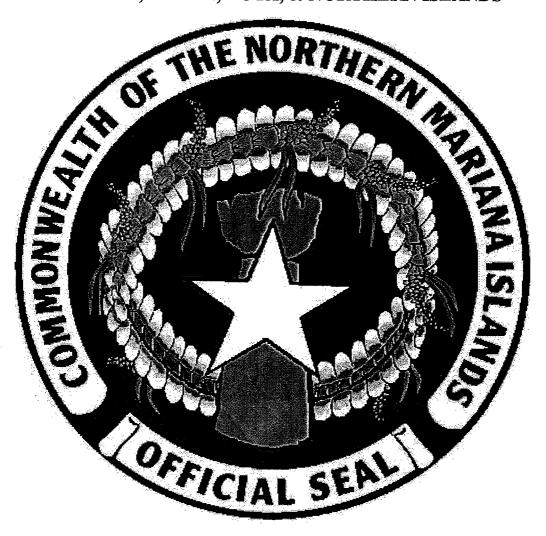
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS SAIPAN, TINIAN, ROTA, & NORTHERN ISLANDS



COMMONWEALTH REGISTER
VOLUME 29
NUMBER 06

JUNE 18, 2007

COMMONWEALTH REGISTER

VOLUME 29 NUMBER 06 JUNE 18, 2007

TABLE OF CONTENTS

EMERGENCY DECLARATION:

Extension of Emergency-Volcanic Activity on Anatahan Office of the Governor/Emergency Management Office	26528
EMERGENCY REGULATIONS:	
Public Notice of Emergency Regulations and Notice of Intend to Adopt Amendments to the Immigration Regulations and Alien Labor Rules and Regulations Department of Labor	26529
PROPOSED RULES AND REGULATIONS:	
Public Notice of Intent to Adopt Amendments to the Alien Labor Rules and Regulations Department of Labor	26540°
Public Notice of Proposed Amendment to the Saipan and Northern Islands Soil and Water Conservation District Regulations (Article IV, Section 4) Department of Lands and Natural Resources	26549
Public Notice of Proposed Amendments to the Rules and Regulations Governing the Northern Mariana Islands Retirement NMI Retirement Fund	26561
Public Notice of Proposed Regulation Regarding Amendments to Immigration Regulations 706(D) and 706(E) Office of the Attorney General/Division of Immigration	26570

NOTICE AND CERTIFICATION ON ADOPTION OF REGULATIONS:

COMMONWEALTH REGISTER

VOLUME 29 NUMBER 06 JUNE 18, 2007

TABLE OF CONTENTS

Public Notice of Certification and Issuance of Procurement Regulations of the Commonwealth Utilities Corporation	
Commonwealth Utilities Corporation	26582
PUBLIC NOTICE:	
RE: Public Notice on Excluded Locations Office of the Attorney General/Division of Immigration	26602



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial Governor

Timothy P. Villagomez
Lieutenant Governor

EXTENSION OF EMERGENCY Volcanic Activity on Anatahan

WHEREAS, On May 13, 2003, a Declaration of Emergency was issued with respect to volcanic activity on the island of Anatahan; and

WHEREAS, said Declaration declared the island of Anatahan as unsafe for human habitation and restricted all travel to said island with the exception of scientific expeditions; and

WHEREAS, the volcanic activity and seismic phenomena which prompted said Declaration continues to exist on the island of Anatahan;

NOW, THEREFORE, I, BENIGNO R. FITIAL, by the authority vested in me as Governor, and pursuant to Article III, Section 10 of the Commonwealth Constitution and 3 CMC §5121, do hereby extend a state of disaster emergency in the Commonwealth with respect to the island of Anatahan under the same terms and conditions as are contained in the original Declaration.

This Extension of Emergency shall remain in effect for thirty (30) days, unless the Governor shall, prior to the end of the 30-day period, notify the Presiding Officers of the Legislature that the state of emergency has been revoked or further extended for alike term, and giving reasons for extending the emergency.

Dated this 29th day of May 2007.

BENIONO R. FITLAL

cc:

Lt. Governor (Fax: 664-2311)

Senate President (Fax: 664-8803) House Speaker (Fax: 664-8900)

Mayor of the Northern Islands (Fax: 664-2710)

Executive Assistant for Carolinian Affairs (Fax: 235-5088) Director of Emergency Management (Fax: 322-7743)

Attorney General (Fax: 664-2349) Secretary of Finance (Fax: 664-1115)

Commissioner of Public Safety (Fax: 664-9027)

Special Assistant for Management and Budget (Fax: 664-2272) Special Asst. for Programs and Legislative Review (Fax: 664-2313)

Press Secretary (Fax: 664-2290)

VOLUME 29 NUMBER 06

June 18, 2007 PAGE

PAGE 26528

PUBLIC NOTICE OF EMERGENCY REGULATIONS AND NOTICE OF INTENT TO ADOPT AMENDMENTS TO THE IMMIGRATION REGULATIONS AND ALIEN LABOR RULES AND REGULATIONS

EMERGENCY: The Department of Labor finds that the public interest requires that there be a temporary ban on hiring nonresident workers to be employed in the garment industry from off island due to the closure of several garment factories over the past six months and the possibility of additional closures. These closures have created an emergency for the Commonwealth's economy and require an immediate, temporary change in the Alien Labor Rule and Regulations. The Department of Labor finds that under 1 CMC § 9104(b), the public interest mandates adoption of these regulations upon fewer than thirty (30) days notice, and that these regulations shall become effective immediately after filing with the Commonwealth Register, subject to the approval of the Attorney General and the concurrence of the Governor, and shall remain effective for 120 days.

