's Republic of China in December of 2019. As of January 9, 2022, more than 305 million cases of COVID-19 have been reported world-wide resulting in more than 5.48 million deaths.

WHEREAS, COVID-19 is a highly contagious disease that can lead to serious illness and death, especially for the elderly and people who have underlying medical conditions. The potential pandemic impact of COVID-19 on the vulnerable population of the Commonwealth cannot be understated. Vaccines and treatments are available but measures such as quarantine, isolation and containment are still important in the fight against COVID-19. Action is necessary to protect the health and safety of our senior citizens, medically vulnerable, and all other CNMI residents and visitors.

WHEREAS, COVID-19 continues to pose a significant and imminent threat of harm to the community, environment and people of the CNMI and thus emergency declarations are necessary to respond, quarantine and ensure the prevention of, or containment of COVID-19 in the CNMI.

WHEREAS, by renewing the Declaration of State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, as amended, and by renewing Executive Order 2020-07, I intend to direct the Commonwealth Healthcare Corporation, the CNMI Homeland Security & Emergency Management Office and all other necessary Commonwealth agencies to undertake containment measures as necessary to meet the threat of COVID-19.

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, and the CNMI Emergency Health Powers Act of 2003, 3 CMC §§ 2181-2195, do hereby declare a State of Public Health Emergency and State of Significant Emergency for the

entire Commonwealth of the Northern Mariana Islands due to the imminent threat posed by COVID-19 and order the following:

(A) Renewal of Executive Order 2020-04:

(1) The Declaration of a State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, 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 2020-04, as amended, shall take effect immediately and 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 2020-04, as amended, shall remain in effect for thirty (30) days from the date of this Executive Order.

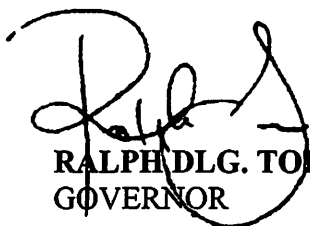
(B) Renewal of Executive Order 2020-07:

(1) Executive Order 2020-07, which ordered the CNMI Homeland Security & Emergency Management Office, through the CNMI COVID-19 Task Force in partnership with the Commonwealth Healthcare Corporation, to undertake necessary COVID-19 containment measures by means of the development of emergency directives to protect the health and safety of the public, is hereby renewed and shall continue for an additional thirty (30) days from the effective date.

(2) This renewal of Executive Order 2020-07 shall take effect immediately and 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 2020-07 shall remain in effect for thirty (30) 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 10th day of January, 2022



RALPH DLG. TORRES
GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2022-02

SUBJECT: RENEWING THE AUTHORITY OF THE SECRETARY OF FINANCE TO REPROGRAM OR TRANSFER FUNDS FROM ACCOUNTS OF ANY DEPARTMENT, AGENCY, OFFICE, BOARD, COMMISSION, CORPORATION, INSTRUMENTALITY OR OTHER ENTITY OF ANY BRANCH OF THE COMMONWEALTH GOVERNMENT IN ORDER TO MEET THE THREAT OF COVID-19.

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a novel virus that is the cause of severe acute respiratory illness. It was first detected in the People's Republic of China in December of 2019. As of January 17, 2021, more than 328 million cases of COVID-19 have been reported world-wide resulting in more than 5.54 million deaths.

WHEREAS, COVID-19 is a highly contagious disease that can lead to serious illness and death, especially for the elderly and people who have severe underlying medical conditions. The potential impact of COVID-19 on the CNMI cannot be understated. Vaccines and treatments are available but measures such as quarantine, isolation and containment are still important in the fight against COVID-19. Action is necessary to protect the health and safety of the people of the CNMI.

WHEREAS, on January 29, 2020, the Governor issued Executive Order 2020-01 declaring a state of significant emergency regarding the COVID-19 outbreak that ordered the Commonwealth Healthcare Corporation to implement quarantine and preventive containment measures and directed the Secretary of Finance and the Special Assistant for Management and Budget to assess the fiscal impact of the outbreak on the government's budget.

WHEREAS, on March 16, 2020, following discovery of COVID-19 infected individuals on Guam, the Governor issued Executive Order 2020-04 declaring a State of Public Health Emergency and a continued Declaration of a State of Significant Emergency for the CNMI due to the significant and imminent threat of harm to the community, environment and people of the CNMI.

WHEREAS, on March 18, 2020, the Governor issued Executive Order 2020-05 which authorized the Secretary of Finance to reprogram or transfer funds from accounts of any department, agency, office, board, commission, corporation, instrumentality or other entity of any branch of the Commonwealth government in order to meet the threat of COVID-19.

WHEREAS, the declaration of a state of public health emergency and continued declaration of a state of significant emergency embodied in Executive Order 2020-04, as amended, has been recently renewed by Executive Order 2022-02.

WHEREAS, despite much success in preventing the spread of COVID-19 in the community since the beginning of the pandemic, the numbers of positive cases for COVID-19 is currently rapidly

increasing in the Commonwealth with a great number of persons needing to be treated, isolated, quarantined or traced by the government.

WHEREAS, meeting the COVID-19 threat requires a “whole of government” approach such as what the government utilizes in responding to and recovering from typhoons. This requires the utilization or potential utilization of all government agencies, personnel, facilities, equipment and other resources as necessary to respond to the COVID-19 threat.

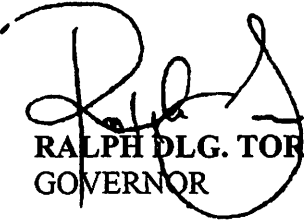
WHEREAS, because the COVID-19 pandemic has depressed our tourism industry, it has depressed economic activity and drastically reduced tax revenue. Such a reduction in revenue jeopardizes the government’s ability to meet the COVID-19 threat by limiting the government’s ability to utilize all necessary personnel, facilities and equipment due to lack of funds.

