

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
SAIPAN, MARIANA ISLANDS

Volume 12 No. 06



June 15, 1990

commonwealth

register

Published monthly by the
Registrar of Corporations
Office of the Attorney General

COMMONWEALTH REGISTER

June 15, 1990

Volume 12 No. 06

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on the Table of Contents.) 7151

COMMONWEALTH UTILITIES CORPORATION

PUBLIC NOTICE

PROPOSED REGULATIONS

Authority.

The Board of directors in accordance with 4 CMC 8157 is authorized to adopt rules and regulations necessary to perform its duties and responsibilities, which includes the administration of the procurement and supply functions of the Corporation.

Subject matters.

The proposed CUC Procurement Regulation includes the following subjects:

Article 1 - General Provisions

Part A - General

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Part C - Public Access

Article 2 - Procurement Organization

Part A - Responsibility for Procurement of Supply

Part B - Procurement function

Article 3 - Source selection and contract formation

Part A - Source selection

Part B - Cancellation

Part C - Qualifications and Duties

Part D - Types of contracts

Part E - Inspection and Audit

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Article 4 - Procurement of Construction and Architect-Engineer Services

Article 5 - Protests and Disputes

Part A - Bid Protests and Appeals

Part B - Disputes

Article 6 - Ethics in Public contracting

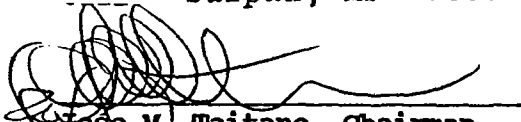
Part A - Definitions

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The public may submit written comments and/or recommendations regarding the proposed regulations during the thirty (30) day period following this date of publication in the Commonwealth Register. Such comments and/or recommendations should be sent to the Executive Director of the CUC as follows:

Executive Director
Commonwealth Utilities Corporation
Lower Base
Saipan, MP 96950



Jose M. Taitano, Chairman
Board of Directors

COMMONWEALTH UTILITIES CORPORATION

NUTISIAN PUBLIKU

PRINUPONEN REGULASION SIHA

ATORIDAT:

I Board of Directors i Commonwealth Utilities Corporation (CUC) sigon gi 4 CMC 8157 ma'atorisa na u fanadapta areklamento yan regulasion siha ni manisario para u komple i che'cho'-ña yan responsabilidat-ña siha, engklusu i atministrasion i 'procurement and supply' siha na fonksion i kotporasion.

I MANTENITUKA SUHA NA SUHETU:

I manmapropoponi siha na regulasion para i CUC Procurement ha engklulusu i mansigente siha na suhetu:

Attikulu 1 - Hinerat siha na Probension

Patte A - Hinerat

Patte B - Definision

Patte C - Mababan Rekot siha para i Pupbliku

Attikulu 2 - Oganisasion i Dibision Procurement

Patte A - Responsabilidat i Procurement and Supply

Patte B - I Fonksion i Dibision Procurement

Attikulu 3 - Sileksion Suplikadot yan Fotmasion Kontrata

Patte A - Sileksion Suplikadot

Patte B - Kanselasion

Patte C - Kualifikasion yan Responsabilidat siha

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Patte E - Inspeksion yan Aodit

Patte F - Ripot yan Rekot siha

Attikulu 4 - Maprokuran Konstraksion yan 'Archetect-Engineer' siha na Setbisiu

Attikulu 5 - Kinentra yan Atgamento siha

Patte A - Kinentra yan Inapelan 'Bid' siha

Attikulu 6 - Propio na Kondukta gi Kinentratan Publiku


Patte A - Definision

Patte B - Propio siha na Kondukta

Attikulu 7 - Otro siha na Suhetu

I pupbliku siña mana'halom tinige' siha komento yan/sino' rekomendasion put i manmapropoponi na regulasion gi halom trenta (30) dias despues di i fecha ni ma'emprenta este na nutisia gi halom i Rehistran Commonwealth. Todu komento yan/sino' rekomendasion siha debi di u mana'fanhanao guato gi i Executive Director i CUC gi sigiente na 'address':

Executive Director
Commonwealth Utilities Corporation
Lower Base
Saipan, MP 96950



Jose M. Taitano, Chairman
Board of Directors

COMMONWEALTH UTILITIES CORPORATION

ARONGORONGOL TOWLAP
MWÓGHÚTÚGHÚTÚL FFÉÉRÚL ALLÉGH

Bwang.

Schóól Board of Directors reel igha rebwe tabweey aylééwal 4 CMC 8157 nge eyoor bwangil bwe ebwe fféer allégh reel ebwe ghi ghatch mwóghútúghútúl, iye e pwal toolong ammwelil me fféerúl procurement me supply-il Corporation.

Meta kka ówtol.

Mwóghútúghútúl Fféerúl Alléghúl Procurement-il CUC nge ebwe toolong milikka faal.

Aiyééwal 1- Mwóghútúghútúl eneróód

Patti A- Eneróód

Patti B- Meta faal

Patti C- Meta emmwel towlap rebwe féerú

Aruwoowal 2- Ammwelil Procurement

Patti A- Meta yaal angaang Procurement me supply

Patti B- Mwóghútúghútúl Procurement

Ayeluwal 3- Affilil iyo ye rebwe akkamé sáangi

Patti A- Affil

Patti B- Akkayúúlo

Patti C- Bwangil me meta yaal angaang

Patti D- Tappal Aléghélegh

Patti E- Amwuri fischiy me alúghúlúghú

Patti F- Kkapasal me tiliighil

Afaawuwal 4- Sedbisyool Aléghéleghúl Construction me Architect- Engineer

Alimoowal 5- Fiiyowul me Aweweel

Patti A- Tignórol me fiiyowul bid

Patti B- Fiiyowáagháli

Aoloowal 6- Mwóghútúghútúl Aléghélegh ngáilir towlap

Patti A- Meta faal

Patti B- Aweweel mwóghútúghút

Afisuuwal 7- Meta kka bwal Akkáaw

Aramas ye e mwuschál, nge emmwel, ebwe ischiitiw meta tipal me mánghemángil reel allegh kkaal llol eliigh (30) ral, sáangi maram me ráagh ye arongorong yeel e toowow mellól Commonwealth Register. Emmwel rebwe afangaaló reel Executive Director CUC reel address ye faal;

Executive Director
Commonwealth Utilities Corporation
Lower Base
Saipan, MP 96950

CUC PROCUREMENT REGULATIONS

Article 1 - GENERAL PROVISIONS

Part A - General

Section 1-101 Purposes.

- (1) **Interpretation.** These regulations shall be construed and applied to promote their underlying purposes and policies.
- (2) **Purposes and Policies.** The underlying purposes and policies of these regulations are:
 - (a) to provide for increased public confidence in the procedures followed in CUC procurement;
 - (b) to ensure the fair and equitable treatment of all persons who deal with the procurement system of CUC;
 - (c) to provide increased economy in CUC procurement activities and to maximize to the fullest extent practicable the purchasing value of CUC funds;
 - (d) to foster effective broad-based competition within the free enterprise system; and
 - (e) to provide safeguards for the maintenance of a procurement system of quality and integrity.

Section 1-102 Authority.

These regulations are promulgated under the authority of 4 CMC 8122 and 8123, which gives CUC the duties and powers to be in control of and be responsible for procurement and supply for utility services in the Commonwealth; and 4 CMC 8157, which empowers the Board to issue regulations.

Section 1-103 Supplementary General Principles of Law Applicable.

Unless displaced by the particular provisions of these regulations, the principle of law and equity including, but not limited to, the uniform Commercial code of the Commonwealth and common law of fraud, conflicts of interest, waste, false pretenses, and public purpose shall supplement these regulations.

Section 1-104 Requirement of Good Faith.

These regulations require all parties, including CUC employees and contractors, involved in the negotiation, bidding, performance or administration of CUC contracts to act in good faith.

Section 1-105 Application of Regulations.

Except as otherwise specified by law, these regulations apply to every expenditure of CUC funds irrespective of source, including federal assistance monies and Covenant funds, which are not subject to federal procurement requirements. Nothing in these regulations shall be construed to prevent CUC from complying with the terms and conditions of any grant, cooperative agreement or memoranda of understanding.

Section 1-107 Validity of Contract.

No CUC contract covered by these regulations shall be valid unless it complies with these regulations.

Section 1-108 Remedy Against Employee.

Any procurement action of an employee of CUC in violation of these regulations is an action outside the scope of his or her employment. Should such wrongful acts be demonstrated to be willful on the part of a CUC employee, the CUC 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 such wrongful act.

Part B - Definitions

Section 1-201 Definitions.

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

1. "Attorney General" means the Attorney General of the Northern Mariana Islands.
2. "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.

3. "Contract" means all types of agreements regardless of what they may be called for the procurement of supplies, services or construction.
4. "Cost-Reimbursement Contract" means a contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and these regulations, and a fee, if any.
5. CUC" means the Commonwealth Utilities Corporation of the Commonwealth Government.
6. "Director" means the Executive Director of the commonwealth Utilities Corporation or his designee.
7. "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.
8. "Employee" means an individual receiving a salary from CUC and non-salaried individuals performing personal services of the government. This definition extends to the members of the Board. Consultants, independent contractors and part-time workers shall be considered employees.
9. "Goods" means all property, including but not limited to equipment, materials, supplies, and other tangible personal property of any kind of nature, printing, insurance, leases of real and personal property, and sale or other disposal of personal property.
10. "Governor" means the Governor of the Northern Mariana Islands.
11. "Invitation for Bids" means all documents, whether attached or incorporated by reference, utilized for soliciting bids.
12. "Person" means an individual, sole proprietorship, partnership, joint venture, corporation, other unincorporated association or a private legal entity.
13. "Procurement" means buying, purchasing, renting, leasing or acquiring construction, goods or services. It also includes all functions that pertain to the obtaining of construction, goods or services, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
14. "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.

15. "Responsible" in reference to a bidder, means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.
16. "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.
17. "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.

Part C - Public Access

Section 1-301 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 Director.

Article 2 - PROCUREMENT ORGANIZATION

Part A - Responsibility for Procurement and Supply Functions

Section 2-101 Responsibility for Procurement and Supply Functions.

The Executive Director of the Commonwealth Utilities Corporation (CUC), hereafter referred to as Director is hereby designated as the responsible Officer for the Procurement and Supply function of the CUC to assist the Board of Directors in the execution of those duties and exercise powers authorized under Chapter 1 of 4 CMC, Division 8 Sections 8122 and 8123.

Section 2-102 Procurement and Supply Manager.

The Director may designate a Procurement and Supply Manager in his office to administer and coordinate the day-to-day activities of the Procurement and Supply functions. The Procurement and Supply Manager may be assisted in carrying out his functions and duties by other employees.

Section 2-103 Duties of the Procurement and Supply Manager.

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

- (1) oversee that these regulations are observed in all CUC procurement;

- (2) hear all appeals of protests and disputes;
- (3) conduct bidding, procurement, negotiation or administration of CUC contracts upon request of the official with expenditure authority;
- (4) provide advanced planning for the centralized purchase of CUC supplies;
- (5) exercise general supervision and control over all inventories of supplies belonging to CUC; and
- (6) establish and maintain programs for the inspection, testing and acceptance of supplies.

Section 2-104 Contract Oversight.

- (1) Before the execution of a contract, it must be reviewed and approved by the Director or his designee. The Director shall review all contracts for construction, the procurement of goods, leases, the sale of goods and for services by an independent contractor to insure compliance with these regulations, that the contract is for CUC purpose, and does not constitute a waste or abuse of CUC funds.
- (2) A contract shall next be approved by the Comptroller who shall certify the availability of funds.
- (3) The Attorney General or the Legal Counsel for the Corporation shall certify the form and legal capacity of every CUC contract, change order, or purchase order. No contract for personal services or employment shall be approved if it is retroactive for more than thirty (30) days.
- (4) A contract shall be approved first by the Director, and the Chairman, Board of Directors before it is signed by the Contractor. The Director shall cause such review to occur in a prompt and timely manner.
- (5) Upon his own initiative or upon the request of the Public Auditor, the Director may refer any contract to the Public Auditor for a recommendation before he approves or disapproves of the contract.
- (6) The Director or his designee shall approve of all contracts for employment or personal services, including excepted services contracts and contracts for services by an independent contractor in a nonemployment status.
- (7) A contract may be referred back to the Director by the Chairman, Board of Directors, Attorney General or the Legal Counsel of the Corporation, or Public Auditor for further

review based on additional evidence that it may not comply with these regulations. If the Director withdraws approval or refuses to approve a contract, he shall state in writing the basis for his determination.

- (8) It is the responsibility of the Director to ensure that the contractor does not sign the contract or incur any expenses under it until all necessary government signatures have been obtained. The supervision and inspection of a project is the primary responsibility of the Director.
- (9) No contract is effective against the Commonwealth until all of the Commonwealth Officials whose signatures appear on the contract form have signed the contract. A contract shall contain a Right to Audit Records Clause.

Section 2-105 Split Contracts.

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

Section 2-106 Acceptance of Gratuities by the Director and CUC Employees.

- (1) In addition to the restriction found in Section 6-205, the Director and the employees of CUC shall be subject to these additional restrictions to avoid the appearance of impropriety.
- (2) The Director or the employees of CUC cannot accept from any person any gift of value given with the intent to influence their business judgment.

Article 3 - SOURCE SELECTION AND CONTRACT FORMATION Part A - Source Selection

Section 3-101 Methods of Source Selection.

Unless otherwise authorized by law or by regulation, all CUC contracts shall be awarded by competitive sealed bidding, except as provided in:

- (1) Section 3-103 (Small Purchase);
- (2) Section 3-104 (Sole Source Procurement);

- (3) Section 3-105 (Emergency Procurement);
- (4) Section 3-106 (Competitive Sealed Proposals);
- (5) Section 3-107 (Professional Services);
- (6) Section 4-102 (Architect-Engineer Services).