REASONS FOR EMERGENCY: Several garment factories have closed over the past six months and there is the possibility of additional closures in the near future. As a result, there are currently a great number of unemployed garment workers on island who are available to work. Given these circumstances, it is necessary that these regulations are approved and adopted immediately to ensure that no new garment workers enter the Commonwealth until the workers already in the Commonwealth find employment or depart.

INTENT TO ADOPT: It is the intent of the Department of Labor to adopt these emergency amendments to the Alien Labor Rules and Regulations, as permanent, pursuant to 1 CMC § 9104(a)(1) and (2). Interested persons may submit written comments on these emergency recommendations to Gil San Nicolas, Secretary of Labor, Department of Labor, Afetnas Square Building, San Antonio, Saipan, MP 96950 or by fax to (670) 236-0990.

A

Submitted by:		05/30/07
	Gil M. San Nicolas	Date /
Concurred by:	Secretary of Labor	6/04/07
	Benigno K. Fitial Governor	Date /
Received by:	Esther Fleming	$\frac{(o/0)/07}{\text{Date}}$
	Special Assistant for Administration	

Filed and Recorded by:	Sodela Orun	6-4.07
•	BERNADITA B. DE LA CRUZ	Date
	Commonwealth Register	

Pursuant to 1CMC §2153, as amended by Public Law 10-50, the emergency rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this eff day of w, 2007.

Matthew T. Gregory
Attorney General

PUBLIC NOTICE OF INTENT TO ADOPT AMENDMENTS TO THE ALIEN LABOR RULES AND REGULATIONS

These amendments are promulgated in accordance with the Administrative Procedure Act, 1 CMC §9101 et seq. The Department of Labor is amending the Alien Labor Rules and Regulations that were published in the Commonwealth Register, Vo. 26, No. 06, June 24, 2004.

Citation of

Statutory Authority: The Secretary of Labor is authorized to promulgate regulations

pertaining to the employment of nonresident workers pursuant to 3

CMC §4424(a)(1).

Short Statement of Goals and Objectives:

These amendments would require that unemployed nonresident workers already in the Commonwealth be absorbed into the workforce before more nonresident workers could be brought into the Commonwealth. The closure of garment factories over the past six months and the possibility of additional closures create an emergency for the Commonwealth's economy and require this temporary change in the regulations.

Brief Summary of the Proposed Regulations

These amendments would suspend the entry to the Commonwealth of nonresident workers to be employed in the garment industry until the end of the fiscal year. The suspension would be reviewed at that time with respect to any continuation.

For Further **Information Contact**

Dorothy E. Hill, Assistant Attorney General for the Department of Labor, Office of the Attorney General, telephone 670 236-0910 or fax 670 236-0990.

Citation of Related and/or Affected Statutes, Rules, Regulations, and **Orders**

The amendments affect the Alien Labor rules and Regulations Sections II(B)(4) and II(G) and XIV(A).

Submitted by

PAGE

05/30/07

26531

NOTISIAN PUPBLIKU POT ENSIGIDAS NA REGULASION SIHA YAN NOTISIA POT INTENSION PARA U ADOPTA I AMENDASION SIHA PARA I REGULASION IMIGRASION POT AREKLAMENTO YAN REGULASION HOTNALERUN **ESTRANGHERU**

ENSIGIDAS: I Dipåttamenton I Hotnaleru a sodda na I interes I pupbliku a rekomenda na debi di u guaha ni i sinuhetan I man emplean hotnalerun estrangheru siha para u fan ma'emplea gi faktirian yatdas ginen otru tano pot rason I mahuchom I los kuantus na faktirian yåtdas siha gi sais mesis na tiempo ni man maloffan ya siña ha' guaha mås u fan mahuchom. Este siha na hinichom a establesi ensigidas na situasion para I ekonomian I Commonwealth ya a rekomenda imidiamente, na tinilaika gi Areklamento yan Regulasion I Hotnalerun Estrangheru. I Dipåttamenton I Hotnaleru a sodda na papa I lai 1 CMC Seksiona 9104 (b), I interes pupbliku a mandåtu I inadoptasion este siha na regulasion gi menos di trenta (30) diha siha na notisia, ya este siha na regulasion debi di u efektibu ensigidas despues anai mapolu gi Rehistran I Commonwealth, suhetu para I inaprueban I Abugådu Heneråt van I kinonfotmen I Gubietno, va debi di u efektitibu esta siento-bente (120) diha siha.