WHEREAS, renewing the authority of the Secretary of Finance to access, reprogram or transfer funds from accounts of any department, agency, office, board, commission, corporation, instrumentality or other entity of any branch of the Commonwealth government, including autonomous or independent entities, in order to fund the government’s “whole of government” approach to the prevention and mitigation of the COVID-19 threat is a reasonably necessary response in order to ensure that the government is able to meet the COVID-19 threat.

NOW THEREFORE, I, RALPH DLG. TORRES, pursuant to the authority vested in me as Acting 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, the CNMI Emergency Health Powers Act of 2003, 3 CMC §§ 2181-2195, Executive Order 2020-04, as amended and renewed, order and direct as follows:

1. Executive Order 2020-05, and all powers, duties and responsibilities embodied in that executive order, is hereby renewed and shall thus continue for an additional thirty (30) days.
2. This renewal shall take effect immediately and remain in effect for thirty (30) days from the effective date of this Executive Order. All memoranda, directives, waivers of regulations, and other measures taken in accordance with Executive Order 2020-05 shall remain in effect for thirty (30) days from the date of this Executive Order.

SIGNED AND PROMULGATED ON THIS 18th day of January, 2022



RALPH DLG. TORRES
GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2022-03

SUBJECT: RENEWAL OF DECLARATION OF STATE OF PUBLIC HEALTH EMERGENCY AND CONTINUED DECLARATION OF STATE OF SIGNIFICANT EMERGENCY ESTABLISHING RESPONSE, QUARANTINE, AND PREVENTIVE CONTAINMENT MEASURES CONCERNING CORONAVIRUS DISEASE 2019 (COVID-19); AND,

RENEWAL OF ORDER DIRECTING THE CNMI HOMELAND SECURITY & EMERGENCY MANAGEMENT OFFICE, THROUGH THE CNMI COVID-19 TASK FORCE, AND IN PARTNERSHIP WITH THE COMMONWEALTH HEALTHCARE CORPORATION, TO UNDERTAKE NECESSARY COVID-19 CONTAINMENT MEASURES BY MEANS OF THE DEVELOPMENT OF EMERGENCY DIRECTIVES TO PROTECT THE HEALTH AND SAFETY OF THE PUBLIC

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a novel virus that is the cause of severe acute respiratory illness. It was first detected in Wuhan, Hubei Province, People's Republic of China in December of 2019. As of February 9, 2022, more than 401 million cases of COVID-19 have been reported world-wide resulting in more than 5.76 million deaths.

WHEREAS, COVID-19 is a highly contagious disease that can lead to serious illness and death, especially for the elderly and people who have underlying medical conditions. The potential pandemic impact of COVID-19 on the vulnerable population of the Commonwealth cannot be understated. Vaccines and treatments are available but measures such as quarantine, isolation and containment are still important in the fight against COVID-19. Action is necessary to protect the health and safety of our senior citizens, medically vulnerable, and all other CNMI residents and visitors.

WHEREAS, COVID-19 continues to pose a significant and imminent threat of harm to the community, environment and people of the CNMI and thus emergency declarations are necessary to respond, quarantine and ensure the prevention of, or containment of COVID-19 in the CNMI.

WHEREAS, by renewing the Declaration of State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, as amended, and by renewing Executive Order 2020-07, I intend to direct the Commonwealth Healthcare Corporation, the CNMI Homeland Security & Emergency Management Office and all other necessary Commonwealth agencies to undertake containment measures as necessary to meet the threat of COVID-19.

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, and the CNMI Emergency Health Powers Act of 2003, 3 CMC §§ 2181-2195, do hereby declare a State of Public Health Emergency and State of Significant Emergency for the

entire Commonwealth of the Northern Mariana Islands due to the imminent threat posed by COVID-19 and order the following:

(A) Renewal of Executive Order 2020-04:

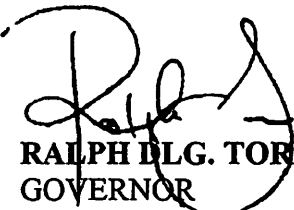
- (1) The Declaration of a State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, as amended, is hereby renewed and shall thus continue for an additional thirty (30) days from the effective date.
- (2) This renewal of Executive Order 2020-04, as amended, shall take effect immediately and 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 2020-04, as amended, shall remain in effect for thirty (30) days from the date of this Executive Order.

(B) Renewal of Executive Order 2020-07:

- (1) Executive Order 2020-07, which ordered the CNMI Homeland Security & Emergency Management Office, through the CNMI COVID-19 Task Force in partnership with the Commonwealth Healthcare Corporation, to undertake necessary COVID-19 containment measures by means of the development of emergency directives to protect the health and safety of the public, is hereby renewed and shall continue for an additional thirty (30) days from the effective date.
- (2) This renewal of Executive Order 2020-07 shall take effect immediately and 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 2020-07 shall remain in effect for thirty (30) 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 10th day of February, 2022



RALPH DLG. TORRES
GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2022-04

SUBJECT: RENEWAL OF DECLARATION OF STATE OF PUBLIC HEALTH EMERGENCY AND CONTINUED DECLARATION OF STATE OF SIGNIFICANT EMERGENCY ESTABLISHING RESPONSE, QUARANTINE, AND PREVENTIVE CONTAINMENT MEASURES CONCERNING CORONAVIRUS DISEASE 2019 (COVID-19); AND,

RENEWAL OF ORDER DIRECTING THE CNMI HOMELAND SECURITY & EMERGENCY MANAGEMENT OFFICE, THROUGH THE CNMI COVID-19 TASK FORCE, AND IN PARTNERSHIP WITH THE COMMONWEALTH HEALTHCARE CORPORATION, TO UNDERTAKE NECESSARY COVID-19 CONTAINMENT MEASURES BY MEANS OF THE DEVELOPMENT OF EMERGENCY DIRECTIVES TO PROTECT THE HEALTH AND SAFETY OF THE PUBLIC

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a novel virus that is the cause of severe acute respiratory illness. It was first detected in Wuhan, Hubei Province, People's Republic of China in December of 2019. As of March 12, 2022, more than 455 million cases of COVID-19 have been reported world-wide resulting in more than 6.03 million deaths.