Section 3-102 Competitive Sealed Bidding.

- (1) **Invitations for Bids.** An invitation for bids shall be issued and shall include at the minimum:
 - (a) an invitation for bids number;
 - (b) date of issuance;
 - (c) name, address and location of issuing office;
 - (d) specific location where bids must be submitted;
 - (e) date, hour and place of bid opening;
 - (f) a purchase description in sufficient detail to permit full and open competition and allow bidders to properly respond;
 - (g) quantity to be furnished;
 - (h) time, place and method of delivery or performance requirements;
 - (i) essential contractual terms and conditions; and
 - (j) any bonding requirements.
- (2) **Public Notice.** Adequate public notice of the Invitation for Bids shall be given a reasonable time prior to the date set forth for the opening of bids. Publication of notice in a newspaper of general circulation in the Commonwealth once in each week over a period of (30) calendar days shall be deemed to be adequate notice.
- (3) **Bidding Time.** A bidding time of at least thirty (30) calendar days shall be provided, unless the Director determines a shorter period is reasonable and necessary.
- (4) **Bid Receipt.** All bids shall be submitted to the Office of the Director. Bids shall be received prior to the time set for opening and shall be maintained sealed in a locked receptacle at that office. If a bid is open 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 Director. No information contained in the bid shall be disclosed prior to the bid opening. The Director shall cause the opened bid to be placed into the sealed receptacle.

- (5) **Bid Opening.** The bid opening shall be conducted by the Director at the CUC Conference Room. 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 Director or his designee shall be present at the Bid Opening. The bids received prior to the bid closing date and time 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 Director shall prepare a written summary of the bid opening.
- (6) **Bid Acceptance and Bid Evaluation.** Bids shall be unconditionally accepted without alteration or correction, except as authorized in these regulations. 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.
- (7) **Bid Rejection.** A bid may be rejected for any of the following reasons:
 - (a) failure to conform to essential requirements of the invitation for Bids such as specifications or time of delivery;
 - (b) imposition of conditions or restrictions in the bid which modify requirements of the invitation or limit the bidder's liability to CUC. For example, bids shall be rejected in which the bidder;
 - (i) protects against future changes in condition, such as increased costs;
 - (ii) fails to state a price and indicates that prices 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 CUC.
 - (c) unreasonableness as to price;
 - (d) a bid from a nonresponsible bidder

(8) **Correction or withdrawal of Bids. Cancellation of Awards.** Correction or withdrawal of inadvertently erroneous bids, before or after award, or cancellation of awards or contracts based on bid mistakes must be approved by the Director in writing. After the bid opening, no changes in bid price or other provision of bids prejudicial to the interest of CUC or fair competition shall be allowed. Whenever a bid mistake is suspected, CUC shall request confirmation of the bid prior to award. In such instance, if the bidder alleges an error, CUC shall only permit correction of the bid or withdrawal of the bid in accordance with subparagraph (a) or (b).

(a) **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 error in addition or the obvious misplacement of a decimal point, or

(ii) the otherwise low bidder alleges a mistake and the intended bid is evident from the bid document or is otherwise supported by clear and convincing evidence as to the bid intended and the corrected bid remains the low bid. A low bidder may not be permitted to correct a bid mistake resulting from an error in judgement.

(b) **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 existence of a mistake.

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

(i) evidence as to the existence of the mistakes is not discovered until after the award;

(ii) there exists no clear and convincing evidence to support what the bid intended; and

(iii) performance of the contract at the award price would be unconscionable.

(9) **Award.**

(a) 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 these regulations. Unsuccessful bidders shall also be promptly notified.

- (b) Notice of an award shall only be made by the presentation of a contract with all of the required signatures to the bidder. No other notice of an award shall be made orally or by letter. No acceptance of an offer shall occur nor shall any contract be formed until a CUC contract is written and has been approved by all the officials required by law and regulations. CUC contracts shall contain a clause which states that the signature of the private contractor shall be 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.
- (c) 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 fifteen percent (15%), and time or economic considerations preclude resolicitation of work of a reduced scope, the official with expenditure authority may be authorized by the Director to negotiate an adjustment of the bid price, including changes in bid requirements, with the lowest responsive 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.

Section 3-103 Small Purchases.

- (1) 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.
- (2) No bidding is required for procurement under \$25,000.00.
- (3) For procurement valued at \$25,000 to \$50,000, the Director must obtain price quotations from at least three (3) vendors and base the selection on competitive price and quality.
- (4) Purchase orders may be utilized for small purchases in subparagraphs (2) and (3) only. In no other instance may purchase orders be utilized instead of contracts.

Section 3-104 Sole Source Procurement.

- (1) A contract may be awarded for a supply, service or construction item without competition when the Director determines in writing that there is a demonstrated benefit to CUC for sole source procurement for the required supply, service or construction item.
- (2) The written determination shall be prepared by the Director and shall contain the following information:

- (i) the unique capabilities required and why they are required and the consideration given to alternative sources.

Section 3-105 Emergency Procurement.

- (1) Notwithstanding an other provision of these regulation, CUC may make emergency procurements when there exists a threat to public health, safety or welfare under emergency conditions. An emergency procurement must be as competitive as practical under the circumstances.
- (2) A written determination of the basis for the emergency and for the selection of the particular contractor must be made by the Director and approved by the Board of Directors.

Section 3-106 Competitive Sealed Proposals.

- (1) Conditions for use. When the Director determines in writing that the use of a competitive sealed bidding is either not practical or not advantageous to the government and receives the approval of the Board of Directors, a contract may be entered into by competitive sealed proposals.
- (2) Request for proposals. Proposals shall be solicited through a request for proposals.
- (3) Public notice. Adequate public notice of the request for proposals shall be given in the same manner as provided for in competitive sealed bids.
- (4) 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.
- (5) Evaluation factors. The request for proposals shall state the relative importance of price an other evaluation factors.
- (6) 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.

- (7) Award. Award shall be made to the responsible offeror whose proposal is determined in writing to be most advantageous to CUC 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.

Section 3-107 Competitive Selection Procedures for Professional Services.

- (1) Procurement method. The services of accountants, physicians or lawyer shall be procured as provided in this section except when authorized as a small purchase, emergency procurement or sole-source procurement.
- (2) Policy. It is the policy to publicly announce all the requirements for professional services and negotiate contracts on the basis of the demonstrated competence and qualifications at a fair and reasonable price. The Director 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 interest providing such types of services. Persons may amend these statements at any time by filling new statement.
- (3) 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.
- (4) Discussions. The official with expenditure authority may conduct discussions with any offeror who has submitted a proposals to determine such offerors qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.
- (5) Award. Award shall be made to the offeror determined in writing by the Director to be the best qualified based on the evaluation factors set forth in in the request for proposals and negotiations 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 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.

**Part B - Cancellation of Invitation for Bids
or Request for Proposals**

Section 3-201 Cancellation.

An Invitation for Bids or Request for Proposals may be cancelled, and any and all bids or proposals may be rejected, when such action is determined in writing by the Director and approved by the Chairman, Board of Director to be in the best interest of CUC or any of the following reasons:

- (1) inadequate or ambiguous specifications contained in the solicitation;
- (2) specifications which have revised;
- (3) goods or services being procured which are no longer required;
- (4) inadequate consideration given to all factors of cost to CUC in the solicitation;
- (5) bids or proposals received indicate that the needs of CUC can be certified by a less expensive by a less expensive good or service;
- (6) all offers with acceptable bids or proposals received are at unreasonable prices; or
- (7) bids were collusive.

Part C - Qualifications and Duties

Section 3-301 Responsibility of Bidders and Offerors.

- (1) Award shall be made only to responsible contractors. To be determined responsible, a prospective contractor must:
 - (a) have adequate financial resources to perform the contract, or the ability to obtain them;
 - (b) be able to comply with the required delivery or performance schedule;
 - (c) have a satisfactory performance record;
 - (d) have a satisfactory record of integrity and business ethics;
 - (e) have the necessary organization, experience and skill, (or the ability to obtain them), required to successfully perform the contract;

- (f) have the necessary production, construction and technical equipment facilities, or the ability to obtain them; and
 - (g) be otherwise qualified and eligible to receive an award under applicable laws and rules.
- (2) **Obtaining information.** Prior to award, the Director shall obtain information from the bidder or offeror necessary to make determination of responsibility using the factors in paragraph 1 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 nonresponsibility with respect to that bidder or offeror.
 - (3) **Right of nondisclosure.** Information furnished by a bidder or offeror pursuant to paragraph 2 may not be disclosed outside of the office of the Director, the Attorney General or any involved government agency without prior consent by the bidder or offeror.
 - (4) **Nonresponsibility 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 nonresponsible, a written determination shall be signed by the Director stating the basis for the determination, and this shall be placed in the contract file.

Section 3-302 Prequalification of Contractors.

Prospective suppliers of goods or services may be prequalified for particular types of construction, goods and services when determined necessary by the Director. 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 prequalified suppliers. In no event will bidders be allowed to qualify after the bid opening.

Part D - Types of Contracts

Section 3-401 Types of Contracts.

- (1) Use of a cost-plus-a-percentage-cost and percentage of construction cost methods of contracting is prohibited.
- (2) CUC contracts shall utilize a firm fixed price unless use of a cost reimbursement contract is justified under paragraph 3.
- (3) A cost reimbursement contract may be used when the Director determines in writing, which is attached to the contract, that:

- (a) 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;
- (b) use of a firm fixed price contract could seriously affect the contractor's financial stability or result in payment by CUC for contingencies that never occur; or
- (c) use of a cost reimbursement contract is likely to be less costly to CUC than any other type due to the nature of the work to be performed under the contract.

Part E - Inspection and Audit

Section 3-501 Right to Inspect Place of Business.

CUC, 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 CUC.

Section 3-502 Right to Audit Records.

As required by section 404 of Public Law No. 3-91, the contractor and subcontractor or grantee and subgrantee at all levels shall provide the Public Auditor of the Commonwealth with access to and the right to examine and copy any records, data or papers relevant to a CUC 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 CUC contracts and obligations.

Part F - Reports and Records

Section 3-601 Report of Anticompetitive or Deceptive Practices.

When any person suspects the following practices are occurring among bidders, offerors, contractors or subcontractors, a notice of the relevant facts shall be transmitted to the Attorney General without delay;

- (1) unfair methods of competition;
- (2) deceptive acts; or
- (3) unfair business practices.

These acts are more fully defined at 4 CMC Section 5101 through 5206.

Section 3-602 Retention of Procurement Records

- (1) All procurement records shall be retained by the Director.

- (2) The Director shall maintain a record listing all contracts made under sole-source procurement or emergency procurement for a minimum of (5) years. The records shall contain:
 - (a) each contractor's name;
 - (b) the amount and type of each contract; and
 - (c) a listing of the supplies, services or construction procured under each contract.
- (3) All procurement records, except those designated herein as not subject to disclosure, shall be available to public inspection.

**Article 4 - PROCUREMENT OF CONSTRUCTION AND
ARCHITECT-ENGINEER SERVICES**

Section 4-101 Construction Procurement.

- (1) Invitation for Bids.
 - (a) Deposit. The Director shall determine the amount of deposit required for potential bidders to obtain the invitation for bids.
 - (b) Contents. The invitation for bids shall be prepared in accordance with section 3-102(1). In addition, the following items shall be included in the Invitation for Bids.
 - (i) Notice to Bidders. General information regarding project;
 - (ii) Instructions to Bidders. Information on the preparation of bids, bid security requirements and form and certifications that must be submitted with the bid;
 - (iii) The 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. Specification governing the technical aspects of the work to be performed;

(2) Bid Security.

- (a) **Requirement.** Bid security shall be required for all competitive sealed bidding construction contracts where the price is estimated by the Director to exceed \$25,000.00 or when the Director determines it is in the interest of CUC. Bid security shall be on a bid bond, in cash, by certified check, cashiers check or other form acceptable to CUC. 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.
- (b) **Amount.** Bid security shall be an amount to at least fifteen percent (15%) of the amount of the bid or other amount as specified in the Invitations for Bids depending upon the source of funding.
- (c) **Rejection of bid.** Failure to furnish bid security, when required by the invitation, shall result in rejection of the bid as nonresponsive.

(3) Contract Performance and Payment Bonds.

- (a) When a construction contract is awarded in excess of \$25,000.00, the following bonds or security shall be delivered to CUC and shall become binding on the parties upon the execution of the contract:

 - (i) a performance bond satisfactory to CUC, executed by a surety company authorized to do business in the Commonwealth or otherwise secured in a manner satisfactory to CUC, in an amount equal to one hundred percent (100%) of the price specified in the contract; and
 - (ii) a payment bond satisfactory to CUC, executed by a surety company authorized to do business in the Commonwealth or otherwise secured in a manner satisfactory to CUC, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the price specified in the contract.
- (4) **Suits 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 therefore before the expiration of a period of ninety (90) days after the day on which the last of the labor was done or performed by such

person for which such claim is made, shall have the right to sue on the payment bond for the amount, or the balance thereof, unpaid at the time of institution of such suit and to prosecute said action for the sum or sums justly due such persons, 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 maintains an office or conducts its business.

- (5) Suits on Payment Bonds; Where and When Brought. Every suit instituted upon a payment bond shall be brought in a court of competent jurisdiction for the Commonwealth; but not such suit shall be commenced after the expiration of one (1) year after the day on which the last of the labor was performed or material was supplied by the person bringing suit. The obligee named in bond need not be joined as a party in any such suit.
- (6) Fiscal responsibility. Every contract modification, change order, or contract price adjustment under a construction contract shall be subject to prior written certification by the Chairman, Board of Directors, 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 therefor, 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 contract modification, change order or adjustment in contract price under consideration; provided, however, that with respect to the validity, as to the contractor, of any executed contract modification, change order or adjustment in contract price which the contractor has reasonably relied upon, it shall be presumed that there has been compliance with the provisions of this subsection.