RASON PARA ENSIGIDAS: Loskuåntus na faktirian yåtdas man mahuchom sais mesis na tiempo ni man maloffan ya siña guaha mås gi man mamaila na tiempo. Humuyongña, na gi prisente meggai na hotnalerun estrangheru ni man macho'cho'chu' gi faktiria gi isla siña man macho'chu'. Pot enåo na, nisisårio na este siha na regulasion man ma'aprueba yan ma'adopta ensigidas pot para u asigura na taya nuebu na hotnalerun estrangheru man hålom gi Commonwealth esta eyu siha na hotnaleru ni man gaige gi Commonwealth man mañodda cho'chu' osino man madipotta.

INTENSION POT INADOPTA: I Dipattamenton I Hotnaleru a intensiona para u adopta este ensigidas na amendasion siha para I Areklamento yan Regulasion Hotnalerun Estrangheru, petmanente, sigun I Lai 1 CMC Seksiona 9104(a)(1) yan (2). I man enteresão na petsona siña munahalom tinige' opinion pot este ensigidas na rekomendasion siha guatu as Gil San Nicolas, Sekritårion I Hotnaleru, gi Dipåttamenton I Hotnaleru, gi Afetnas Square Building, gi San Antonio, giya Saipan, MP 96950 osino fax guatu gi (670) 236-0990.

Ninahalom as:

June 18, 2007

Kinonfotme as:	Benigno R. Fitial Gubietno	6/11/07 Fecha
Maresibe as:	Esther S. Fleming Espesiåt Na Ayudånte Para I Atministrasion	6/11/07 Fecha
Pinelo' yan Marikot as:	BERNADITA B. DEI/A CRUZ Rehistran I Commonwealth	6/12/67 Fecha
Regulasion siha ni man che'o	2153, ni inamenda ni lai Pupbliku 10-50, I are che'ton esta man ma'ina yan ma'aprueba pot p nan I Abugådu Heneråt I CNMI.	klamento yan ara u fotma
Mafecha este gi mina	na ha'åne gi Junio, 2007.	
Matthew T. Gregory Abugådu Heneråt		

NOTISIAN PUPBLIKU

POT INTENSION PARA U MA'ADOPTA I AMENDASION PARA I AREKLAMENTO YAN REGULASION SIHA POT HOTNALERUN ESTRANGHERU SIHA

Este na amendasion siha man ma'establesi para u kininsiste ni I Akton Areklamenton Atministrasion, 1 CMC Seksiona 9101, et seq. I Dipåttamenton I Hotnaleru siha a amemenda I Areklamento yan Regulasion siha ni man mapupblisa gi Rehistran I Commonwealth gi, Baluma 26, Numiru 06, gi Junio 24, 2004.

Annok I Aturidåt I Lai:

I Sekretårion I Hotnaleru ma'aturisa para u establesi regulasion siha ni tineteka I man empleleha hotnalerun estrangheru siha sigun I lai 3 CMC Seksiona 4424 (a)(1).

Kada'da' Na Mensåhe Pot Finiho yan Diniseha:

Este siha na amendasion siempre a rekomenda na I ti man macho'cho'chu' na Hotnalerun estrangheru ni esta man gaige gi hålom I Commonwealth u fan ma'usa gi anai manisisita para u fan ma'emplea åntes di u fan hålom mås hotnalerun estrangheru siha gi hålom I Commonwealth. I mahuchom I faktirian yåtdas gi man maloffan sais mesis ya siña guaha mås u fan mahuchom, a na guaha ensigidas regulasion para I ti man petmanente na tinilaika gi Ekonomian I Commonwealth.

Kada'da' Na Mensåhe Pot I Man Mapropone Na Regulasion:

Este siha na amendasion siempre I a suspende I entrådan I estrangheru na hotnaleru siha para I Commonwealth pot para u ma'emplea gi hålom I faktirian I yåtdas esta I uttimon I fisikåt I sakkan. I suspension siempre maribisa guihe gi momento respetu para maseha håfa na kontinuasion.

Para Mås Infotmasion Ågang:

Si Dorothy E. Hill, Ayudånten I Abugådu Heneråt para I Dipåttamenton I Hotnaleru, Ofisinan I Abugådu Heneråt, numirun tilifon (670) 236-0910 osino facsimile (670) 236-0990.

Annok I Man Achule' Yan/pat Man Inafekta Na Lai, Areklamento,

Regulasion yan Otden siha: I amendasion a afekta I Areklamento yan Regulasion Hotnalerun Estrangheru Seksiona II (B)(4) yan II(G) yan

XIV(A).