WHEREAS, COVID-19 is a highly contagious disease that can lead to serious illness and death, especially for the elderly and people who have underlying medical conditions. The potential pandemic impact of COVID-19 on the vulnerable population of the Commonwealth cannot be understated. Vaccines and treatments are available but measures such as quarantine, isolation and containment are still important in the fight against COVID-19. Action is necessary to protect the health and safety of our senior citizens, medically vulnerable, and all other CNMI residents and visitors.

WHEREAS, COVID-19 continues to pose a significant and imminent threat of harm to the community, environment and people of the CNMI and thus an emergency declaration is necessary to respond, quarantine and ensure the prevention of, or containment of COVID-19 in the CNMI.

WHEREAS, by renewing the Declaration of State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, as amended, and by renewing Executive Order 2020-07, I intend to direct the Commonwealth Healthcare Corporation, the CNMI Homeland Security & Emergency Management Office and all other necessary Commonwealth agencies to undertake containment measures as necessary to meet the threat of COVID-19.

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, and the CNMI Emergency Health Powers Act of 2003, 3 CMC §§ 2181-2195, do hereby declare a State of Public Health Emergency and State of Significant Emergency for the

entire Commonwealth of the Northern Mariana Islands due to the imminent threat posed by COVID-19 and order the following:

(A) Renewal of Executive Order 2020-04:

(1) The Declaration of a State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, 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 2020-04, as amended, shall take effect immediately and 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 2020-04, as amended, shall remain in effect for thirty (30) days from the date of this Executive Order.

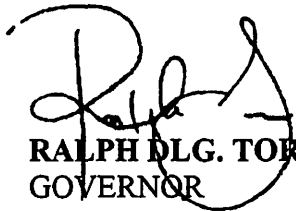
(B) Renewal of Executive Order 2020-07:

(1) Executive Order 2020-07, which ordered the CNMI Homeland Security & Emergency Management Office, through the CNMI COVID-19 Task Force in partnership with the Commonwealth Healthcare Corporation, to undertake necessary COVID-19 containment measures by means of the development of emergency directives to protect the health and safety of the public, is hereby renewed and shall continue for an additional thirty (30) days from the effective date.

(2) This renewal of Executive Order 2020-07 shall take effect immediately and 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 2020-07 shall remain in effect for thirty (30) 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 13th day of March, 2022



RALPH DLG. TORRES
GOVERNOR



RALPH DLG. TORRES
Governor

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2022-05

SUBJECT: ESTABLISHMENT OF THE GOVERNOR'S ENVIRONMENTAL COUNCIL

AUTHORITY: Article I, Section 9 of the Commonwealth of the Northern Mariana Islands Constitution states "Each person has the right to a clean and healthful public environment in all areas, including the land, air, and water"; and

WHEREAS, the Commonwealth government has successfully established a governmental regulatory framework to enforce the environmental standards to protect and preserve the Northern Marianas environment; and

WHEREAS, the responsibility of protecting the environment is shared by all residents of the CNMI community, both private and public; and

WHEREAS, collaboration between members of the public and its government on the critical issues regarding environmental protection, sustainable development, and conservation allows for community ownership in the protection of the Commonwealth's resources and the sharing of skills, expertise and knowledge to aid the government agencies in implementing their respective mandates; and

WHEREAS, the long-term interest of all residents of the CNMI would be best served through providing members of the public a voice in the critical issues facing its environment and to aid the government in delivering the policies, programs and initiatives that will see the lasting protection of the Commonwealth's resources for future generations

NOW THERE I, RALPH DLG. TORRES, Governor of the Commonwealth of the Northern Mariana Islands, do hereby order the establishment, within the Executive Branch, the Governor's Environmental Council with the following structure and goals:

Representation

The Governor's Environmental Council (GEC) shall be chaired by a representative of the CNMI community chosen by the Governor.

Member to the GEC shall be appointed at the Governor's discretion.

The Governor shall appoint members from various government and non-government sectors who hold backgrounds and expertise in environmental policy, conservation, and environmental activism.

Members to the GEC will serve as Environmental Advisers to the Governor at no expense to the CNMI Government.

Member of the GEC shall be removed at the discretion of the Governor or by a vote of the GEC members.

Council Charge

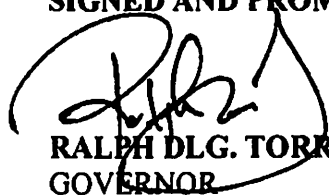
The GEC shall be advisory to the Governor and its responsibilities shall include, but are not limited to:

1. The formulation of policy initiatives or community activities to encourage environmental protection, conservation, and sustainable development.
2. Providing recommendations to the Governor on environmental issues relating to the administration of the Executive Branch and its departments and agencies.
3. The creation of detailed reports to advance environmental policy initiatives beneficial to the CNMI population.
4. Conducting a review of current environmental laws and policies to determine their efficacy in protecting the environment
5. Proposing studies to be conducted related to the CNMI environment to include surveys, valuation studies, cost benefit analyses, and willingness to pay estimations.
6. The convening of GEC meetings at least once every three (3) months.

Direction to CNMI Government Departments and Agencies

I direct all departments and agencies of the CNMI Government to fully support and cooperate with the GEC in the performance of this Executive Order.