Section 4-102 Architect-Engineer Services.

- (1) Procurement Method. Architect-engineer services shall be procured as provided in this section except when authorized as

a small or emergency procurement.

- (2) **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.
- (3) **Selection.** The director and the Assistant Directors of Electrical Power, Water, Sewer. Refuse Collection Divisions 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.
- (4) **Negotiation.** The official with expenditure authority shall negotiate a contract with the highest qualified architect-engineer firm at a price determined to be fair and reasonable to CUC. If a fair and reasonable price cannot be negotiated, negotiations shall be terminated, and negotiations shall be undertaken with the second highest qualified firm. If a fair and reasonable price cannot be negotiated, negotiations shall be terminated and negotiations shall be undertaken with the third highest qualified firm. If a fair and reasonable price cannot be negotiated with any of the firms, then the officer with expenditure authority shall select additional firms in order of competence and qualifications and continue negotiations until a fair and reasonable price is agreed upon.

**Article 5 - PROTESTS AND DISPUTES
Part A - Bid Protests and Appeals**

Section 5-101 Protests to the Director.

- (1) **General.**
 - (a) 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 Director. The protest shall be received by the Director in writing within ten (10) days after such aggrieved person knows or should have known of the facts giving rise thereto. The Director shall consider all protests or objections to the award of a contract, whether submitted or before after award. If a protest is oral and the matter cannot be resolved, written confirmation of the protest shall be

requested by the Director. The written protest shall state fully the factual and legal grounds for the protests;

- (b) Other persons, including bidders, involved in or affected by the protest shall be given notice of the protest and its basis in appropriate cases. These persons shall also be advised that they may submit their views and relevant information to the Director within a specified period of time. Normally, the time specified will be one (1) week;
- (c) The Director shall decide the protest within thirty (30) 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;
- (d) When a protest, before or after award, has been appealed to the Public Auditor, as provided in these procedures, and the Director is requested to submit a report, the Director should include with his report a copy of:
 - (i) the protest
 - (ii) the bid submitted by the protesting bidder and a copy of the bid of the bidder who is being considered for award, or whose bid is being protested;
 - (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 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, the Director's report will include the determination prescribed in subparagraph (2) (D) below.
- (e) Since timely action on protests is essential, they should be handled on a priority basis. Upon receipt of notice that an appeal from the Director's decision has been taken to the Public Auditor, the Director shall immediately begin compiling the information necessary for a report as provided in subsection (d) above. To further expedite processing, the official who furnishes the agency's report

should, upon request of the protester or the public Auditor, simultaneously furnish a complete copy, (except for information privileged by law or which the Director deems must be confidential in order to benefit from competitive bidding) to the protester. In such instances, the protester shall be requested to furnish a copy of any comments on the administrative report directly to the Public Auditor as well as the Director.

(2) Protests Before Award.

- (a) The Director shall require that written confirmation of an oral protest be submitted by the time specified in section 5-101(1) (a) 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. An award may be made in the normal manner unless the Director finds it necessary in his discretion to take remedial action.
- (b) When a proper 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 readvertisement. In the event of failure to obtain such extensions of bids, consideration shall be given to proceeding with an award under subparagraph (c) below.
- (c) When a written protest is received, award shall not be made until the matter is resolved, unless the Director determines that:
 - (i) the materials and services to be contracted for are urgently required;
 - (ii) delivery or performance will be unduly delayed by failure to make award promptly; or
 - (iii) a prompt award will otherwise be advantageous to CUC.
- (d) If award is under subparagraph (c) above, the Director shall document the file to explain the need for an immediate award. The Director also shall give written notice to the protester and others concerned of the decision to proceed with the award.

(3) Protests After Award.

Although persons involved in or affected by the filing of a protest after award may be limited, in addition to the

Director, at least the contractor shall be furnished the notice of protest and its basis in accordance with subparagraph (1)(b) above. When it appears likely that an award may be invalidated and a delay in receiving the supplies or services is not prejudicial to CUC's interest, the Director should consider seeking a mutual agreement with the contractor to suspend performance on a no-cost basis.

(4) **Computation of Time.**

- (a) Except as otherwise specified, all "days" referred to in this part are deemed to be working days of the Commonwealth Government. The term "file" or "submit" Except as otherwise provided refers to the date of transmission.
- (b) 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.

Section 54-192 Appeals of Director's Decisions to the Public Auditor.

- (1) **Jurisdiction; Exhaustion of Remedies.** A written appeal to the Public Auditor from a decision by the Director may be taken provided that the party taking the appeal has first submitted a written protest to the Director as provided in Section 5-101 of these Procedures, and the Director has denied the protest or has failed to act on the protest within the time provided for in section 5-101(1)(c) above.
- (2) **Form of Appeal.** No particular form of pleading is required for filing an appeal to the Public Auditor. The appeal shall, however:
 - (a) Include the name and address of the appellant;
 - (b) Identify the number of the solicitation or contract;
 - (c) Contain a concise, logically arranged, and direct statement of the grounds for appeal; and
 - (d) Specifically request a ruling by the Public Auditor.
- (3) **Time for Filing Appeal.** An appeal from the Director's decision must be received by the Office of the Public Auditor not later than ten (10) days after the appellant receives the decision of the Director, or, in the event that the Director has not decided the protest within ten (10) days from the date that he should have pursuant to section 5-101(1)(c) above. Any appeal received after these time limits shall not be considered by the Public Auditor unless good cause is shown or unless the Public Auditor determines that the appeal presents issues significant

to procurement practices that are not outweighed by the detriment to CUC should the appeal be considered.

- (4) Notice of Protest. Submission of Director's Report and Time for Filing of Comments on Report.
- (a) The public Auditor shall notify the Director by telephone and in writing within one (1) day of the receipt of an 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 Director shall be requested to furnish in accordance with section 5-101(1)(b) of these Procedures copies of the protest and appeal documents to such parties with instruction to communicate further directly with the Public Auditor.
 - (b) 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.
 - (c) The Public Auditor shall request the Director to submit a complete report on the appeal to the Public Auditor as expeditiously as possible (generally within 25 working days) in accordance with section 501(1)(d) of these Procedures and to furnish a copy of the report to the appellant and other interested parties as defined in Section 4-101(4)(c).
 - (d) Comments on CUC report shall be filed with the Public Auditor within ten (10) days after the Public Auditor's receipt of the report, with a copy to CUC office which furnished the report and to other interested parties. Any rebuttal an appellant or interested party may care to make shall be filed with the Public Auditor within five (5) days after receipt of the comments or which rebuttal is directed, with a copy to CUC office which furnished the report, the appellant, and interested parties, as the case may be. Unsolicited CUC rebuttals shall be considered if filed within five (5) days after receipt by the CUC of the comments to which rebuttals directed.
 - (e) The failure of an appellant or any interest party to comply with the time limits stated in this section may result in resolution of the appeal without consideration of the comments untimely filed.

- (5) **Withholding of Award.** When an appeal has been filed before award, the director will not make an award prior to resolution of the protest except as provided in this section. In the event the Director determines that award is to be made during the pendency of an appeal, the Director will notify the Public Auditor.
- (6) **Furnishing of Information on Protests.** The Public Auditor 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.
- (7) **Time for submission of Additional Information.** Any additional information requested by the Public Auditor from the appellant or interested parties shall be submitted no later than five (5) days after the receipt of such request. If it is necessary to obtain additional information from the Director, the Public Auditor will request that such information be furnished as expeditiously as possible.
- (8) **Conference.**
 - (a) A conference on the merits of the appeal with the Public Auditor may be held at the request of the appellant, any other interested party, or the Director. Request for a conference should be made prior to the expiration of the time period allowed for filing comments on CUC report. Except in unusual circumstances, request for a conference received after such time will not be honored. The Public Auditor will determine whether a conference is necessary for resolution of the appeal.
 - (b) Conferences normally will be held prior to expiration of the period allowed for filing comments on CUC report. All interested parties shall be invited to attend the conference. Ordinarily, only one conference will be held on an appeal.
 - (c) Any written comments to be submitted and as deemed appropriate by the Public Auditor as a result of the conference must be received in the Office of the Public Auditor within five (5) days of the date on which the conference was held.
 - (i) **Time for Decision; Notice of Decision:** The Public Auditor shall, if possible, issue a decision on the appeal within 25 days after all information necessary for the resolution of the appeal has been received. A copy of the decision shall immediately be mailed or otherwise transmitted to the appellant, other

participating parties, and the Director.

(9) Request for Reconsideration.

- (a) Reconsideration of a decision of the Public Auditor may be requested by the appellant, any interested party who submitted comments during consideration of the protest, the Director, and any agency involved in the protest. The request for reconsideration shall contain a detailed statement of the factual and legal grounds specifying any errors of law information not previously considered.
- (b) Request for reconsideration of a decision of the Public Auditor shall be filed not later than ten (10) days after the basis for reconsideration is known or should have been known, whichever is earlier. The term "filed" as used in this section means receipt in the Office of the Public Auditor.
- (c) A request for reconsideration shall be subject to these bid protest procedures consistent with the need for prompt resolution of the matter.

Section 5-103 Remedies.

- (1) Remedies Prior to Award. If prior to award the Director or the Public Auditor determines that a solicitation or proposed award of a contract is in violation of law or regulation, then the solicitation or proposed award shall be:
 - (a) cancelled; or
 - (b) revised to comply with law or regulation.
- (2) Remedies After an Award. If after an award the Director or the Public Auditor determines that a solicitation or award of a contract is in violation of law or regulation, then:
 - (a) if the person awarded the contract has not acted fraudulently or in bad faith:
 - (i) the contract may be ratified and affirmed, provided it is determined that doing so is in the best interests of CUC; or
 - (ii) the contract may be terminated and the person awarded the contract shall be compensated for the actual expenses reasonably incurred under the contract, plus a reasonable profit, prior to termination;
 - (b) if the person awarded the contract has acted fraudulently or in bad faith:

- (i) the contract may be declared null and void; or
 - (ii) the contract may be ratified and affirmed if such action is in the best interests of CUC, without prejudice to CUC's rights to such damages as may be appropriate.
- (3) Finality of Findings of fact by the Public Auditor. A determination of an issue of fact by the Public Auditor under these Procedures shall be final and conclusive unless arbitrary, capricious, fraudulent, or clearly erroneous.

Section 5-104 Effective Date.

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

Part B - Disputes

Section 5-201 disputes.

- (1) Any dispute between CUC and a contractor relating to the performance, interpretation of or compensation due under a contract, which is the subject of these regulations, must be filed in writing with the Director within ten (10) calendar days after knowledge of the facts surrounding the dispute.
- (2) When a claim by or against a contractor cannot be satisfied or settled by mutual agreement and a decision on the dispute is necessary, the Director shall review the facts pertinent to the dispute, secure necessary legal assistance and prepare a written description that shall include:
 - (a) description of the dispute;
 - (b) reference to pertinent contract terms;
 - (c) statement of the factual areas of disagreement or agreement; and
 - (d) statement of the decision as to the factual areas of disagreement and conclusion of the dispute with any supporting rationale.

- (3) Appeals. The Director shall review and render a decision on an appeal from an adverse decision timely taken by a contractor. The Director may require a hearing or that information be submitted on the record, in his discretion. The Director may affirm, reverse or modify the decision or remand it for further consideration.
- (4) Duty to Continue Performance. A contractor that has a dispute pending before the Director or an appeal before the 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 expenditure authority.

Article 6 - ETHICS IN PUBLIC CONTRACTING
Part A - Definitions

Sections 6-101 Definition of Terms.

1. "Confidential information" means any information which is available to an employee only because of the employee's status as an employee of CUC and is not a matter of public knowledge or available to the public on request.
2. "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.
3. "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.
4. "Financial interest" means:
 - a. ownership of any interest or involvement in any relationship form or as a result of which, a person within the past year has received or is presently or in the future entitled to receive compensation; or
 - b. holding a position in a business such as an officer, director, trustee, partner, employee or the like or holding any position of management.
5. "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.

6. "Immediate family" means spouse, children, parents, brothers, sisters, mother-in-law, father-in-law, sister-in-law and brother-in-law or any member of the household.

Part B - Standards of Conduct.

Section 6-201 Policy.

CUC employment is a public trust. In CUC contracting, CUC employees shall discharge their duties impartially so as to:

- (1) insure fair competitive access to CUC procurement by reasonable contractors; and
- (2) conduct themselves in a manner as to foster public confidence in the integrity of CUC.

Section 6-202 General Standards.

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

Section 6-203 Employee Disclosure Requirements.

- (1) **Disclosure of benefit received from contract.** Any employee who has, or obtains any benefit from, any CUC contract with a business in which employee has a financial interest shall report such benefit to the Director.
- (2) **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.

Section 6-204 Employee Conflict of Interest.

- (1) **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:

- (a) the employee or any member of the employee's immediate family has a financial interest pertaining to the procurement;
 - (b) a business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement; or
 - (c) 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.
- (2) 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 Director a written statement of disqualification and shall withdraw from further participation in the transaction involved. The employee may, at the same time, apply to the Public Auditor for an advisory opinion as to what further participation, if any, the employee may have in the transaction.

Section 6-205 Gratuities and Kickbacks.

- (1) **Gratuities.** It shall be a breach of ethical standards for any person to offer, give or agree to give an 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.
- (2) **Kickbacks.** It shall be a breach of ethical standard 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 subcontractor or order.

Section 6-206 Prohibition Against Contingent Fees.

- (1) **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 CUC 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.

- (2) Representation of contractor. Every person, before being awarded a CUC contract, shall represent, in writing that such person has not retained anyone in violation of this section. Failure to do so constitutes a breach standards.

Section 6-207 Contract Clauses.