Ninahalom as:

Gil M. San Nicolas Sekretarion I Hotnaleru 06/08/07 Fecha

ARONGOL TOULAP REEL GHITIPWOTCHOL ALLÉGH KKAAL ME ARONG IHGA E MÁNGI EBWE FILLÓÓY ALLÉGHÚL <u>IMMIGRATION</u> KKAAL ME AMMWELIL ALIEN LABOR (SCHÓÓL ANGAANG KKA ARAMASAL LÚGHÚL)

GHITIPWOTCHOL: Bwulasiyool <u>Labor</u> nge e schungi bwe llól tipeer toulap rebwe ayúúwló mwo umwumwul schóóy angaang kka aramasal lúghúl ikka re tooto mewóól eew falúw bwe rebwe atarabwaaghoor llól <u>garment factory</u> kka ayoor oloow maram yaal tittiló me ebwal yoor schagh milikka epwal tittiló. Akkayúúló yeel nge e ayoorátá aweweel <u>Commonwealth economy</u> me rebwe ghitipwotchúw, Alléghúl Alien Labor me Alléghúl Bwulasiyool <u>Labor</u> ebwal schungi bwe sángi allégh ye 1 CMC Talil 9104(b), toulapeer aramas re mwuschel rebwe fillóóy allégh kkaal llól eliigh (30) ráálil ammataf yeel, me bwelle igha allegh kkaal ebwe schéschéél ammwelló llól <u>Commonwealth Register</u>, aweweel sángi Sów Bwungul Allégh Lapalap me alúghúlúghúl Sów Lemelem, elo bwe ebwe kkamal llól ótol ebwughúw reweigh (120) ráálil.

BWULUL GHITIPWOTCH: Aa yoor <u>Garment factories</u> kka aa tittilo ótol oloow maram kkewe elo me emmwel ebwal yoor milikka epwal tittiló mwete ló mmwal. Aweewe, raa ssogh schóóy angaangal llól <u>garment</u> wóól faleey ikka re tipeli rebwe angaang, ngáre ebwe fisch, e fil ebwe allegh fisch me ghutchul fillóóy bweigha ese mmwel bwe schóókka rebwe angaang llól <u>garment</u> ikka re ffé rebwe toolong llól <u>Commonwealth</u> mille yaar schuschu angaang schóókka raa fasul lo wóól faleey me ngáre asáfáliir.

MÁNGEMÁNGIL FILLÓ: Schéschéél Bwulasiyool <u>Labor</u> ebwe fillóóy ghitipwotchol ssiwel kkaal ngáli Alléghúl Aramasal lúghúl kka rekke Angaang, bwelle allégh ye 1 CMC Tálil 9104(a) me (2). Schóókka re tipeli nge emmwel rebwe ischilong reel Gil San Nicolas, Samwoolul Labor, Bwulasiyool Labor, Afetnas Square Building, San Antonio, Seipel, MP 96950 me ngáre fax reel (670) 236-0990

Isáliyallong:	06/08/07
Gil/M/San Nicolas	Rál
Samwoolul Labor	, ,
Alúghúlúgh sangi: Thijurttial	6/11/07
/ Bénigno R. Fitial	Rál ' '
Sów Lemelem	
Mwir sangi:	06/11/07
Esther Fleming	Rál
Sów Alillisi Sów Lemelem)	
Ammwel sángi: Adla Cru	6/12/07
Bernadita B. DELA (KU)Z	Rál
Commonwealth Register	

ARONGOL TOULAP IGHA AGHIYEGHI EBWE FILLÓÓY SSIWEL KKAAL NGÁLI ALLÉGHÚL SCHÓÓL ANGAANG KKA ARAMASAL LÚGHÚL

Ssiiwel kkaal nge e akkaté bwelle reel Administrative Procedure Act, 1 CMC Tálil 9101 et seq. Bwulasiyool Labor ebwe ssiweli Alléghúl Armasal lúghúl kka rekke angaang wóól faleey. Iye aa akkatééwow mellól Commonwealth Register., Vo. 26, No. 06, June 24, 2004.

Akkatéél bwángil:

Samwoolul Labor re mweiti ngáli akkatéél allégh kaal iye e ghil ngáli schóóy lúghúl kka rebwe atarabwoghoor bwelle 3 CMC Tálil

4424(a)(1).

Aweweel pomwol

Lliwel:

Ssiwel kkaal ebwe yááyá ngáli aramasal lúghúl kka rese kke angaang ikka raa ló llól Commonwealth igha rebwe atarabwaghoor mmwal igha rebwe atotoolong schóóy lúghúl llól Commonwealth. Sángi garment factories kka aa akkayúúló llól oloow maram kkewe eló me emmwel ebwal yoor milikka epwal tittiló igha ebwe ayoorátá aweweel ghitipwotch ngáli economial Commonwealth me

ebwe mweiti ngali ssiwel llól allégh kkaal.