SIGNED AND PROMULGATED ON THIS 23rd day of March, 2022


RALPH DLG. TORRES
GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2022-06

SUBJECT: RENEWAL OF DECLARATION OF STATE OF PUBLIC HEALTH EMERGENCY AND CONTINUED DECLARATION OF STATE OF SIGNIFICANT EMERGENCY ESTABLISHING RESPONSE, QUARANTINE, AND PREVENTIVE CONTAINMENT MEASURES CONCERNING CORONAVIRUS DISEASE 2019 (COVID-19); AND,

RENEWAL OF ORDER DIRECTING THE CNMI HOMELAND SECURITY & EMERGENCY MANAGEMENT OFFICE, THROUGH THE CNMI COVID-19 TASK FORCE, AND IN PARTNERSHIP WITH THE COMMONWEALTH HEALTHCARE CORPORATION, TO UNDERTAKE NECESSARY COVID-19 CONTAINMENT MEASURES BY MEANS OF THE DEVELOPMENT OF EMERGENCY DIRECTIVES TO PROTECT THE HEALTH AND SAFETY OF THE PUBLIC

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a novel virus that is the cause of severe acute respiratory illness. It was first detected in Wuhan, Hubei Province, People's Republic of China in December of 2019. As of April 3, 2022, more than 490 million cases of COVID-19 have been reported world-wide resulting in more than 6.15 million deaths.

WHEREAS, COVID-19 is a highly contagious disease that can lead to serious illness and death, especially for the elderly and people who have underlying medical conditions. The potential pandemic impact of COVID-19 on the vulnerable population of the Commonwealth cannot be understated. Vaccines and treatments are available but measures such as quarantine, isolation and containment are still important in the fight against COVID-19. Rapid action is necessary to protect the health and safety of our senior citizens, medically vulnerable, and all other CNMI residents and visitors.

WHEREAS, COVID-19 continues to pose a significant and imminent threat of harm to the community, environment and people of the CNMI and thus emergency declarations are necessary to respond, quarantine and ensure the prevention of, or containment of COVID-19 in the CNMI.

WHEREAS, by renewing the Declaration of State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, as amended, and by renewing Executive Order 2020-07, I intend to direct the Commonwealth Healthcare Corporation ("CHCC"), the CNMI Homeland Security & Emergency Management Office (HSEMO) and all other necessary Commonwealth agencies to undertake containment measures as necessary to meet the threat of COVID-19.

WHEREAS, due to a recent opinion by the Attorney General, it is necessary to clarify the powers conferred on the HSEMO and CHCC regarding Directive 1 and make clear that the regular procurement process is suspended in regards to prevention, containment, mitigation and remediation efforts of the Commonwealth.

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, and the CNMI Emergency Health Powers Act of 2003, 3 CMC §§ 2181-2195, do hereby declare a State of Public Health Emergency and State of Significant Emergency for the entire Commonwealth of the Northern Mariana Islands due to the imminent threat posed by COVID-19 and order the following:

(A) Renewal of Executive Order 2020-04:

- (1) The Declaration of a State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, as amended, is hereby renewed and shall thus continue for an additional thirty (30) days from the effective date, subject to the following amendment:

“DIRECTIVE 1: Pursuant to 1 CMC § 20144 and 2 CMC § 2186, the HSEMO and CHCC are hereby granted temporary exemption from NMIAC §§ 70-30.3-001-760 (“Procurement Regulations”) because the continued imposition of such regulations will tend to prevent, hinder, or delay actions necessary to assist and support the Commonwealth’s effort to respond to the public health emergency and the state of significant emergency. Exemptions from the procurement regulations are granted only with regards to the procurement of items and services necessary to the prevention, containment, mitigation and remediation of the COVID-19 pandemic threat to the Commonwealth. Other items must still be obtained through the standard procurement process.

It is further directed that, when procuring items and services necessary for the prevention, containment, mitigation and remediation of the COVID-19 pandemic threat to the Commonwealth, HSEMO may utilize the streamlined procurement procedures adopted by the HSEMO. For purposes of this exemption, the approved streamlined procurement procedures are attached hereto and incorporated herein by reference. The CHCC may adopt any streamlined procurement procedures that it sees fit to respond to the COVID-19 pandemic threat to the Commonwealth”

- (2) This renewal of Executive Order 2020-04, as amended, shall take effect immediately and 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 2020-04, as amended, shall remain in effect for thirty (30) days from the date of this Executive Order.

(B) Renewal of Executive Order 2020-07:

- (1) Executive Order 2020-07, which ordered the CNMI Homeland Security & Emergency Management Office, through the CNMI COVID-19 Task Force in partnership with the Commonwealth Healthcare Corporation, to undertake necessary COVID-19 containment measures by means of the development of emergency directives to protect the health and safety

of the public, is hereby renewed and shall continue for an additional thirty (30) days from the effective date.

(2) This renewal of Executive Order 2020-07 shall take effect immediately and 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 2020-07 shall remain in effect for thirty (30) 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 8th day of April, 2022



RALPH DLG. TORRES
GOVERNOR



Commonwealth of the Northern Mariana Islands
Office of the Governor
HOMELAND SECURITY AND EMERGENCY MANAGEMENT AGENCY



Honorable Ralph DLG. Torres, Governor
Honorable Arnold I. Palacios, Lieutenant Governor

Gerald J. Deleon Guerrero, Special Assistant

**CNMI HOMELAND SECURITY & EMERGENCY MANAGEMENT
STREAMLINED EMERGENCY PROCUREMENT PROCESS
As of July 23, 2020**

CNMI Emergency Operations Center (EOC) is activated in times of a catastrophic event to allow designated government agencies to prepare, respond, and recover. All Contracts and Purchases made under the Emergency Declaration **MUST FOLLOW THESE PROCEDURES OR RISK BEING REJECTED AND INDIVIDUAL EMPLOYEES / VENDORS BEING HELD PERSONALLY LIABLE:**