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

Section 6-208 Restrictions on Employment of Present and Former Employees.

- (1) 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 CUC by whom the employee is employed.
- (2) Restrictions on former employees in matters connected with their former duties.
 - (a) 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 CUC, in connection with any:
 - (i) judicial or other proceeding, application, request for a ruling or other determination;
 - (ii) contract;
 - (iii) claim; or
 - (iv) 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 CUC is a party or has a direct or substantial interest.

- (3) **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 CUC, in connection with any:
- (a) **judicial or other proceeding, application, request for a ruling or other determination;**
 - (b) **contract;**
 - (c) **claim; or**
 - (d) **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 responsible, where CUC is a party or has a direct and substantial interest.**

Section 6-209 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.

Section 6-210 Collusion by Bidders.

Collusion or secret agreements between bidders for purpose of securing an advantage to the bidders against CUC 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 he contract was obtained by a bidder or bidders by reason of collusive or secret agreement among the bidders to the disadvantage of CUC.

Section 6-211 Penalties.

- (1) **CUC employees.** CUC employee is any person whether appointed, excepted service or civil service. An employee who violates the provision of these rules and regulations is subject to adverse action as may be appropriate in his or her particular circumstances. This action includes but is not limited to reprimand, suspension without pay, termination of employment, civil injunction, civil suit for damages or return of CUC money, or criminal prosecution.
- (2) **Contractors.** A contractor who violates a provision of these rules and regulations shall be subject to a written warning of

reprimand, the termination of the contract or suspension from being a contractor or subcontractor under a CUC contract in addition to other penalties prescribed by law.

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

Section 6-212 Authority to Debar or Suspend.

- (1) **Authority.** After reasonable notice to the person involved and reasonable opportunity for the person to be heard under the Administrative Procedures Act, the Director, after consultation with the Board of Directors and the Attorney General or the CUC Legal Counsel, shall have authority to have 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 Board of Directors and the Attorney General or the CUC Legal Counsel, shall have authority to suspend a person from consideration for award of contracts if there is probable cause for debarment. The suspension shall not be for a period exceeding three (3) months.
- (2) **The causes for debarment or suspension include the following:**
 - (a) 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;
 - (b) 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 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;
 - (c) 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;
 - (d) violation of contract provisions, as set forth below, of a character which is regarded by the Director 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;

- (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.
 - (e) any other causes that the Director determines to be so serious and compelling as to effect responsibility as a CUC contractor, including debarment by another governmental entity; and
 - (f) for violation of any of the ethical standards set forth in Article 6.
- (3) Decision. The Director shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken.
 - (4) Notice of Decision. A copy of the decision shall be mailed or otherwise furnished immediately to the debarred or suspended person.

Article 7 - Miscellaneous

Section 7-101 Severability.

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

PUBLIC NOTICE

Proposed Regulations Promulgated Pursuant to Article XI
of the CNMI Constitution and the Village Homesteading Act
of 1979, as Amended

The Marianas Public Land Corporation (MPLC) hereby gives public notice that pursuant to its duties and responsibilities under Article XI of the Constitution, as amended, and the authority given the Corporation by and through the Village Homesteading Act of 1979, as amended, (Public Laws 1-42 and 6-6, 2 CMC Section 4331 et. seq.) promulgates these proposed regulations to update and amend its regulations issued in November 1980, under the Village Homesteading Act.

MPLC hereby advises the general public that the Village Homesteading Rules and Regulations are available at the MPLC Office, Capitol Hill, P.O. Box 380, Saipan, MP 96950.

These rules and regulations shall be effective upon notice of their adoption as provided by the CNMI Administrative Procedure Act.

Dated this 21st day of May, 1990.

MARIANAS PUBLIC LAND CORPORATION

By: Luis D.L.G. Nielsen
for William R. Concepcion
Executive Director

NUTISIAN PUPBLIKU

I MANMAPROPOPONI SIHA NA AREKLAMENTO YAN REGULASION POT ASUNTO
HOMESTEAD SONGSONG

I Marianas Public Land Corporation (MPLC) ginen este ha nana'i i pupbliku nutisia na sigon gi i checho-na yan responsabilidat-na siha ni manmapribeni gi papa i Attekulo XI gi Konstitusion yan i atoridat ni mana'i i kotporasion nu i Village Homesteading Act of 1979, komo esta manma'amenda, (Lai Pupbliku Numiru 1-42 yan 6-6 2 CMC Seksion 4331 et. seg.) ha na'guaha este i manmapropoconi siha na regulasion ni para u renueba yan amenda i regulasion-na siha ni manmalaknos gi Nubiembre 1980, gi papa i Village Homestead Act.

I MPLC given este ha atbibisa i pupbliku hinerat na kopian i areklamento yan regulasion put homestead songsong siha sina manmachule gi ufusinan i MPLC, Capitol Hill, Saipan.

Este siha na areklamento yan regulasion para u fanefektibu gigon ma'anunsia i ma'adaptan-niha ni mapribeniya nu i CNMI Administrative Procedure Act.

Mafecha gi este i mina 21st na dia gi May,
1990.

MARIANAS PUBLIC LAND CORPORATION

By: Lucy D.G. Nielsen
for William R. Concepcion
Executive Director

ARONGORONG NGALIIR TOWULAP

AWEWE KKA RE MANGIY BWE REBWE SIWILIL BWE EBWE TABWEY TINGOR YE
LLOL ARTICLE XI MELLOL CNMI CONSTITUTION, ME VILLAGE HOMESTEADING
ACT WE RE FEERU 1979

School Bwulasiyool Marianas Public Land Corporation (MPLC) re
mwuschal bwe rebwe arongaar aramas towulap, bwe reel igha rebwe
ghi attabweey fischi meta kka aar angaang sangi aileewal Article
XI mellol Constitution, igha re liwili me awela meigha re atori-
saai Corporation yeel reel Village Homesteading Act we re feeru
1979 nge raa awala me ngere liwili, (Public Laws 1-42 me 6-6,
2 CMC Aileewal 4331 et. seg.) re feeru sefaali aweewe kkewe e
toowow wool Nobembre 1980 bwe rebwe awelal, reel kkapasal me
mwoghutughutul Village Homesteading Act.

MPLC ekke aghuleey ngaliir aramas towulap bwe aa yoor Aweweel
Village Homesteading Act lloL Bwulasiyool MPLC, Capitol Hill,
P.O. Box 380, Saipan, MP 96950.

Aweewe kkaal nge ebwe alegheleghelo ngere aa rongolo bwe raa
adaptaali bweigha ebwe tabweey fischi mwoghutughutul me aileewal
CNMI Administrative Act.

Raalil ye 21st Mayo, 1990.

MARIANAS PUBLIC LAND CORPORATION

Sangi:

for Lucy Nielsen
William R. Concepcion
Executive Director

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
MARIANAS PUBLIC LAND CORPORATION

Regulations Promulgated Pursuant to Article XI of the CNMI
Constitution and the Village Homesteading Act of 1979, As Amended

The Marianas Public Land Corporation (MPLC), pursuant to its duties and responsibilities under Article XI of the Constitution, as amended, and the authority given the Corporation by and through the Village Homesteading Act of 1979, as amended, (Public Laws 1-42 and 6-6, 2 CMC Section 4331 et seq.) promulgates these regulations to update and amend its regulations issued in November, 1980, under the Village Homesteading Act.

1. AUTHORITY

These regulations are promulgated by MPLC pursuant to two independent sources of rule-making authority: (1) MPLC's constitutional authority and (2) Section 7 of P.L. 1-42, as amended - the Village Homesteading Act of 1979, 2 CMC Section 4331 et seq.

2. PURPOSE AND POLICY OF AMENDMENTS TO VILLAGE HOMESTEAD
REGULATIONS

These regulations are promulgated to update and amend the Village Homesteading Regulations promulgated by MPLC on November 3, 1980, published in the Commonwealth Register dated March 30, 1981, at pages 1189 - 1199 and effective on April 30, 1981.

In promulgating these regulations, MPLC notes that there has been an ever-increasing number of applicants for village homesteads and an ever-diminishing supply of public lands that may be allocated to village homestead developments. In these regulations village homestead application categories are based upon the legislative criteria established in Public Law 1-42, as amended.

For example, the income and asset eligibility criteria are promulgated pursuant to the legislature's direction that the Act be established for residents "who are without village lots and do not have the means to acquire village lots." (P.L. 1-42, Section 2 (c) (1), 2 CMC Section 4332(c)(1).) MPLC has determined that it may cost between \$20,000 to \$100,000 to acquire an average village lot in the CNMI. The income/assets eligibility criteria promulgated in paragraph 3(e) of these regulations will

disqualify those applicants who may not own land in the CNMI, but who have sufficient income and/or assets to acquire a village lot in the CNMI.

3. AMENDMENT TO REGULATIONS. Paragraph 2 is redesignated to be Paragraph 2(a), and a new paragraph 2(b) - Definitions - is added to the Village Homestead Regulations to read as follows:

2(b). Definitions

- (1). "Dependent" means a child under the age of 18 who resides in the same dwelling as the applicant and who is "financially dependent" upon the applicant for more than 50 percent of their support.
- (2). "Domiciliary" means a person who physically maintains a residence on an island of the CNMI with the intention of continuing that residence for an indefinite period and to which that person has the intention to return whenever absent, even for an extended period such as when the person is temporarily away at school. A person's domicile shall be determined in accordance with the criteria and rules set forth in 1 CMC Section 6203 and 6204. (Source: 2 CMC 4303(c) and 1 CMC Section 6202 (defining domicile).)
- (3). "Resident" means a person who is physically present on an island of the CNMI, except for temporary periods, and who intends to continue dwelling on that island for the indefinite future. A person may be deemed a "resident" of the CNMI if the person temporarily resides outside of the Commonwealth for the limited purpose of seeking health care, education, job training, employment, or other job-related reasons.
- (4). "Single" means a person who is not married by common law or by civil law. A person is deemed married under these regulations if he or she has continuously cohabitated for three years or more in a dwelling with another person of the opposite sex in a marriage-like relationship.
- (5). "Village lot" means a lot that MPLC determines is reasonably fit for the construction of a home and that has or will have reasonable access to power and water utility services. (Source: 2 CMC 4333 (a)(4).)

4. AMENDMENT TO PARAGRAPH 3. Paragraphs 3(d), (e), and (f) of the Village Homesteading Regulations are amended in their

entirety to read as follows:

3. Standards of Eligibility ...
- d) Eligibility for a Village Homestead Lot: General Rules

An applicant is not eligible for a village homestead lot unless the applicant and the applicant's spouse, if any:

1. are residents of the Commonwealth.
2. are "domiciliaries" of the Senatorial District in which the village homestead lot applied for is located. (Source: P.L. 6-6, Section 2(c), 2 CMC Section 4303 (c).)
3. have not been recipients of a village homestead lot under this program or any previous homestead programs; provided, however, that an applicant is eligible to apply for a village homestead lot if his or her spouse has been divested of a village homestead lot by a court decree pursuant to divorce proceedings which awarded the village homestead lot to either the children or the former spouse. (Source: P.L. 6-6, Section 2(b), 2 CMC Section 4333(a)(4).)
4. do not own any "village lot", as defined above in paragraph 2(b)(5). (Source: 2 CMC Section 4333(a)(4).)
5. do not have any direct or indirect, possessory or non-possessory, contingent or vested interest in any "village lot", as defined above in paragraph 2(b)(5). (Source: 2 CMC Section 4333(a)(4).)
6. The applicant is a person of Northern Marianas descent and age 18 years or more.

In determining whether an applicant or the applicant's spouse has an "interest" in a village lot, the following rules shall apply:

- A. If either person has an undivided interest in land (through inheritance or otherwise) that may be defined as a "village lot", the applicant is not eligible for a village homestead.
- B. If either person is the guardian of minor children to whom either person has directly or indirectly caused the person's land to be conveyed, the applicant is not eligible for a village homestead. (This

element also may show an applicant's lack of need for a village homestead lot.)

- C. If either person is the trustee with a possessory interest in a village lot, the applicant is not eligible for a village homestead.
- D. If either person has conveyed their interest in a village lot to a corporation owned, in whole or in part, by him or her, the applicant is not eligible for a village homestead.
- E. If either person has a leasehold interest of 10 years or more in a village lot, the applicant is not eligible for a village homestead.
- F. If either person has granted by deed or lease any interest in a village lot to another person or entity within 3 years of the application, the applicant is not eligible for a village homestead.
- G. In circumstances similar to those listed above where the staff reasonably determines that either person has a direct or indirect possessory interest in a village lot. (Source: P.L. 1-42, Section 3(a).)

(e). Eligibility for a Village Homestead Lot: Applicant's Gross Income and Assets

An applicant and the applicant's spouse, if any, shall meet the net income/asset eligibility criteria established by this paragraph. The priorities for the issuance of a village homestead permit shall be based, in part, upon the information disclosed under this section.

An applicant and his or her spouse shall disclose under penalty of perjury to MPLC if their income for the three tax years immediately before the date of the application was less than \$70,000 each tax year. The applicant and spouse, if any, shall also complete an information sheet designed by MPLC that discloses net worth/assets and total household gross income. As used in these regulations, the term "applicant's income includes the total household gross income of the applicant and his/her spouse.

MPLC may thereafter require the applicant to verify the information through such documentation as may be appropriate. MPLC may also substantiate such information as it deems appropriate through the Division of Revenue and Taxation, Department of Finance, NMI Retirement Fund, and other appropriate agencies.

In the absence of clear and convincing evidence of extraordinary circumstances, an applicant with an income of \$70,000 or more or a net worth of \$150,000 is financially disqualified from applying for or receiving a village homestead lot.