Aweweel pomwol

Allegh:

Ssiwel kkaal ebwe ayúúwló atotoolong schóóy angaang kka aramasal lúghúl ikka rebwe angaang llól garment industry ngáre schagh aa mwutchuló ótol ráágh yeel. Akkayúúlóól rebwe aghi fischi ngáre ebwe sóbwósóbwóló.

Aramas ye ubwe

Faingi:

Dorothy E. Hill, Sów Alillisil Bwungul Allégh ngáli Bwulasiyool Labor, Bwulasiyool Sów Bwungul Allégh Lapalap, tilifoon 670

236-0910 me ngare fax reel 670 236-0990.

Akkatéél akkááw

Allégh Me tingórol: Ssiwel kkaal ebwe kkamall ngáli Aramasal lúghúl kka rekke

angaang wóól faleey Tálil kka II(B)(4) me II(G) me XIV(A).

Isaliyallwow

Samwoolul Labor

06/08/07

Sángi allégh ye 1 CMC Tálil 2153, iye aa ssiwel mereel Alléghúl Toulap, alléghúl ghitipwotch ye e appasch nge raa takkal amweri fischiy me alúghúlúgh mereel CNMI
Bwulasiyool Sów Bwungul Allégh Lapalap.
Rállil yell ól, 2007
Matthew T. Gregory
Sów Bwungul Allégh Lapalap

AMENDMENTS TO Section II(B)(4) and Section II(G) of the Alien Labor Rules and Regulations:

Section II(B)(4) is amended by adding a new subsection (b) to read:

(b) As a temporary emergency measure effective on June 5, 2007, the Director of Labor shall hold any pending application for an off-island hire, and shall not approve any such application, for employment in a garment factory or related operation of a nonresident worker coming from outside the Commonwealth, until the end of the 2007 fiscal year in order to ensure employment of nonresident workers already in the Commonwealth who have become unemployed as a result of past and anticipated closures of garment factory operations. "Related operation" includes, but is not limited to, companies or shops performing embroidery, trimming, laundry, ironing and other services for garment factories. The Director will review the emergency measure at the end of the fiscal year and publish further regulations as necessary.

Section $\Pi(G)$ is amended by adding a new subsection (6) to read:

As a temporary emergency measure effective on June 5, 2007, the Director of Labor shall hold any pending application for an off-island hire, and shall not approve any new application, for hiring in a garment factory or related operation of a replacement worker coming from outside the Commonwealth, until the end of the 2007 fiscal year in order to ensure employment of nonresident workers already in the Commonwealth who have become unemployed as a result of past and anticipated closures of garment factory operations. "Related operation" includes, but is not limited to, companies or shops performing embroidery, trimming, laundry, ironing and other services for garment factories. The Director will review the emergency measure at the end of the fiscal year and publish further regulations as necessary.

Section XIV(A) is amended by adding a new sentence at the end of the provision to read:

Fees paid for any application to hire a nonresident worker from off-island hire to work in a garment factory or related operation that is pended for the remainder of the 2007 fiscal year by operation of this emergency regulation are transferable if the pended application is withdrawn by the employer.

COMMONWEALTH REGISTER VOLUME 29 NUMBER 06 June 18, 2007 PAGE 26539

PUBLIC NOTICE OF INTENT TO ADOPT AMENDMENTS TO THE ALIEN LABOR RULES AND REGULATIONS

These amendments are promulgated in accordance with the Administrative Procedure Act, 1 CMC § 9101, et seq. The Department of Labor is amending the Alien Labor Rules and Regulations that were published in the Commonwealth Register, Vol. 26, No. 06, June 24, 2004.

Citation of

Statutory Authority: The Secretary of Labor is authorized to promulgate regulations

pertaining to the employment of nonresident workers pursuant to

3 CMC 4424(a)(1).

Short Statement of Goals and Objectives:

These amendments would require that labor complaints filed at the

Department of Labor be filed only on behalf of a single

complainant. While this has been the informal rule for years, recently some complainants have insisted on filing complaints on behalf of several, and sometime dozens, of complainants, often with very disparate claims. This has caused considerable confusion and backlog. It has also allowed the complainants to avoid paying the modest filing fee (\$20.00). To address these problems, the Secretary is proposing the following amendments to formalize the Department's longstanding practice of allowing only

one complainant per complaint.

Brief Summary of the Proposed Regulations:

These amendments would simply clarify that each labor

complainant must file a separate labor complaint, and pay the filing fee of \$20.00. They also state that each appellant must file a

separate appeal, and pay a separate filing fee of \$25.00.

For Further

Information Contact: Dorothy E. Hill, Assistant Attorney General for the Department of

Labor, Office of the Attorney General, telephone (670) 236-0910

or facsimile (670) 236-0990.

Citation of Related and/or Affected Statutes, Rules and Regulations,

and Orders: The amendments affect the Alien Labor Rules and Regulations

Sections VII and XIV.