- Step 1.** Requests for purchases are sent to the Operations Section on a Request Form (ICS-213).
- The ICS-213 must contain a detailed statement of what purchase is needed and why, with any justification documents attached.
- Step 2.** The **Operations Section** logs the ICS-213 and assigns an OPS Control Number.
- The **Operations Section Chief** (OSC) reviews the request for approval. This evaluation considers if the ICS-213 is for an Essential and Documented need.
 - Upon approval, Operations will forward the ICS-213 to Logistics for Fulfillment.
- Step 3.** The **Logistics Section Chief** (LSC) determines if the CNMI Government has the **CAPACITY AND CAPABILITY** to respond to request accordingly (Gov't Assets).
- Requests for which the CNMI Government has the resources on-hand shall be processed internally by the Logistics Section.
 - IF the Government does **NOT** have the capacity to fulfill a request, the Logistics Section Chief (LSC) will follow this Emergency Procurement process.
 - Logistics will select from the following Process, based on the time-sensitive nature of the ICS-213:
 - Emergency Competition**—A Scope of Services is drafted and distributed to appropriate vendors and networks, and/or released to local media where appropriate (no publication requirement) for interested parties to submit proposals. A minimum of 12 hours shall be provided for response. The government reserves the right to select from proposals that best fits the need of the Commonwealth.
 - Competitive Pricing** – The LSC will contact vendors and record a minimum of three prices based on the preferred need of the Commonwealth. These prices will be documented in writing and attached to the ICS-213.
 - Sole Source** – Based on the urgency of the need and determination of immediate capacity for fulfillment as documented by Logistics and attached to the ICS-213, the LSC can request a sole source purchase. Such request must be evidenced on the ICS-213, and submitted to the Finance Section for approval and processing.

Caller Box 10007, Capitol Hill, Saipan, MP 96950
Telephone: (670) 664-2216 (mainline), Facsimile: (670) 664-2218 (mainline), Training Center (670) 322-8005, Communication Technology (670) 322-8003
EOC STATE WARNING POINT (24/7) Tel. No. (670) 237-8000 or (670) 664-8000 Fax No. (670) 322-9500
HSEM Website: cnmihsem.gov.mp
ReadyCNMI App (Google Play Store & Apple App Store)

Community





Commonwealth of the Northern Mariana Islands
Office of the Governor
HOMELAND SECURITY AND EMERGENCY MANAGEMENT AGENCY



Honorable Ralph DLG. Torres, Governor
Honorable Arnold I. Palacios, Lieutenant Governor

Gerald J. Deleon Guerrero, Special Assistant

- d. Procurement for Products and/or Services must contain a detailed breakdown of proposed costs, including labor, hours, and rates, or detailed product description for goods.
- e. LSC is charged with the receiving, inventorying and tagging of all procured property before it is distributed to the Requesting entity for end use.

Step 4.

Finance Section Chief (FSC) shall receive, review and process ICS-213s according to these procedures.

- a. FSC shall verify that the Request complies with Step 3(c)(1) or (c)(2), or has adequate justification to be processed according to Step 3(c)(3).
- b. FSC prepares the Emergency Contract and supporting documents for review by the **Attorney General's Office (AGO)** to ensure all legal parameters are met.
 - 1. Legal review of contracts shall be evidenced in writing on each Emergency Contract by AAG.
- c. Approved Emergency Contracts are routed for review and approval in the following order:
 - 1. **Special Assistant to Homeland Security/ State Coordinating Officer (SCO)**
 - 2. **Governor's Authorized Representative (GAR)**
 - 3. **Secretary of Finance**
 - 4. **Attorney General**
 - 5. **Vendor**

Caller Box 10007, Capitol Hill, Saipan, MP 96950
Telephone: (670) 664-2216 (mainline), Facsimile: (670) 664-2218 (mainline), Training Center (670) 322-8005, Communication Technology (670) 322-8003
EOC STATE WARNING POINT (24/7) Tel. No. (670) 237-8000 or (670) 664-8000 Fax No. (670) 322-9500
HSEM Website: cnmlbsem.gov.mp
ReadyCNMI App (Google Play Store & Apple App Store)

Community





COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2022-07

SUBJECT: RENEWAL OF DECLARATION OF STATE OF PUBLIC HEALTH EMERGENCY AND CONTINUED DECLARATION OF STATE OF SIGNIFICANT EMERGENCY ESTABLISHING RESPONSE, QUARANTINE, AND PREVENTIVE CONTAINMENT MEASURES CONCERNING CORONAVIRUS DISEASE 2019 (COVID-19); AND,

RENEWAL OF ORDER DIRECTING THE CNMI HOMELAND SECURITY & EMERGENCY MANAGEMENT OFFICE, THROUGH THE CNMI COVID-19 TASK FORCE, AND IN PARTNERSHIP WITH THE COMMONWEALTH HEALTHCARE CORPORATION, TO UNDERTAKE NECESSARY COVID-19 CONTAINMENT MEASURES BY MEANS OF THE DEVELOPMENT OF EMERGENCY DIRECTIVES TO PROTECT THE HEALTH AND SAFETY OF THE PUBLIC

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a novel virus that is the cause of severe acute respiratory illness. It was first detected in Wuhan, Hubei Province, People's Republic of China in December of 2019. As of May 7, 2022, more than 516 million cases of COVID-19 have been reported world-wide resulting in more than 6.24 million deaths.

WHEREAS, COVID-19 is a highly contagious disease that can lead to serious illness and death, especially for the elderly and people who have underlying medical conditions. The potential pandemic impact of COVID-19 on the vulnerable population of the Commonwealth cannot be understated. Vaccines and treatments are available but measures such as quarantine, isolation and containment are still important in the fight against COVID-19. Rapid action is necessary to protect the health and safety of our senior citizens, medically vulnerable, and all other CNMI residents and visitors.