(f) Eligibility for a Village Homestead Lot: Applicant's Immediate Needs for Housing

MPLC shall apply the following general rules in determining an applicant's immediate need for housing:

1. To assist MPLC in determining an applicant's immediate need for housing, the applicant shall disclose under penalty or perjury on a form provided by MPLC the type, nature, and condition of the housing currently occupied by the applicant. The information shall also disclose the number of dependents who rely upon the applicant and the applicant's spouse, if any, for their sole or partial support. In order to verify the information, MPLC may require the applicant to provide such additional documentation as MPLC deems appropriate. (Source: 2 CMC Section 4333(e).)
2. Immediate Need - An applicant has an immediate need for housing if the applicant has only a temporary right to occupy a dwelling, has leased their dwelling or at least one year on a year or month to month basis, is sharing a dwelling with another family, or as living in a dwelling constructed of materials that are not typhoon-proof, fire-safe, or sanitary, and it would be unreasonably expensive for the applicant to improve the unsafe or unsanitary dwelling to meet appropriate housing standards.
3. General Need - An applicant has a general need for housing if the applicant may occupy a dwelling for a reasonable future period and the dwelling is or at the applicant's reasonable expense may be made typhoon-proof, fire-safe, and sanitary.
4. An applicant is not eligible for a village homestead if the applicant is imprisoned, because the applicant has no immediate need for housing and is unable to comply with the terms and conditions of the permit until released from prison. (Source: 2 CMC Section 4333(e).)

5. AMENDMENT TO APPLICATION PROCEDURE. The village homestead application forms incorporated herein as Appendix "A" is hereby amended as attached.

Paragraph 4 - Application - Procedure of the Regulations is amended to add a new subparagraph (e) to read as follows:

(e) Procedure for Rejection of Ineligible Applicants:
Right to Appeal

If MPLC determines an applicant is ineligible for participation in the village homesteading program, the applicant shall be notified by letter setting forth the basis for MPLC's determination and informing the applicant of a right to appeal the determination within 30 days of the receipt of the letter. If an appeal is taken, a hearing committee appointed by the Board shall hear the appeal. The decision of the hearing committee shall be final.

6. AMENDMENT TO PRIORITIES FOR VILLAGE HOMESTEADS. - Paragraph 5 of the Village Homesteading Regulations is amended in its entirety to read as follows:

MPLC shall prioritize the applications submitted by those applicants who are found to be eligible for a village homestead based upon the following criteria:

- (1) the relative immediate needs for housing - Immediate Need or General Need,
- (2) net household income/net worth/assets,
- (3) number of dependents,
- (4) residence, and
- (5) such other criteria as is provided by law.

The priorities shall be by classes and categories as follows:

A.1 Class One - First Priority.

Applicants and their spouses, if any, shall be ranked class one - first priority if they are determined to (1) inhabit currently unsafe or unsanitary housing or otherwise have an immediate need for housing, (2) be married or be single with at least 1 child dependent, (3) have a gross income of less than \$70,000 per year and a net worth of less than \$150,000 and (4) presently reside on the Island on which the homestead is awarded.

A.2 Class Two - First Priority.

Applicants who are single if 3 years have passed since the date of their application shall be ranked class two

- first priority if they are determined to (1) inhabit currently unsafe or unsanitary housing or otherwise have an immediate need for housing, (2) have no child dependents, (3) have an income of less than \$70,000 per year, and a net worth of less than \$150,000 and (4) presently reside on the Island on which the homestead is awarded. (Source: 2 CMC Section 4333(e), P.L. 6-6, Section 2(a).)

B.1 Second Priority.

Applicants and their spouses, if any, shall be ranked second priority if they are determined to (1) have a general need for housing, and (2) have a gross income of less than \$70,000 per year and a net worth of less than \$150,000. The number of dependents and marital status are not taken into account in Second Priority. Single applicants without a child dependent shall be ranked second priority if they have an immediate need for housing, but less than three years have passed since the date of their application. (Source: P.L. 6-6, Section 2(a); 2 CMC Section 4333(e), as amended.)

C. Third Priority.

Applicants and their spouses, if any, shall be ranked as third priority applicants if the applicant temporarily resides outside of the Commonwealth for the purpose of seeking health care, education, job training, employment, or other job-related reasons.

Applicants may be prioritized within each class by the relative date on which they submitted their applications.

7. CONFORMANCE WITH BUILDING CODES. Pursuant to MPLC's delegated authority under Section 3(b) of P.L. 1-42, 2 CMC Section 4333(b), (directing the establishment of "village homestead subdivisions that are consistent with modern urban planning standards"), these regulations provide that dwelling houses on village homestead lots shall be built in conformance with building code, fire safety code, and electrical code standards adopted from time to time by MPLC (until such time as such codes are adopted by the Legislature for homestead dwellings in the CNMI).

Paragraph 7 - Village Homestead Requirements - of the Regulations is amended to provide for infrastructure user fees by amending subparagraph (d) to read as follows:

(d) The dwelling place shall be built in conformance with such building code, fire safety code, and electrical code standards as CNMI law may require and as MPLC may

from time to time adopt by resolution. If the legislature enacts such codes, the dwelling place shall be built in conformance with such codes. Any outhouses or septic tanks on the premises shall be kept and maintained in a clean, safe, and sanitary condition.

8. INFRASTRUCTURE EXTENSION AND IMPACT FEES. Pursuant to MPLC's delegated authority in Section 3(c) of P.L. 1-42, 2 CMC Section 4333(c), (directing the establishment of "reasonable filing fees and other related charges"), these regulations provide that an applicant shall pay such fees as are charged to cover the cost of the extension of power, water, and sewer utilities to dwelling houses on village homestead lots. Because the Commonwealth Utilities Corporation ("CUC") is charged by law with the provision of power, water, and sewer utility services, the CUC will determine the fees to be charged.

Paragraph 7 - Village Homestead Requirements - of the Regulations is amended to provide for infrastructure user fees by adding a new subparagraph (f) to read as follows:

- (f) If power, water, and sewer utilities are available at the village homestead lot, the applicant shall connect the dwelling house to such services and pay such fees to CUC or any other entity as are required or charged for connection and service. Before receiving a deed, an applicant shall provide MPLC with such proof of connection to available utilities and payment of the appropriate fees as MPLC shall reasonably require.

9. PARAGRAPH 7(c) - Village Homestead Requirements - of the Regulations is amended to read as follows:

- (c) The applicant shall openly and continuously use the dwelling place as the principal place of residence of the applicant and his family by no later than the end of the second year of the issuance of the permit. At no time shall the applicant lease, assign, or formally or informally delegate or transfer maintenance or control of the village homestead to relatives, employees, agents, or other persons without a showing of good cause and the prior written authorization of MPLC.

10. AMENDMENT. Appendix "E" (Quitclaim Deed) is amended to read as attached.

11. AMENDMENT FOR PENALTIES. Paragraph 11 - Grounds for Revocation - shall be redesignated as paragraph 11(a) and a new paragraph 11(b) shall be added to read as follows:

11.B. Grounds for Disqualification

1. If an applicant knowingly and willfully submits false information to MPLC under penalty of perjury, the matter shall be referred to the Attorney General for prosecution and the applicant shall be disqualified from participation in the Village Homesteading Program.

2. If an applicant negligently or recklessly submits false information to MPLC or otherwise misleads MPLC, the applicant may be disqualified from participation in the Village Homesteading Program permanently or for a period of time to be determined by the Board.

12. AMENDMENT. A new paragraph 16 - Public Notice - is added to the Regulations to read as follows:

16. Public Notice. For the purpose of a full disclosure of the proposed distribution of public land, MPLC may from time to time publish the names and classifications of those applicants who are eligible for a village homestead. In those cases where a village homestead lot has been designated for an applicant, the notice shall disclose the number of the village homestead lot.

13. EFFECTIVE DATE. These regulations shall take effect upon notice of their final promulgation as provided by the CNMI Administrative Procedure Act.

H. J. ...

PERSONAL FINANCIAL STATEMENT

As of _____, 19____

Name: _____

Name of Spouse: _____

ASSETS		DOLLARS	CENTS	LIABILITIES		DOLLARS	CENTS
Cash in bank _____ (Give Name)				Notes payable _____ (Give Name)			
Accounts Receivable _____				Accounts payable _____			
Stocks and Bonds _____				Taxes payable _____			
_____ Receivable _____				Contracts payable _____			
_____ Autos _____ (Year-Make) (Year-Make)							
Real Estate _____				Other Liabilities (describe)			
Other Assets (describe)				1. _____			
				2. _____			
				3. _____			
				4. _____			
				TOTAL LIABILITIES			
				NET WORTH (Total Assets - Total Liab.)			
TOTAL ASSETS				TOTAL			

MARIANAS PUBLIC LAND CORPORATION
P.O. Box 380
Saipan, MP 96950

RESIDENTIAL HOMESTEAD APPLICATION
(Single and Other Applicant(s))

A. BIO DATA

1. Full Name of applicant: _____
(LAST) (FIRST) (MIDDLE)
2. Place of Birth: _____
3. Date of Birth: _____
4. Name of Parents: (Mother) _____
(Father) _____
5. Home Address: _____
6. Mailing Address: _____
7. Telephone No: Home _____ Work _____
8. Number of dependent children under 18 years: _____
(Attach birth certificate of children)
9. Occupation: _____
10. Name and Address of Employer: _____

11. Annual Salary: _____
12. Was your net income in each of the previous three
years less than \$70,000? Yes _____ No _____
13. Is your net worth less than \$150,000? _____

B. LAND OWNERSHIP STATEMENT

1. Do you own land in the
Commonwealth of the Northern Marianas? _____
2. Where is the land located? _____
How large is the land? _____

3. Whose house/land are you presently residing on?

Where is the house/land located? _____

What arrangement? _____

4. Have you ever owned land prior to this application? _____

Is it a village homestead? _____ Did you sell it? _____

When? _____ Give it away? _____ When? _____

5. Are you presently occupying any public land? _____

Under what arrangement? _____

6. Do you own a house now? _____

What type of house? _____

7. Is the house located on your land? _____

If not, whose land? _____

What arrangement? _____

8. Are your parents living? _____ If deceased, are

there any lands belonging to their estate? _____

Where? _____ Is it a village lot? _____

Is it an agriculture tract? _____ How large? _____

9. On what island are you applying for residential homestead?

() Saipan () Rota () Tinian

C. HOME CONSTRUCTION/FINANCING

1. If you are awarded public land for residential homestead, how soon do you plan to construct a house?

2. What type of home construction do you plan to construct?

() concrete/hollow block () Corrugated iron/tin

() wooden () other combination (specify)

3. How do you propose to finance your home construction?

From personal savings \$ _____
Through the bank(s) \$ _____
Through MIHA/FHA \$ _____
Other Financial sources \$ _____

4. Do you have a pending loan application for home construction with any of the following lending institutions?

MIHA _____ American Savings _____
FmHA _____ Others (specify) _____

D. PERSONAL FINANCIAL STATEMENT: See attached Exhibit A

E. This form may be supplemented and revised from time to time as MPLC determines appropriate.

DECLARATION BY APPLICANT

I, _____,
declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on _____, 19____ at _____, Commonwealth of the Northern Mariana Islands. Also, I understand that by falsifying any of the answers provided herein for the purpose of obtaining public land for residential homesteading, MPLC is authorized by me to declare our application null and void, and I am liable for criminal penalties as provided by law.

Date

Signature of Applicant

Date

Signature of Applicant

MARIANAS PUBLIC LAND CORPORATION
P.O. Box 380
Saipan, Northern Mariana Islands 96950

1 COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
2 MARIANAS PUBLIC LAND CORPORATION

3
4 QUITCLAIM Deed
5 FOR
6 VILLAGE HOMESTEAD LOT

7 This Indenture made this _____ day of _____,
8 19____, by and between the Marianas Public Land Corporation
9 of the Commonwealth of the Northern Mariana Islands,
10 hereinafter referred to as the "GRANTOR", and
11 _____,
12 of _____, Northern Mariana Islands, hereinafter
13 referred to as "GRANTEES".

14 WITNESSETH THAT:

15 WHEREAS, Grantees were issued a permit to homestead
16 village Lot _____, in _____, Northern
17 Mariana Islands on _____; and

18 WHEREAS, Grantees complied with all of the provisions
19 of the homestead laws pertaining to said village lot, and to
20 the terms and conditions of their Homestead Permit, incorporated
21 herein by reference.

22 NOW, THEREFORE, pursuant to the provisions of the Village
23 Homesteading Act of 1979, as amended, the Grantor, having the
24 powers to manage and dispose of public lands under Article XI
25 of the Constitution on behalf of the Commonwealth, now do
26 hereby by these presents remise, release and quitclaim forever

1 to the Grantees, all right, title, interest, or claim of the
2 Commonwealth in or to the following described real property
3 situated and lying in _____, Northern Mariana
4 Islands.

5
6 Lot Number _____, containing an area of
7 _____ square meters, more or less, as more
8 particularly described on Drawing/Cadastral Plat
9 No. _____, dated _____,
Commonwealth Recorder's File No. _____,
dated _____, the description
therein being incorporated herein by reference.

10 TO HAVE AND TO HOLD the same unto the Grantees, their
11 heirs and assigns, forever, together with all fixtures and
12 appurtenances belonging thereto, but reserving to the
13 Commonwealth, its successors and assigns, all mineral rights or
14 such water rights as may be required, the existing roadways,
15 and other easements upon the Premises. There is also hereby
16 reserved for the benefit of the Commonwealth, its successors
17 and assigns, from the Premises necessary rights of way for
18 construction of utility lines, pipelines, or other conduits
19 with necessary maintenance and access roads as may be
20 constructed by the authority of the Commonwealth, its successors
21 and assigns; but this reservation shall not be construed to
22 waive any claim for injury to growing crops, improvements,
23 surface damage, or other injuries sustained by the Grantees,
24 their heirs and assigns, as a direct result of the execution of
25 the work or exercise of the right of entry under this
26 reservation.