Submitted by:

05/22/07

Received by:	Esther S. Fleming Special Agriculture for Administration	<u>\(\langle \/ \langle \)</u> Date
Filed and Recorded by:	Special Assistant for Administration Addition Oruge BERNADITA B. DE IA CRUZ Commonwealth Register	6/13/07 Date

Pursuant to 1CMC §2153, as amended by Public Law 10-50, the rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 14th day of May, 2007.

Attorney General

AMENDMENTS TO Section VII subsection C and XIV subsections G and H of the Alien Labor Rules and Regulations:

Section VII(C) is amended to add the following subsection:

5. Each complaint shall have only one complainant. If two or more complainants are asserting identical or similar claims against the same respondent(s), they may request that the complaints be consolidated for mediation and hearing. Enforcement will make a note of this request on the intake form, and recommend that the hearing office consolidate the complaints for mediation. If the hearing office declines to consolidate the complaints at mediation, the complainants may restate their request for consolidation at mediation and/or move for consolidation later in the course of the administrative proceedings.

Section XIV(G) is amended to read:

Filing fee of for labor grievance or complaint (each complaint shall have only one complainant): \$20

Section XIV(H) is amended to read:

Filing fee of for labor appeal (each appeal shall have only one appellant): \$25

PAGE 26542

NOTISIAN PUPBLIKU

POT INTENSION PARA U MA'ADOPTA I AMENDASION PARA I AREKLAMENTO YAN REGULASION SIHA POT HOTNALERUN ESTRANGHERU SIHA

Este na amendasion siha man ma'establesi para u kininsiste ni I Akton Areklamenton Atministrasion, 1 CMC Seksiona 9101, et seq. I Dipåttamenton I Hotnaleru siha a amemenda I Areklamento yan Regulasion siha ni man mapupblisa gi Rehistran I Commonwealth gi, Baluma 26, Numiru 06, gi Junio 24, 2004.

Annok I Aturidåt I Lai:

I Sekretårion I Hotnaleru ma'aturisa para u establesi regulasion siha ni tineteka I man empleleha hotnalerun estrangheru siha sigun I lai 3 CMC Seksiona 4424 (a)(1).

Kada'da' Na Mensåhe Pot Finiho van Diniseha:

Este siha na amendasion siempre a rekomenda na I keha pot I hotnaleru siha ni man mapolu (file) gi Dipåttamenton I Hotnaleru u solamente enkuenta un petsona ha' ni kumekeha. Pot este na areklamento, gi prisente nina guaha mås prublema gi halacha tåt kumo guaha los kuåntus na kineha mås di dosena ya man parehu na asunto. Eyu muna guaha kubukåo yan mumemegai I lista. Estague lokkue sumesedi I man kekeha para u masuheta I åpas filing Pot para ta såtba este siha na prublema, I Sekretårio a propopone I sigente siha na amendasion siha para u fotma I apmam na prinaktikan I Dipåttamento para u sedi uno ha' na kineha para kada hotnaleru.

Kada'da' Na Mensåhe Pot I Man Mapropone Na Regulasion:

Este siha na amendasion siempre I klarifika na kada kinehan hotnaleru debi di u file seperåo na kineha, ya u fan apåsi ni I åpas Filing ni (\$20.00). Debi lokkue di u mamensiona na kada håyi mangekeha u seperåo I kinehåña, yan seperåo I apås \$25.00 para kada Filing.

Para Mås Infotmasion Ågang:

Si Dorothy E. Hill, Ayudanten I Abugadu Henerat para I Dipåttamenton I Hotnaleru, Ofisinan I Abugådu Heneråt, numirun tilifon (670) 236-0910 osino facsimile (670) 236-0990.

Na Lai, Areklamento,
Regulasion yan Otden siha: I amendasion a afekta I Areklamento yan Regulasion
Hotnalerun Estrangheru Seksiona VII yan XIV.

Ninahalom as:

Gi M. San Nicolas
Sekretårion I Hotnaleru

Maresibe as:

Estler S. Fleming
Espesiat Na Ayudånde Para I Atministrasion

Pinelo' yan Marikot as:

BERNADITA B. DELACRUZ
Rehistran I Commonwealth

Sigun I lai 1 CMC Seksiona 2153, ni inamenda ni lai Pupbliku 10-50, I areklamento yan Regulasion siha ni man che'che'ton esta man ma'ina yan ma'aprueba pot para u fotma yan ligåt sufisiente ni I Ofisinan I Abugådu Heneråt I CNMI.

Mafecha este gi mina na ha'åne gi Måyu, 2007.