WHEREAS, COVID-19 continues to pose a significant and imminent threat of harm to the community, environment and people of the CNMI and thus emergency declarations are necessary to respond, quarantine and ensure the prevention of, or containment of COVID-19 in the CNMI.

WHEREAS, by renewing the Declaration of State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, as amended, and by renewing Executive Order 2020-07, I intend to direct the Commonwealth Healthcare Corporation ("CHCC"), the CNMI Homeland Security & Emergency Management Office (HSEMO) and all other necessary Commonwealth agencies to undertake containment measures as necessary to meet the threat of COVID-19.

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, and the CNMI Emergency Health Powers Act of 2003, 3 CMC §§ 2181-2195, do hereby declare a State of Public Health Emergency and State of Significant Emergency for the

entire Commonwealth of the Northern Mariana Islands due to the imminent threat posed by COVID-19 and order the following:

(A) Renewal of Executive Order 2020-04:

(1) The Declaration of a State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, 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 2020-04, as amended, shall take effect immediately and 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 2020-04, as amended, shall remain in effect for thirty (30) days from the date of this Executive Order.

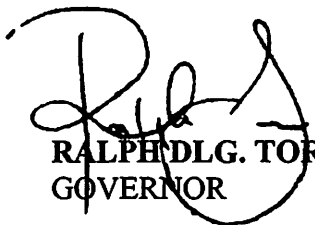
(B) Renewal of Executive Order 2020-07:

(1) Executive Order 2020-07, which ordered the CNMI Homeland Security & Emergency Management Office, through the CNMI COVID-19 Task Force in partnership with the Commonwealth Healthcare Corporation, to undertake necessary COVID-19 containment measures by means of the development of emergency directives to protect the health and safety of the public, is hereby renewed and shall continue for an additional thirty (30) days from the effective date.

(2) This renewal of Executive Order 2020-07 shall take effect immediately and 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 2020-07 shall remain in effect for thirty (30) 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 8th day of May, 2022



RALPH DLG. TORRES
GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2022-08

SUBJECT: RENEWAL OF DECLARATION OF STATE OF PUBLIC HEALTH EMERGENCY AND CONTINUED DECLARATION OF STATE OF SIGNIFICANT EMERGENCY ESTABLISHING RESPONSE, QUARANTINE, AND PREVENTIVE CONTAINMENT MEASURES CONCERNING CORONAVIRUS DISEASE 2019 (COVID-19); AND,

RENEWAL OF ORDER DIRECTING THE CNMI HOMELAND SECURITY & EMERGENCY MANAGEMENT OFFICE, THROUGH THE CNMI COVID-19 TASK FORCE, AND IN PARTNERSHIP WITH THE COMMONWEALTH HEALTHCARE CORPORATION, TO UNDERTAKE NECESSARY COVID-19 CONTAINMENT MEASURES BY MEANS OF THE DEVELOPMENT OF EMERGENCY DIRECTIVES TO PROTECT THE HEALTH AND SAFETY OF THE PUBLIC

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a novel virus that is the cause of severe acute respiratory illness. It was first detected in Wuhan, Hubei Province, People's Republic of China in December of 2019. As of June 6, 2022, more than 532 million cases of COVID-19 have been reported world-wide resulting in more than 6.29 million deaths.

WHEREAS, COVID-19 is a highly contagious disease that can lead to serious illness and death, especially for the elderly and people who have underlying medical conditions. The potential pandemic impact of COVID-19 on the vulnerable population of the Commonwealth cannot be understated. Vaccines and treatments are available but measures such as quarantine, isolation and containment are still important in the fight against COVID-19. Action is necessary to protect the health and safety of our senior citizens, medically vulnerable, and all other CNMI residents and visitors.

WHEREAS, COVID-19 continues to pose a significant and imminent threat of harm to the community, environment and people of the CNMI and thus emergency declarations are necessary to respond, quarantine and ensure the prevention of, or containment of COVID-19 in the CNMI.

WHEREAS, by renewing the Declaration of State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, as amended, and by renewing Executive Order 2020-07, I intend to direct the Commonwealth Healthcare Corporation ("CHCC"), the CNMI Homeland Security & Emergency Management Office (HSEMO) and all other necessary Commonwealth agencies to undertake containment measures as necessary to meet the threat of COVID-19.

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, and the CNMI Emergency Health Powers Act of 2003, 3 CMC §§ 2181-2195, do hereby declare a State of Public Health Emergency and State of Significant Emergency for the

entire Commonwealth of the Northern Mariana Islands due to the imminent threat posed by COVID-19 and order the following:

(A) Renewal of Executive Order 2020-04:

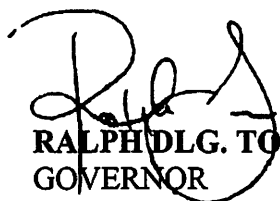
- (1) The Declaration of a State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, as amended, is hereby renewed and shall thus continue for an additional thirty (30) days from the effective date.
- (2) This renewal of Executive Order 2020-04, as amended, shall take effect immediately and 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 2020-04, as amended, shall remain in effect for thirty (30) days from the date of this Executive Order.

(B) Renewal of Executive Order 2020-07:

- (1) Executive Order 2020-07, which ordered the CNMI Homeland Security & Emergency Management Office, through the CNMI COVID-19 Task Force in partnership with the Commonwealth Healthcare Corporation, to undertake necessary COVID-19 containment measures by means of the development of emergency directives to protect the health and safety of the public, is hereby renewed and shall continue for an additional thirty (30) days from the effective date.
- (2) This renewal of Executive Order 2020-07 shall take effect immediately and 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 2020-07 shall remain in effect for thirty (30) 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 7th day of June, 2022



RALPH DLG. TORRES
GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2022-09

SUBJECT: 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, a fire that is still smoldering as of today.

WHEREAS, this fire and the continuing smoldering has caused noxious smoke and fumes to drift over neighboring residents, threatening their health.