MARIANAS PUBLIC LAND CORPORATION
P.O. Box J
Saipan, Northern Mariana Islands 96950

1 The property conveyed by this Deed shall be used for
2 single family residential purposes unless a public zoning
3 authority, (or in the absence thereof, Grantor, its successors
4 and assigns), approves in writing, after notice and opportunity
5 for a hearing, a change in use for all village homestead lots
6 that comprise the subdivision of which this village homestead
7 lot is a part.

8 AND Grantees may not transfer a freehold interest, or an
9 option or leasehold interest of more than one year, for ten
10 years after receipt of this Deed, pursuant to Article XI,
11 Section 5(a) of the Constitution of the Northern Mariana Islands
12 and the Village Homesteading Act of 1979, as amended.

13 IN WITNESS WHEREOF, the Chairman of the Board of Directors
14 of the Marianas Public Land Corporation, pursuant to the
15 authorization of the Board hereby affix his signature on the
16 day and year first above written.

18 MARIANAS PUBLIC LAND CORPORATION

20 By: _____
21 Jose I. Guerrero
22 Chairman
23 Board of Directors

24 Approved as to form:

25 _____
26 MPLC Legal Counsel

MARIANAS PUBLIC LAND CORPORATION
P.O. Box 380
Saipan, MP 96950

RESIDENTIAL HOMESTEAD APPLICATION
(Married Applicant(s))

A. BIO DATA

1. Full Name of applicant(s):

(Husband) _____
(LAST) (First) (Middle)

(Wife) _____
(LAST) (First) (Middle)

2. Place of Birth: (Husband) _____
(Wife) _____

3. Date of Birth: (Husband) _____
(Wife) _____

4. Home Address: _____

5. Mailing Address: _____

6. Telephone No: Home _____ Work _____

7. Number of dependent children under 18 years: _____
(Attach birth certificate of children)

8. Occupation(s): (Husband) _____
(Wife) _____

9. Name and Address of Employer:
(Husband) _____

(Wife) _____

10. Annual Salary: Husband: \$ _____ Wife: \$ _____

11. Was your combined net income in each of the previous three years less than \$70,000? Yes _____ No _____

12. Is your net worth less than \$150,000? _____

B. LAND OWNERSHIP STATEMENT

1. Do you or your spouse own land in the Commonwealth of the Northern Marianas? _____

2. Where is the land located? _____

How large is the land? _____

3. Whose house/land are you presently residing on?

Where is the house/land located? _____

What arrangement? _____

4. Have you ever owned land prior to this application? _____

Is it a village homestead? _____ Did you sell it? _____

When? _____ Give it away? _____ When? _____

5. Are you presently occupying any public land? _____

Under what arrangement? _____

6. Do you own a house now? _____

What type of house? _____

7. Is the house located on your land? _____

If not, whose land? _____

What arrangement? _____

8. Are your parents living? (Husband's parents) _____

(Wife's parents) _____ If either or both of your

parents are now deceased, are there any lands belonging to

them? _____ Where? _____

Is it a village lot? _____ How many village lot? _____

Full name of parents:

Husband's: Father _____

Mother _____

Wife's: Father _____

Mother _____

9. On what island are you applying for residential homestead?
() Saipan () Rota () Tinian

C. HOME CONSTRUCTION/FINANCING

1. If you are awarded public land for residential homestead, how soon do you plan to construct a house?

2. What type of home construction do you plan to construct?

() concrete/hollow block () Corrugated iron/tin
() wooden () other combination (specify)

3. How do you propose to finance your home construction?

From personal savings \$ _____
Through the bank(s) \$ _____
Through MIHA/FHA \$ _____
Other Financial sources \$ _____

4. Do you have a pending loan application for home construction with any of the following lending institutions?

MIHA _____ American Savings _____

FmHA _____ Others (specify) _____

- D. PERSONAL FINANCIAL STATEMENT: See attached Exhibit A

- E. This form may be supplemented and revised from time to time as MPLC determines appropriate.

DECLARATION BY APPLICANTS

We, _____,
declare under penalty of perjury that the foregoing is true and
correct and that this declaration was executed on _____,
19____ at _____, Commonwealth of the Northern Mariana
Islands. Also, we understand that by falsifying any of the
answers provided herein for the purpose of obtaining public land
for residential homesteading, MPLC is authorized by us to declare
our application null and void, and we are liable for criminal
penalties as provided by law.

Date

Signature of Applicant

Date

Signature of Applicant

PERSONAL FINANCIAL STATEMENT

As of _____, 19____

Name: _____

ASSETS	DOLLARS	CENTS
Money in bank _____ <small>(Give Name)</small>		
Accounts Receivable _____		
Stocks and Bonds _____		
_____ Receivable _____		
_____ Autos _____ <small>(Year-Make) (Year-Make)</small>		
Real Estate _____		
Other Assets (describe) _____		

TOTAL ASSETS		

LIABILITIES	DOLLARS	CENTS
Notes payable _____ <small>(Give Name)</small>		
Accounts payable _____		
Taxes payable _____		
Contracts payable _____		
Other Liabilities (describe)		
1. _____		
2. _____		
3. _____		
4. _____		
TOTAL LIABILITIES		
NET WORTH (Total Assets - Total Liab.)		
TOTAL		

MARIANAS PUBLIC LAND CORPORATION
P.O. Box 360
Saipan, Northern Mariana Islands 96950

1 COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
2 MARIANAS PUBLIC LAND CORPORATION

3 QUITCLAIM DEED
4 FOR
5 VILLAGE HOMESTEAD LOT

6 This Indenture made this _____ day of _____,
7 19____, by and between the Marianas Public Land Corporation
8 of the Commonwealth of the Northern Mariana Islands, hereinafter
9 referred to as the "GRANTOR" and _____
10 of _____, Northern Mariana Islands, hereinafter
11 referred to as "GRANTEE".

12 WITNESSETH THAT:

13
14 WHEREAS, Grantee was issued a permit to homestead
15 village Lot _____, in _____, Northern
16 Mariana Islands on _____; and

17 WHEREAS, Grantee complied with all of the provisions of
18 the homestead laws pertaining to said village lot, and to
19 the terms and conditions of his/her Homestead Permit,
20 incorporated herein by reference.

21 NOW, THEREFORE, pursuant to the provisions of the Village
22 Homesteading Act of 1979, as amended, the Grantor, having the
23 powers to manage and dispose of public lands under Article XI
24 of the Constitution on behalf of the Commonwealth, now do
25 hereby by these presents remise, release and quitclaim forever
26 to the Grantee, all right, title, interest, or claim of the

MAHIANAS PUBLIC LAND INFORMATION
P.O. Box 8
Saipan, Northern Mariana Islands 96950

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Commonwealth in or to the following described real property situated and lying in _____, Northern Mariana Islands.

Lot Number _____, containing an area of _____ square meters, more or less, as more particularly described on Drawing/Cadastral Plat No. _____ dated _____, Commonwealth Recorder's File No. _____, dated _____, the description therein being incorporated herein by reference.

TO HAVE AND TO HOLD the same unto the Grantee, his/her heirs and assigns, forever, together with all fixtures and appurtenances belonging thereto, but reserving to the Commonwealth, its successors and assigns, all mineral rights or such water rights as may be required, the existing roadways, and other easements upon the Premises. There is also hereby reserved for the benefit of the Commonwealth, its successors and assigns, from the Premises necessary rights of way for construction of utility lines, pipelines, or other conduits with necessary maintenance and access roads as may be constructed by the authority of the Commonwealth, its successors and assigns; but this reservation shall not be construed to waive any claim for injury to growing crops, improvements, surface damage, or other injuries sustained by the Grantee, his/her heirs and assigns, as a direct result of the execution of the work or exercise of the right of entry under this reservation.

MARIANAS PUBLIC LAND CORPORATION
P.O. Box 360
Saipan, Northern Mariana Islands 96950

1 The property conveyed by this Deed shall be used for
2 single family residential purposes unless a public zoning
3 authority, (or in the absence thereof, Grantor, its successors
4 and assigns), approves in writing, after notice and opportunity
5 for a hearing, a change in use for all village homestead lots
6 that comprise the subdivision of which this village homestead
7 lot is a part.

8 AND Grantee may not transfer a freehold interest, or an
9 option or leasehold interest of more than one year, for ten
10 years after receipt of this Deed, pursuant to Article XI,
11 Section 5(a) of the Constitution of the Northern Mariana Islands
12 and the Village Homesteading Act of 1979, as amended.

13 IN WITNESS WHEREOF, the Chairman of the Board of Directors
14 of the Marianas Public Land Corporation, pursuant to the
15 authorization of the Board hereby affix his signature on the
16 day and year first above written.

17

18

MARIANAS PUBLIC LAND CORPORATION

19

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By: _____

Jose I. Guerrero
Chairman
Board of Directors

21

22

23

Approved as to form:

24

25

MPLC Legal Counsel

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A. First Priority

Depending on the number of village homestead lots available for homesteading, MPLC shall, as a matter of First Priority, give a village homestead to those eligible applicants residing in the Commonwealth and do not own any land in the Commonwealth. Applicants in this category, subject to demonstration of need for a village lot, are as follows:

- a) Married and are with or without children.
- b) Widowed with children or dependents.
- c) Single (or head of household) with children or dependents.

B. Second Priority

Those applicants who are eligible to a village homestead, reside in the Commonwealth and do not own any land in the Commonwealth, shall be considered Second Priority, if such applicants are:

- a) Widowed without children or dependents.
- b) Single without children or dependents.

C. Third Priority

The applicants, as listed in First and Second Priorities above, shall be considered as falling in Third Priority if such applicants are temporarily residing outside the Commonwealth for reasons of education, employment training or Commonwealth employment related reason, or for health or medical reasons. Also falling in Third Priority are applicants who have an undivided fee interest in lands within the Commonwealth. Applicants in Third Priority shall be considered for homestead lot issuance, after First and Second Priority applicants have been dealt with.

D. Ineligible Applicants

Those applicants who are determined ineligible to receive village homestead lots due to Constitutional and statutory restrictions shall be notified in writing of such determination. The letter notice shall specify the reasons showing ineligibility and informing the applicant that he or she may appear before MPLC for a reconsideration of his application to homestead.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF COMMERCE AND LABOR
SAIPAN, MARIANA ISLANDS 96950

FAX (670) 322-4008
PHONE: (670) 322-8711
(670) 322-8712
(670) 322-8713
(670) 322-8714
(670) 322-4324

NOTICE OF ADOPTION

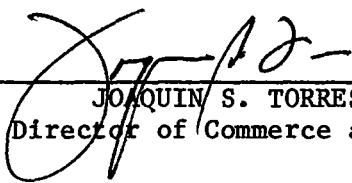
ADOPTION OF PERMANENT REGULATIONS AMENDING CERTAIN SECTIONS
OF THE ALIEN LABOR RULES AND REGULATIONS RELATING TO
LABOR IDENTIFICATION CERTIFICATE AND APPLICATION FEES

The Director of Commerce and Labor pursuant to the authority conferred by 1 CMC 2453(d), 1 CMC 9104(b) and 3 CMC 4435(b) hereby gives notice of its adoption of the amendments to the Regulations Amending Certain Sections of the Alien Labor Rules and Regulations Relating to Labor Identification Certificate and Application Fees as previously published as Emergency and Proposed Permanent regulations at Volume 12, No. 05, Pages 7013-7015, May 15, 1990.

A copy of the adopted amendments to the regulations may be obtained from the Registrar of Corporations, Office of the Attorney General, 2nd Floor, Administration Building, Capitol Hill, Saipan, MP 96950, or the same may be obtained at the Office of the Director, Department of Commerce and Labor, 1st Floor Administration Building, Capitol Hill, Saipan, MP 96950.

The said amended regulations shall take effect ten (10) days after this publication in the Commonwealth Register.

Date: 5/29/90



JOAQUIN S. TORRES
Director of Commerce and Labor



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF COMMERCE AND LABOR
SAIPAN, MARIANA ISLANDS 96950

FAX (670) 322-4008
PHONE: (670) 322-8711
(670) 322-8712
(670) 322-8713
(670) 322-8714
(670) 322-4324

NOTISIA POT I MANMA'ADOPTA

MANMA'ADOPTA I PETMANENTI NA AREKLAMENTO POT I TINILAIKA SIHA
GI NUSKUANKOS NA SEKSION I AREKLAMENTON I TIMAN'RESIDENTI
SIHA NA MAN'FAFACHOCHO POT I SETTIFIKUN AIDENTIFIKASION
PARA MACHOCHO YAN I APAS I APLIKASION

I Direktot i Kometsio yan Hotnat sigun gi i aturidat ni manae gi papa i lai 1 CMC 2453(d), 1 CMC 9104(b) yan 3 CMC 4435(b) man'nanae notisia pot i manma'adopta siha na tinilaikan i areklo pot i timan'residenti siha na man'fafachocho pot i settifikun aidentifikasion para machocho yan i apas i aplikasion ni esta ma'publika komu emergency yan i ma'propositu para petmanenti na areklo gi Volume 12, Numeru 05, pahina 7013-7015, gi May 15, 1990.

Kopian este siha na tinelaika pot i areklamento sina man'machule gi Ofisinan i Registrar of Corporations, gaige gi Ofisinan i Henerat na Abugadu, Segundo Bibienda gi Atministrasion na Guma giya Capitol Hill, Saipan, MP 96950 osino sinaha' machule gi Ofisinan i Direktot i Depattamenton Kometsio yan Hotnat, gaige gi Primet Bibienda gi Atministrasion na Guma gi Capitol Hill, Saipan, MP 96950.

Este siha i esta manma'mensiona na tinilaikan i areklo para u'efektibu dies dias despues di este nama'publikana.