Matthew T. Gregory Abugådu Heneråt

Annok I Man Achule' Yan/pat Man Inafekta

AMENDASION siha para Seksiona VII Subsection C yan XIV Subsection G yan H gi Areklamento yan Regulasion Hotnalerun Estrangheru:

Seksiona VII (C) ma'amenda para u omenta I sigente na subsection:

5. Kada mangekeha debi di uno ha' kinehå-ña. Yanggen dos osino mås man mangekeha ya parehu I mensåhen kinehan niha osino parehu na claim niha kontra I man empleleha, siña man mamaisen kåo siña manadanña I claim niha para mediation osino hearing. I Empleåon I Dipåttamenton Hotnaleru siempre I nota este na ginagåo gi fotman I intake, ya a rekomenda na u mana danña I kineha siha para mediation ni ofisinan I hearing. Yanggen madiroga ni I ofisinan I hearing para u mana danña I kineha para mediation, I man mangekeha siña matalun masångan I ginagåo para u mana danña gi mediation yan/osino u mana fanuha para dinanña despues gi maneran I kinalemten atministrasion.

Seksiona XIV(G) ma'amenda pot para u taitai:

I åpas Filing para kinontran Hotnaleru osino kineha (kada mangekeha debi di uno ha kinehå-ña):

\$20

Seksiona XIV(H) ma'amenda pot para u taitai:

I åpas Filing para dirogan I hearing I Hotnaleru (kada diniroga debi di uno ha man diroroga)

\$25.

ARONGOL TOULAP IGHA EBWE FILLÓÓY LLIWEL KKAAL NGÁLI ALLÉGHÚL ALIEN LABOR (SCHÓÓL ANGAANG KKA ARAMASAL LÚGHÚL)

Ssiwel kkaal ebwe akkaté bwelle reel Administrative Procedure Act, 1 CMC Tálil 9101, et seg. Bwulasiyool Labor ebwe liweli Alléghúl me Ammwelil Alien Labor ikka re ayoora mellól Commonwealth Register, Vol. 26, No. 06, June (Alimaté) 24, 2004.

Samwoolul Labor nge eyoor bwangil ebwe akkaté allégh kkaal Akkatéél bwángil:

ikka e ghil ngáli schóóy angaang kka aramasal lúghúl bwelle reel 3

CMC 4424 (a)(1).

Aweweel

pomwol lliwel: Ssiwel kkaal ebwe yááyá ngáli aisis (complaints) kka e ammwelló

mellól Bwulasiyool Labor sángi escháy schagh aramas. Bwelle igha ese ffat allegh yeel, ammweyut schóóy aingiing rese tipeli rebwe akkafatalong fitimal schóóy aingiing, essogh tappal awewee, Faal akkaaw eghal ayoora fitighogho me sássátál. Eyoor igha schóóy aingiing ese óbwossuw filing fee (\$20.00) reweigh dóóla. Ngáre ebwe ffat weires yeel. Samwoolul Labor ebwe pomwoli lliwel kka ebwe eew schagh aingiing mereel eschay

aramas.

Aweweel pomwol

Lliwel kkaal ebwe affatawow bwe schóóy aingiing ebwe Allégh kkaal:

aleemweyló aingiing kkaal, me óbwossuw filing fee reel (\$ 20.00) reweigh dóóla. Ebwal kke apasa bwe schóóy aingiing ebwe alemweyló tingór me alemweyló óbwóssul filing fee reel \$25.00

dóóla.

Reel Ammataf

Faingi: Dorothy B. Hill, Sów Alillisil Sów Allégh Lapalap mellól

Bwulasiyool Labor, Bwulasiyool Sów Bwungul Allégh Lapalap,

tilifoon (670) 236-0910 me ngáre facsimile (670) 236-0990.

Akkatéél Akkááw

Allégh me Tingórol: Lliwel kkaal ebwe kkamalló sángi Alléghúl aramasal lúghúl ikka

re angaang.

Isaliyallong:

06/08/07

Mwir sángi:	Esther S. Fleming Sów Alilisil Sów Lemelem	<u>6/11/07</u> Rál
Ammwelil Sángi:	BERNADITA B. DELA CRUZ Commonwealth Register	(0/13/07 Rái
	Sángi allégh ye 1 CMC Tálil 2153, iye Toulap 10-50, allégh kka e appasch n mereel CNMI Bwulasiyool Sów Bwu	ge raa takkal amweri fischiy
	Rállil yellól maramal May (C	húúw), 2007.
	Matthew T. Gregory Sów Bwungul Allégh Lapalap	

LLIWEL NGÁLI Tálil C <u>subsection</u> C me <u>subsection</u> G me H reel Alléghúl aramasal lúghúl kka rekke angaang:

Tálil VH(C) nge e lliwel bwelle atotoolongol aweewe:

Alongeer aramas nge ebwe eew schagh yaal aingiing. Ngáre aa yoor rúschay me ngáre fitimal aramas kka e ghol fengál yaar aingiing sángi <u>correspondent(s)</u>, rebwe tingór bwe alongal aingiing nge rebwe amweri fischiy me ayoora arongorong. Schóóy mwóghut ágheli ebwe mwir sángi meeta kka re amasawa, me tingór bwe <u>hearing officer</u> ebwe bwughil aingiing kkaal bwelle ebwe ammataf ghatch, Ngáre <u>hearing officer</u> ese ayoora ammataf reel aingiing kkaal, schóóy <u>complainant</u> ebwe apewuta mwóghut yeel me ngáre mwóghut ágheli <u>consolidation</u> mwirilóól bwelle mwóghutul <u>administrative proceedings.</u>