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 Acting Governor has consulted with the CNMI Homeland Security & Emergency Management Office and other agencies, and believes a 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, JUDE U. HOFSCHEIDER, pursuant to the authority vested in me as Acting 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:

DIRECTIVE 1: Pursuant to 1 CMC § 20144(c)(1), the Homeland Security and Emergency Management Office (“HSEMO”) are hereby granted temporary exemption from NMIAC §§ 70-30.3-001 through 760 (“Procurement Regulations”) because the continued imposition of such regulations will tend to prevent, hinder, or delay actions necessary to assist and support the Commonwealth’s effort to respond to the major disaster and state of significant emergency. Exemptions from the procurement regulations are granted only with regards to the procurement of items and services necessary to the containment, mitigation and remediation of the threat to the public health and welfare of the people of Tinian due to the burning of the Super Typhoon Yutu waste and debris site. Other items must still be obtained through the standard procurement process.

It is further directed that, when procuring items and services necessary for the containment, mitigation and remediation of the threat to the public health and welfare of the people of Tinian due to the burning of the Super Typhoon Yutu waste and debris site, HSEMO may utilize the streamlined procurement procedures adopted by HSEMO. (*See* CNMI Homeland Security & Emergency Management Streamlined Emergency Procurement Process (as of July 23, 2020)).

DIRECTIVE 2: Pursuant to 1 CMC § 20144(c)(2), HSEMO, the Office of the Governor, the Department of Fire and Emergency Management, the Bureau of Environmental and Coastal Quality, the Department of Public Works, and the Commonwealth Utilities Corporation are directed to employ all available resources within their agencies as reasonable necessary to contain, mitigate, and remediate the threat to the health and welfare of the people of Tinian due to the burning of the Super Typhoon Yutu waste and debris site. The HSEMO, upon consultation with the Office of the Governor, is further authorized to utilize any other available government equipment and property to respond to the threat to the health and welfare of the people of Tinian due to the burning of the Super Typhoon Yutu waste and debris site.

DIRECTIVE 3: Pursuant to 1 CMC § 20144(c)(2), the Secretary of Finance and the Department of Finance is authorized to access, reprogram or transfer funds from accounts of any Executive Branch department, agency, office, board, commission, corporation, instrumentality or other entity of the Executive Branch of the Commonwealth government, including autonomous or independent entities, in order to ensure that the government is able to meet the threat to the health and welfare of the people of Tinian caused by the burning of the Super Typhoon Yutu waste and debris site.

The Secretary of Finance shall coordinate with the Office of Management and Budget and other necessary government officials or agencies, Commonwealth or Federal, in carrying out its authorization.

DIRECTIVE 4: Pursuant to 1 CMC § 20144(c)(6), HSEMO, the Office of the Governor, Department of Fire and Emergency Management, Bureau of Environmental and Coastal Quality, Department of Public Works, and the Commonwealth Utilities Corporation may seek aid from the federal government in accordance with federal programs or requirements.

DIRECTIVE 5: All departments, agencies, offices, instrumentalities, and other entities of the executive branch, and all independent entities of the Commonwealth government including public corporations, are directed to or otherwise requested to cooperate with each other and the Mayor of Tinian in the containment, mitigation and remediation of the threat to the public health and welfare of the people of Tinian. The HSEMO shall assist in coordinating the response of the Commonwealth to the emergency.

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 23d day of June, 2022



JUDE U. HOFSCHEIDER
ACTING GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

AMENDED EXECUTIVE ORDER NO. 2022-09

SUBJECT: 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, a fire that is still smoldering as of today.

WHEREAS, this fire and the continuing smoldering has caused noxious smoke and fumes to drift over neighboring residents, threatening their health.

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 Acting Governor has consulted with the CNMI Homeland Security & Emergency Management Office and other agencies, and believes a 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, JUDE U. HOFSCHEIDER, pursuant to the authority vested in me as Acting 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:

DIRECTIVE 1: Pursuant to 1 CMC § 20144(c)(1), the Homeland Security and Emergency Management Office (“HSEMO”) and the Office of Planning and Development (“OPD”) are hereby granted temporary exemption from NMIAC §§ 70-30.3-001 through 760 (“Procurement Regulations”) because the continued imposition of such regulations will tend to prevent, hinder, or delay actions necessary to assist and support the Commonwealth’s effort to respond to the major disaster and state of significant emergency. Exemptions from the procurement regulations are granted only with regards to the procurement of items and services necessary to the containment, mitigation and remediation of the threat to the public health and welfare of the people of Tinian due to the burning of the Super Typhoon Yutu waste and debris site. Other items must still be obtained through the standard procurement process.

It is further directed that, when procuring items and services necessary for the containment, mitigation and remediation of the threat to the public health and welfare of the people of Tinian due to the burning of the Super Typhoon Yutu waste and debris site, HSEMO may utilize the streamlined procurement procedures adopted by HSEMO. (See CNMI Homeland Security & Emergency Management Streamlined Emergency Procurement Process (as of July 23, 2020)).

DIRECTIVE 2: Pursuant to 1 CMC § 20144(c)(2), HSEMO, OPD, the Office of the Governor, the Department of Fire and Emergency Management, the Bureau of Environmental and Coastal Quality, the Department of Public Works, and the Commonwealth Utilities Corporation are directed to employ all available resources within their agencies as reasonable necessary to contain, mitigate, and remediate the threat to the health and welfare of the people of Tinian due to the burning of the Super Typhoon Yutu waste and debris site. The HSEMO, upon consultation with the Office of the Governor, is further authorized to utilize any other available government equipment and property to respond to the threat to the health and welfare of the people of Tinian due to the burning of the Super Typhoon Yutu waste and debris site.