Date: 5/29/90

Joaquin S. Torres
JOAQUIN S. TORRES
Director of Commerce and Labor

NOTICE OF ADOPTION

ADOPTION OF REGULATIONS AMENDING REGULATIONS RESTRICTING THE
ISSUANCE OF BUSINESS LICENSES FOR GARMENT MANUFACTURERS AND
THE PROCESSING OF APPLICATIONS FOR WORK CERTIFICATES AND
ENTRY PERMITS FOR ALIEN GARMENT WORKERS

The Directors of Commerce and Labor and Finance and the Acting Chief of Immigration, pursuant to the authority conferred by 1 CMC 2453(d) and 2553(d), 3 CMC 4435(b), and 3 CMC 4311(3) and 4331, hereby give notice of its adoption of the amendments to the Regulations Restricting the Issuance of Business Licenses for Garment Manufacturers and the Processing of Applications for Work Certificates and Entry Permits for Alien Garment Workers as previously published as Emergency and Proposed Permanent regulations at Volume 12, No. 05, Pages 7016-7021, May 15, 1990.

A copy of the adopted amendments to the regulations may be obtained from the Registrar of Corporations, Office of the Attorney General, 2nd Floor, Administration Building, Capitol Hill, Saipan, MP 96950, or the same may be obtained at the Office of the Director, Department of Commerce and Labor, 1st Floor, Administration Building, Capitol Hill, Saipan, MP 96950.

The said amended regulations shall take effect ten (10) days after this publication in the Commonwealth Register.

Date: 5/29/90



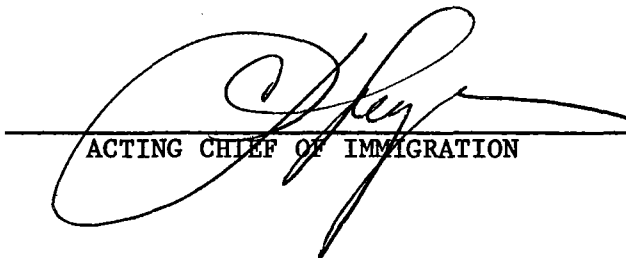
DIRECTOR OF COMMERCE AND LABOR

Date: 5/30/90



DIRECTOR OF FINANCE

Date: 6/1/90



ACTING CHIEF OF IMMIGRATION

NOTISIA POT I MANMA'ADOPTA

MANMA'ADOPTA I REGULASION SIHA NI A'AMENMENDA I AREKLON POT MAPRIBIDU I MALAKNOS LISENSIAN PARA BISNIS SIHA PARA FAKTERIAN MAGAGO YAN PARA I MACHOGUENIA I APLIKASION PARA I SETTIFIKUN MACHOCHO YAN I PETMITIN PARA MUNA'HALOM PARA I TIMAN'RESIDENTI SIHA NA MAN'FAFACHOCHO

I Depattamenton Kometsio yan Hotnat, i Finance yan i Chief Immigration sigun gi i aturidat ni manma'nae gi papa i lai 1 CMC 2453(d) yan 2553(d), 3 CMC 4435(b) yan 3 CMC 4311(3) yan 4331, manman'nanae notisia pot i manma'adopta siha na tinilaikan i areklo pot i mapribidu i malaknos licensian para bisnis siha para fakterian magago yan para i machoguenia i aplikasion para it settifikun machocho yan i petmitin para muna'halom para i timan'residenti siha na man'fafachocho ni esta ma'publika komu emergency yan i ma'propositu para petmanenti na areklo gi Volume 12, Numeru 05, pahina 7016-7021, gi May 15, 1990.

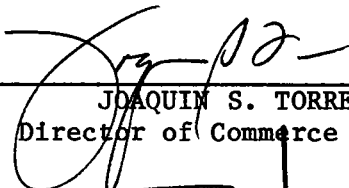
Copian este siha na tinelaika pot i areklamento sina manma'chule gi ofisinan i Registrar of Corporations gaige gi Ofisinan i Henerat na Abugadu, segundo biblienda gi Atministrasion na Guma giya Capitol Hill, Saipan, MP 96950 osino sinaha' machule gi Ofisinan i Direktot i Depattamenton Kometsio yan Hotnat gaige gi primet biblienda gi Atministrasion na Guma gi Capitol Hill, Saipan, MP 96950.

Este na areklamento para u'efektibu dies dias despues di este nama'publikana.


5/29/90
Date

5/30/90
Date

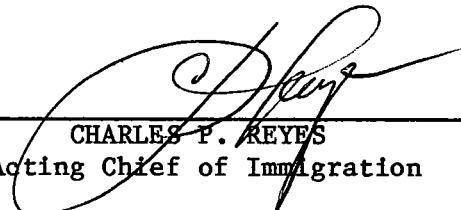
6/1/90
Date



JOAQUIN S. TORRES
Director of Commerce and Labor



ELOY S. INOS
Director of Finance



CHARLES P. REYES
Acting Chief of Immigration



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE CIVIL SERVICE COMMISSION
P.O. BOX 150, CHRB
SAIPAN, CM 96950

Phone: 6925/7327

NOTICE OF ADOPTION

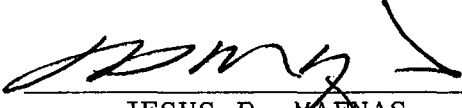
ADOPTION OF AMENDMENTS TO THE EXCEPTED SERVICE PERSONNEL REGULATIONS AND PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS OF THE EXECUTIVE BRANCH.

The Northern Mariana Islands Civil Service Commission, pursuant to Northern Marianas Constitutional Amendment No. 41, and in accordance with the provisions of 1 CMC §9104(a) and §2153(f), hereby gives notice to the public of its adoption of the amendments to the Excepted Service Personnel Regulations and to the Personnel Service System Rules and Regulations for the Executive Branch. The new text of the amendments, which were originally published in the April 15, 1989 Commonwealth Register, Volume 11, Number 04, follows.

The said amendments take effect 10 days after this publication in the Commonwealth Register.


Dated this 6TH day of June, 1990.

SUBMITTED BY:



JESUS P. MAFNAS
PERSONNEL OFFICER
CIVIL SERVICE COMMISSION

APPROVED BY:



GONZALO Q. SANTOS
CHAIRMAN
CIVIL SERVICE COMMISSION



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE CIVIL SERVICE COMMISSION
P.O. BOX 150, CHRB
SAIPAN, CM 96950

Phone: 6925/7327

NUTISIAN ADAPTASION

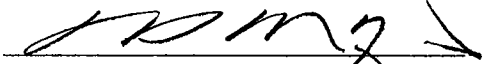
MA'ADAPTAN I AMENDASION I REGULASION MANSAGNGE NA SETBISION EMPLHAO YAN I AREKLAMENTO YAN REGLASION I SISTEMAN SETBISION EMPLHAO SIHA GI EKSAKATIBU NA DEPATTAMENTON GUBIETNO.

I Ufisinan i Northern Mariana Islands Civil Service Commission, sigun gi Amendasion Konstitusion i Sangkattan na Islas Mariana Numiru 41, konsiste yan i prubision siha gi 1 cmc §9104(a) yan §2153(f), ginen este ha nutitisia i publiku hinerat put i ha adapta na amendasion siha guato gi Regulasion i Mansahnge na Setbision Emplehao yan i Areklamento yan Regulasion Sistemana Setbision Emplehao siha gi Eksekatibu na Depattamenton Gubietno. I nuebo na frasan i amendasion siha, ni mapublika urihinatmente gi halom i Abrit 15, 1989 na Rehistran Commonwealth, Baluma 11, Numiru 04, u tinatiye.


I manmasangan na amendasion siha para u efektibu dies (10) dias despues di mapublika este gi halom i Rehistran Commonwealth.

Mafecha guine gi mina' 6 na ha ani gi Junio, 1990.

MASATMETI AS:


JESUS P. MAFNAS
PERSONNEL OFFICER
CIVIL SERVICE COMMISSION

MA'APREBA AS:


GONZALO Q. SANTOS
CHAIRMAN
CIVIL SERVICE COMMISSION



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE CIVIL SERVICE COMMISSION
P.O. BOX 150, CHRB
SAIPAN, CM 96950

Phone: 6925/7327

ARONGORONGOL BWEIBWOGHUL FFEÉR

BWEIBWOGHUL FFEÉRUL AMENDMENTS MELLÓL SEDBISYOOL PERSONNEL REGULATIONS ME PERSONNEL SERVICE SYSTEM RULES ME REGULATIONS MELLÓL EXECUTIVE BRANCH.

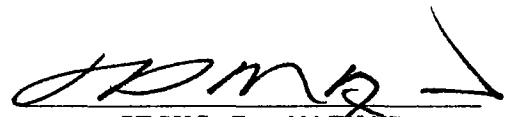
Bwulasiyool Civil Service Commission mellól Northern Marianas reel ówutol Northern Marianas Constitutional Amendment No. 41 reel igha rebwe attabweey tingor ye llól provision ye 1 CMC §9104(a) me §2153(f), re mwuschál rebwe arongaar aramas towulap reel adaptionul amendment mellól Excepted Service Personnel System Rules me Regulations mellól Executive Branch.

Sóbwosóbwul amendments, nge re feéru llól Abrid 15, 1989 nge e lo llól Commonwealth Register, Volume 11, Number 04.

Amendments kkaal nge ebwe ffeér 10 rál sáangi arongorong mellól Commonwealth Register.

Raalil ye 6 Ghúúw, 1990.

ATOLONGOOYAL:


JESUS P. MAINAS
PERSONNEL OFFICER
CIVIL SERVICE COMMISSION

APREBALIYAL:


GONZALO Q. SANTOS
CHAIRMAN
CIVIL SERVICE COMMISSION

ADOPTED AMENDMENTS TO THE EXCEPTED SERVICE PERSONNEL REGULATIONS

I.5 B. SEPARATIONS

(1) Without Cause Separation. Any Separation, without cause, from duty station shall be effective upon arrival of employee at his place of residence after travel by the most direct route from the duty station, adjusted for en route stop-overs, not to exceed more than three (3) days, for the convenience of the employee. Should the employee decide to go some place other than his place of residence at the time of hire, his separation date will be computed on the basis of using his return to the place of hire as a maximum. If any additional cost is involved in his travel to the place of choice, it is borne by the employee. If the termination date is to be advanced ahead of the date shown on the appointment form by the government, the government shall provide a minimum of two (2) weeks advance written notice.

(2) Classroom Teacher Personnel. Classroom Teachers shall be employed for the school year plus a short period for orientation and other activities prior to the commencement of school and a short period after the completion of the school year to finish the teacher's work. When necessary, a classroom teacher may be hired to work through the summer if there are bona fide teaching duties appropriate for the teacher to perform.

I.7 C. The employee's workday and workweek may vary from time to time according to the needs of the government. Every effort shall be made to maintain a reasonable five (5) day, forty (40) hour workweek. Pursuant to 1 CMC §8131 (2), excepted service employees shall be deemed executive, administrative or professional personnel. Therefore, an excepted service employee shall not qualify for overtime, compensatory time off, or standby rates of pay unless the Civil Service Commission certifies an exception to the Governor and Presiding Officers of the Legislature pursuant to PL 4-32 as codified at 1 CMC §8249.

I.8 F. Annual Leave. Annual Leave, or vacation, shall be granted for the purpose of rest and relaxation. Employees who have less than three (3) years of creditable service shall earn annual leave at the rate of four (4) hours per pay period; except that newly appointed employees shall undergo a waiting period of ninety (90) calendar

ADOPTED AMENDMENTS TO THE EXCEPTED SERVICE PERSONNEL REGULATIONS

days before being credited with annual leave. Employees with three (3) but less than six (6) years of creditable service shall earn annual leave at the rate of six (6) hours per pay period. Employees who have six (6) or more years of creditable service shall earn annual leave at the rate of eight (8) hours per pay period.

Annual leave accrual rate per pay period for excepted service employees in the Department of Public Health and Environmental Services, Gubernatorial appointees (personal secretaries and special assistants of Governor and Lt. Governor), Legal Profession practitioners, Resident Department Heads, and Principal Boards and Commissions shall be:

- (1) Determined at the time of the initial employment by the appointing authority and the Personnel Officer;
- (2) Specific to each employee;
- (3) Based upon (a) the critical need to fill the position; (b) the availability of qualified applicants; and (c) the amount and quality of related training and experience possessed by the employee; as determined by the Personnel Officer;
- (4) Between four (4) and eight (8) hours; and
- (5) On a scale that provides a maximum of eight (8) hours to an employee who is maximally qualified and 7, 6, 5 and 4 hours to an employee with maximal to minimal qualifications.

Employees occupying Excepted Service positions shall accrue annual leave at the appropriate rate set forth above for each biweekly pay period in which they are in pay status for the entire ten days; otherwise there shall be no accrual for such period.

Annual leave requests for more than three (3) working days must be made in advance on a leave request form. All annual leave requests must be approved by the employee's division head upon recommendation of such employee's immediate supervisor. In smaller organizations where divisions may not exist, the heads of such organizations shall approve annual leave. A denial of request for annual leave is subject to employees' Grievance Rights.

Employees serving on government boards and commissions and who elect to take leave without pay during such performance on a board or commission shall accrue annual leave for that service time.

ADOPTED AMENDMENTS TO THE EXCEPTED SERVICE PERSONNEL REGULATIONS

An employee permanently separated from Excepted Service employment for any reason shall receive a lump-sum payment for all annual leave accrued to his or her credit at the time of separation and payable to his or her credit at the time of separation and payable to him or her at the next regular pay period. However, where an offer and acceptance for a new period of employment with the government is agreed upon under a new employment contract, all accrued and unused annual leave credits from the prior contract shall be carried over under such employment contract, or may be paid to the employee at the next regular pay period upon the employee's request. The lump-sum payment for such carried over accrued and unused annual leave credits shall be paid at the salary rate at which they were earned.

(The following is deleted retroactive to September 15, 1986)

~~The maximum accumulation of annual leave for Excepted Service employees shall be three hundred sixty (360) hours accrued annually leave for each of 360 hours salary be converted to \$164.44~~

I.10 C. Code of Ethics. All persons in government service must comply with the Code of Ethics published in the Commonwealth Register, Volume 6, No. 7 and provided under Part V.C of the Personnel Service System Rules and Regulations.

II.1 PURPOSE.

This part provides the regulations appropriate to the several categories of excepted service appointments prescribed by 1 CMC §8181 and Amendment Number 25 of the Constitution of the Northern Mariana Islands.

II.2 EMERGENCY APPOINTMENTS AND TEMPORARY POSITIONS FOR 90 DAYS.

A. 1 CMC §8131(43). Positions of a temporary nature needed in the public interest where certified by the Personnel Officer and when the need for the same does not exceed 90 days. If a major disaster is declared by the Governor, the Personnel Officer may extend the 90-day period for a maximum of an additional 180 days for positions engaged in relief, repair, or rehabilitation as a result of such disaster.

ADOPTED AMENDMENTS TO THE PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

VII.A4 LEAVES WITH PAY

- A. Annual Leave. Annual Leave, or vacation, shall be granted for the purpose of rest and relaxation. Personnel Service System employees who have less than three (3) years of creditable service shall earn annual leave at the rate of four (4) hours per pay period; except that newly appointed employees shall undergo a waiting period of ninety (90) calendar days before being credited with annual leave. Employees with three (3) but less than six (6) years of creditable service shall earn annual leave at the rate of six (6) hours per pay period. Employees who have six (6) or more years of creditable service shall earn annual leave at the rate of eight (8) hours per pay period.

Annual/leave/accrual/rate/per/pay/period/for/excepted/service/employees/in/the/Department/of/Public/Health/and/Environmental/Services,/Gubernatorial/appointees/personal/secretaries/and/special/assistants/of/Governor/and/LL//Governor//Legal/Profession/practitioners/Resident/Department/Heads//and/Principal/Boards/and/Commissions/shall/be/

(1)/Determined/at/the/time/of/the/initial/employment/by/the/appointing/authority/and/the/Personnel/Officer/

(2)/Specific/to/each/employee/

(3)/Based/upon/a)/the/circumstances/need/to/fill/the/position/b)/the/availability/of/substitutes/and/c)/the/amount/and/quality/of/related/training/and/experience/possessed/by/the/employee/as/determined/by/the/Personnel/Officer/

(A)/Between/four/(4)/and/eight/(8)/hours/and/

(B)/On/a/scale/that/provides/a/maximum/of/eight/(8)/hours/to/an/employee/who/is/maximally/qualified/and/7/6/5/hour/a/hours//to//an//employee//with//maximum//of//months//qualifications/

Annual leave requests of more than three (3) working days must be made in advance on a leave request form. All annual leave requests must be approved by the employee's division head upon recommendation of such employee's immediate supervisor. In smaller organizations where divisions may not exist, the heads of such organizations shall approve annual leave. A denial of request for annual leave is subject to employees' Grievance Rights.

PUBLIC NOTICE

Adopted Revised Tourist Site Regulations

Marianas Visitors Bureau

The Marianas Visitors Bureau, pursuant to its authority under 4 CMC §§ 2106(q) and (r), has adopted Revised Tourist Site Regulations. These regulations were published on April 15, 1990, in the Commonwealth Register. During the designated thirty-day period for public comment, no comments were received by the Bureau concerning the proposed regulations. The regulations are hereby adopted as originally published.

DATED this 7th day of June, 1990.



BENNET T. SEMAN
Managing Director
Marianas Visitors Bureau

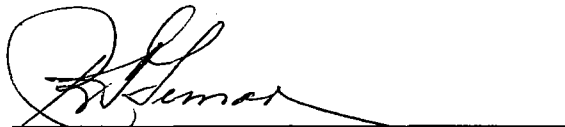
NUTISIAN PUPBLIKU

**PUT I
MA ADAPTAN I MARIBISA NA REGULASION LUGAT TURISTA**

Marianas Visitors Bureau

I Marianas Visitors Bureau, sigon gi attoridat ni mapribeniyi gi papa i 4 CMC §§ 2106(q) yan (r) ha adapta i manmaribisa siha na regulasion put lugat turist. Este siha na regulasion manmapupblika gi Abrit 15, 1990, gi halom i Rehistran Commonwealth. Gi duranten i trenta dias na tiempo ni madisikna para komenton pupbliku, taya komento marisibi nu i Ufisinin i Marianas Visitors Bureau put i manmaproponi siha na regulasion. I regulasion siha pago ginen este manma adapta sigon gi taimanu ha i urihinat na manmapupblikan niha.

Mafecha gi este i mina 7th na ha ani gi Huniu, 1990.



BENNET T. SEMAN
Managing Director
Marianas Visitors Bureau

NOTICE OF EXTENSION OF TIME FOR PUBLIC COMMENT

CERTIFICATE OF NEED REGULATIONS

The Office of the Governor of the Commonwealth of the Northern Mariana Islands hereby notifies the general public that it is extending the time for submission of written comments and recommendations regarding the proposed Certificate of Need Regulations published in the Commonwealth Register, Vol. 12, No. 5 (May 15, 1990).

The proposed regulations would govern issuance of certificates of need, pursuant to the Commonwealth Health Care Certificate of Need Act, 3 CMC §§ 2421-2429, to health care providers and facilities to (1) make any capital expenditures over \$50,000, (2) initiate any new health services regardless of cost, or (3) make certain other changes. These regulations are promulgated pursuant to the authority of 1 CMC § 2074 and the Administrative Procedures Act.

The proposed regulations would provide detailed guidance on which types of expenditures and service changes are subject to the certificate of need requirement. They also establish procedures for filing and reviewing applications and for granting or denying certificates of need.

The Office of the Governor urges the public to submit written comments and recommendations regarding the proposed regulations, within thirty days after the publication of this notice, to the following address:

Office of the Governor
Second Floor, Administration Building
Saipan, MP 96950


LORENZO I. DE LEON GUERRERRO
Governor

June 8th 1990
Date

NUTISIA PUT MA'EKSTENDE I TIEMPO PARA MUNA'HALOM
KOMENTO GINEN I PUPBLIKU

PUT I

MANMAPROPOPONI NA REGULASION SETTEFIKU PUT NISISIDAT


I Ufisinan i Gubietnon Commonwealth i Sangkattan siha na Islas Mariana ginen este ha nutisia i pupbliku hinerat na ha esktende i tiempo para muna'halom tinige' siha na komento yan rekomendasion put i manmapropoponi na regulasion para i settefiku put nisisidat, sino' Certificate of Need, ni mapublika gi halom i Rehistran Commonwealth, Baluma 12, Numiru 5, gi Mayu 15, 1990.

I manmapropoponi na regulasion para u gubietna i mana'en settefiku put nisisidat, sigon gi Commonwealth Health Care Certificate of Need Act, 3 CMC §§ 2421-2429, para todü petsona yan fasilidat siha ni manmampribebeni setbesiu put inadahen hinemlo' na nisisita na u (1) mafa'tinas mas ki \$50,000 na gaston kapitat, (2) matutuhon nuevo na setbision hinemlo' gi maseha hafa na gasto, pat (3) mafa'tinas otro siha na tinilaika. Este siha na regulasion manmafa'tinas sigon gi attoridat ni mapribeni nu i 1 CMC § 2074 yan i Administrative Procedures Act.

I manmapropoponi na regulasion para u na'guaha kabales na giha put hafa na klasen gasto yan tinilaika gi setbesiu u faninafekta nu i mangginagagao siha na kondision para i settefiku put nisisidat. I regulasion siha lokkue' para u establesi areklamento put muna'halom yan ma'nan aplikasion yan para mana'en sino' mapuni settefiku put nisisidat.

I Ufisinan i Gubietno ha sosoyo' i pupbliku na u fana'halom tinige' siha na komento yan rekomendasion put i manmapropoponi na regulasion gi halom trenta dias despues di mapublika esta na nutisia. Todü komento yan/sion' rekomendasion siha debi di u fanmasatmiti guato gi sigiente na 'address':

Office of the Governor
Second Floor, Administration Building
Saipan, MP 96950


LORENZO I. DELEON GUERRERO
Governor

June 8th 1990
Fecha

ARONGORONGOL TOWLAP IGHA E SÓBWÓSÓBWLÓ RÁLLIL
REBWE ATOTOOLONG MÁNGEMÁNGIIR ME TIPEER REEL MWÓGHÚTÚGHÚTÚL
ALLÉGHÚL TILIIGHIL NISISISDÓÓD

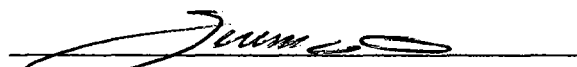
Bwulasiyool Gobenno melloi Commonwealth of the Northern Mariana Islands, ekke arongaar towap bwe aa bwal sóbwósóbwlo rállil rebwe atotoolong meta mángemángiir nge rebwe ischiíy, reel Mwóghútúghútú Alléghúl Tiliighil Nisisisdóód, iwe e toowow mellól Commonwealth Register, Vol. 12, No. 5, (May 15, 1990).

Allégh yeel, nge ebwe ayoora aléghélegh reel iyo emmwel rebwe ngalleey certificate of need, reel rebwe tabweey ayleéwal Commonwealth Health Care of Need Act, 3 CMC §§ 2421-2429, ngáliir schoó kka rebwe safey me leliyeer mal sumwaay bwe (1) rebwe ayoora capital expenditures nge ebwe lap sáangi \$50,000, (2) ebwe bwal ayoora tappal sedbisyo ngáliir sumwaay inaamwo efaisul tichówul abwóssul ne ngare, (3) rebwe ayoora akkaáw tappal lliiwel. Allégh kkaal nge re tabweey sáangi ayleéwal me bwángil 1CMC § 2074 me Administrative Procedures Act.

Allégh yeel nge ebwe ayoora mille rebwe attabweey reel tappal expenditures me lliiwelil sedbisyo reel certificate of need requirements. E pwal ayoora aléghélegh reel mwóghútúghútú iyo emmwel rebwe ngalleey, atotoolongol, me rebwe reel fischiíy alongal application-il certificate of need.

Bwulasiyool Gobenno ekke tingór ngáliir towap, ebwe rebwe ischiitiw meta tipeer me mángemángiir reel mwóghútúghútú Allégh yeel, eliigh ral sáangi maram, ral, me ráágh ye arongorong yeel e toowow, nge raa afangaaló reel address ye faal:

Office of the Governor
Second Floor, Administration Building
Saipan, MP 96950


LORENZO I. DELEON GUERRERO
Governor

June 8th 1990
Rál

EMERGENCY AND PROPOSE PERMANENT REGULATIONS
AMENDING REGULATIONS RESTRICTING THE ISSUANCE OF BUSINESS LICENSE
TO GARMENT MANUFACTURERS AND THE PROCESSING OF APPLICATIONS
FOR WORK CERTIFICATES FOR ALIEN GARMENT WORKERS

Section 1. Authority. These regulations are issued: (1) under the authority of the Director of Commerce and Labor to regulate business conferred by 1 CMC §2453(d) and to issue work certificates for alien workers conferred by 3 CMC 4435(b); (2) under the authority of the Director of Finance to regulate customs conferred by 1 CMC §2553(d); and (3) under the authority of the Chief of Immigration to regulate the issuance of entry permits for non-immigrant aliens conferred by 3 CMC §4311(3) and §4331.

Section 2. Purpose and Findings. The Textile Panel finds that the request of the people of Rota for a limited exemption permitting the establishment of garment factories on the Island of Rota is in the public interest in that it will provide substantial economic opportunities for a majority of its resident population. This amendment encourages economic growth by permitting limited exemption for the Island of Rota.

Section 3. Amendment. Section 4 of the Regulations Restricting the Issuance of Business License to Garment Manufacturers and the Processing of Applications for Work Certificates for Alien Garment Workers filed with the Registrar of Corporations on January 18, 1988 is hereby amended by adding a new paragraph (e) as follows:

"(e) Limited Exemption for the Island of Rota. Notwithstanding the provisions of Section 4(a) thru (d), the Department of Commerce and Labor is authorized to issue up to a maximum of three (3) business licenses for the manufacture of garments on the Island of Rota provided that garment manufacturers operating under such licenses shall not employ more than 250 alien garment workers each. Licenses shall be issued based on the following criteria: (1) amount of capital investment; (2) number of resident workers to be employed in management, supervisory and non-supervisory positions; (3) wages to be paid and benefits offered to resident employees; (4)

AS PUBLISHED IN VOLUME 12 NO. 05 - MAY 15, 1990

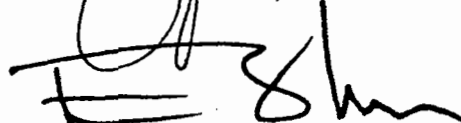
training programs offered; and (5) the degree of local ownership offered and the degree to which the applicant will improve infrastructure and other utility needs."

Date: 5/8/90



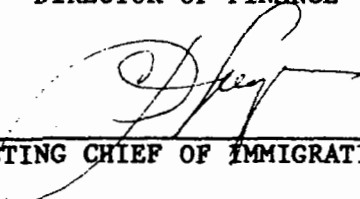
DIRECTOR OF COMMERCE AND LABOR

Date: 5/10/90



DIRECTOR OF FINANCE

Date: 5/10/90




ACTING CHIEF OF IMMIGRATION

Concurred: 

LORENZO I. DE LEON GUERRERO
Governor

Date: May 10th 1990

Date of Filing: 5-11-90



SOLEDAD B. SASAMOTO
Registrar of Corporations

AS PUBLISHED IN VOLUME 12 NO. 05 - MAY 15, 1990