DIRECTIVE 3: Pursuant to 1 CMC § 20144(c)(2), the Secretary of Finance and the Department of Finance is authorized to access, reprogram or transfer funds from accounts of any Executive Branch department, agency, office, board, commission, corporation, instrumentality or other entity of the Executive Branch of the Commonwealth government, including autonomous or independent entities, in order to ensure that the government is able to meet the threat to the health and welfare of the people of Tinian caused by the burning of the Super Typhoon Yutu waste and debris site.

The Secretary of Finance shall coordinate with the Office of Management and Budget and other necessary government officials or agencies, Commonwealth or Federal, in carrying out its authorization.

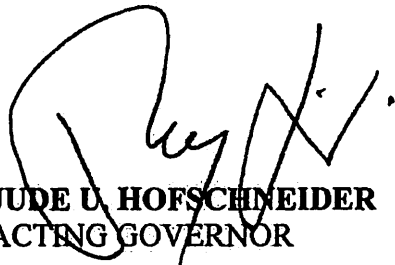
DIRECTIVE 4: Pursuant to 1 CMC § 20144(c)(6), HSEMO, OPD, the Office of the Governor, Department of Fire and Emergency Management, Bureau of Environmental and Coastal Quality, Department of Public Works, and the Commonwealth Utilities Corporation may seek aid from the federal government in accordance with federal programs or requirements.

DIRECTIVE 5: All departments, agencies, offices, instrumentalities, and other entities of the executive branch, and all independent entities of the Commonwealth government including public corporations, are directed to or otherwise requested to cooperate with each other and the Mayor of Tinian in the containment, mitigation and remediation of the threat to the public health and welfare of the people of Tinian. The HSEMO shall assist in coordinating the response of the Commonwealth to the emergency.

This Amended Executive Order 2022-09 is effective retroactive to June 23, 2022 and shall remain in effect for thirty (30) days from that date.

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 27th day of June, 2022



JUDE U. HOFSCHEIDER
ACTING GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2022-10

SUBJECT: RENEWAL OF DECLARATION OF STATE OF PUBLIC HEALTH EMERGENCY AND CONTINUED DECLARATION OF STATE OF SIGNIFICANT EMERGENCY ESTABLISHING RESPONSE, QUARANTINE, AND PREVENTIVE CONTAINMENT MEASURES CONCERNING CORONAVIRUS DISEASE 2019 (COVID-19); AND,

RENEWAL OF ORDER DIRECTING THE CNMI HOMELAND SECURITY & EMERGENCY MANAGEMENT OFFICE, THROUGH THE CNMI COVID-19 TASK FORCE, AND IN PARTNERSHIP WITH THE COMMONWEALTH HEALTHCARE CORPORATION, TO UNDERTAKE NECESSARY COVID-19 CONTAINMENT MEASURES BY MEANS OF THE DEVELOPMENT OF EMERGENCY DIRECTIVES TO PROTECT THE HEALTH AND SAFETY OF THE PUBLIC

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a novel virus that is the cause of severe acute respiratory illness. It was first detected in Wuhan, Hubei Province, People's Republic of China in December of 2019. As of July 6, 2022, more than 551 million cases of COVID-19 have been reported world-wide resulting in more than 6.34 million deaths.

WHEREAS, COVID-19 is a highly contagious disease that can lead to serious illness and death, especially for the elderly and people who have underlying medical conditions. The potential pandemic impact of COVID-19 on the vulnerable population of the Commonwealth cannot be understated. Vaccines and treatments are available but measures such as quarantine, isolation and containment are still important in the fight against COVID-19. Action is necessary to protect the health and safety of our senior citizens, medically vulnerable, and all other CNMI residents and visitors.

WHEREAS, COVID-19 continues to pose a significant and imminent threat of harm to the community, environment and people of the CNMI and thus emergency declarations are necessary to respond, quarantine and ensure the prevention of, or containment of COVID-19 in the CNMI.

WHEREAS, by renewing the Declaration of State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, as amended, and by renewing Executive Order 2020-07, I intend to direct the Commonwealth Healthcare Corporation ("CHCC"), the CNMI Homeland Security & Emergency Management Office (HSEMO) and all other necessary Commonwealth agencies to undertake containment measures as necessary to meet the threat of COVID-19.

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, and the CNMI Emergency Health Powers Act of 2003, 3 CMC §§ 2181-2195, do hereby declare a State of Public Health Emergency and State of Significant Emergency for the

entire Commonwealth of the Northern Mariana Islands due to the imminent threat posed by COVID-19 and order the following:

(A) Renewal of Executive Order 2020-04:

- (1) The Declaration of a State of Public Health Emergency and Continued Declaration of a State of Significant Emergency embodied in Executive Order 2020-04, 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 2020-04, as amended, shall take effect immediately and 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 2020-04, as amended, shall remain in effect for thirty (30) days from the date of this Executive Order.

(B) Renewal of Executive Order 2020-07:

- (1) Executive Order 2020-07, which ordered the CNMI Homeland Security & Emergency Management Office, through the CNMI COVID-19 Task Force in partnership with the Commonwealth Healthcare Corporation, to undertake necessary COVID-19 containment measures by means of the development of emergency directives to protect the health and safety of the public, is hereby renewed and shall continue for an additional thirty (30) days from the effective date.
- (2) This renewal of Executive Order 2020-07 shall take effect immediately and 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 2020-07 shall remain in effect for thirty (30) 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 7th day of July, 2022



RALPH DLG. TORRES
GOVERNOR



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 2022-11

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.

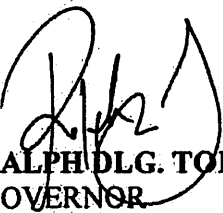
Further, under the authority of this Declaration and with the goal of mitigating and ameliorating the above described threat, I immediately direct the following:

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 retroactive to July 23, 2022 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 27th day of July, 2022



RALPH DLG. TORRES
GOVERNOR