Talil XIV(G) e lliwel bwe rebwe árághi:

Óbwossul labor bwelle awewee me aingiing (schóóy aingiing nge ebwe eew schagh yaal tingór):

\$20

Tálil XIV(G) e lliwel bwe rebwe árághi:

Óbwóssul tingór (appeal) Alongal tingór nge ebwe eew schagh aigiingil (appellant) \$25

PUBLIC NOTICE OF PROPOSED AMENDMENT TO THE SAIPAN AND NORTHERN ISLANDS SOIL AND WATER CONSERVATION DISTRICT REGULATIONS ARTICLE IV, SECTION 4

The Department of Lands and Natural Resources-Saipan and Northern Islands Soil and Water Conservation District (DLNR-S and NISWCD) of the Commonwealth of the Northern Mariana Islands, is notifying the general public that it is proposing to amend Article IV, Section 4 of the Saipan and Northern Islands Soil and Water Conservation District Water Regulations, adopted as amended in Commonwealth Register, Vol. 26, No. 10, October 26, 2004. This amendment proposes to change the water rate of \$0.25/1,000 gallons, as currently provided for at Art. IV, Sect. 4 of said regulations, to a flat, monthly water fee of \$10.00. Based on the comments received on said proposed amendment, it is hereby proposed that Art. IV, Sect. 4 be amended and restated in its entirety upon proper adoption, after the requisite period for public comment and with such changes as may be appropriate.

It is the intent of the DLNR-S and NISWCD to adopt the proposed amendment to Art. IV, Sect. 4 of the Saipan and Northern Islands Soil and Water Conservation District Water Regulations as permanent, in accordance with 1 CMC § 9101 et seq. This publication of proposed amendment in the Commonwealth Register provides notice and opportunity for comment. If necessary, a public hearing will be provided. All interested persons may submit written comments on the proposed amendment to Dr. Ignacio T. dela Cruz, D.V.M. Secretary of Lands and Natural Resources, at P.O. Box 10007 Lower Base, Saipan MP 96950, or by facsimile at (670) 322-2633 or by personal delivery to the office of the Department of Lands and Natural Resources at Lower Base Drive, Lower Base, Saipan, during the thirty-day period immediately following publication of the proposed amendment.

Submitted by:	DIVIGNACIO T. DELA CRUZ, DVM.	5/22/07 Date
Received by:	Secretary, DLNR ESTHER S. FLEMING Special Assistant for Administration	<u>6/05/00</u> Date
Filed and Recorded	d by: Sernapita B. DELA CRUZ	<u>Col6/07</u> Date

Pursuant to 1 CMC § 2153 (e) and 1 CMC § 9101 et seq., the proposed amendment attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General.

Dated this Way of Jon 2007, MATTHEW T. GREGORY, Attorney General

PUBLIC NOTICE

PROPOSED AMENDMENT TO THE REGULATIONS ON THE USE OF IRRIGATION WATER FOR THE KAGMAN COMMERCIAL FARM PLOTS SUPPLIED BY THE KAGMAN WATERSHED PROJECT AND MANAGED BY THE SAIPAN AND NORTHERN ISLANDS SOIL AND WATER CONSERVATION DISTRICT

This amendment is being proposed in accordance with the Administrative Procedure Act, codified at 1 CMC § 9101 et seq. The Saipan and Northern Islands Soil and Water Conservation District in the Department of Lands and Natural Resources is proposing to amend Article IV Section 4 of the Regulations on the Use of Irrigation Water for the Kagman Commercial Farm Plots supplied by the Kagman Watershed Project and managed by the Saipan and Northern Islands Soil and Water Conservation District, that was published in the Commonwealth Register, Volume 26, Number 10, and adopted on October 26, 2004.

Citation of Statutory

Authority:

This amendment is being proposed pursuant to Department of Lands and Natural Resources' authority under Public Law No. 4-44, codified at 2

CMC § 3211 et seq.

Short Statement of Goals and Objective:

The proposed amendment will provide the Department of Lands and Natural Resources and its Saipan and Northern Islands Soil and Water Conservation District relief in enforcing the current water rate, as set forth at art. IV, sect. 4 of its regulations, during the period that the Kagman Watershed Project is still under construction and supply of water to the Kagman Commercial Farm Plot farmers continues to be insufficient.

Brief Summary of the Proposed New Article: To establish a flat monthly water rate that users of the Kagman Commercial Farm Plots would be required to pay for using water supplied from the Kagman Watershed Project irrigation system and to give the Secretary of Lands and Natural Resources the authority to increase said monthly water rate as deemed necessary.

For Further Information Contact: Dr. Ignacio T. dela Cruz, D.V.M., Secretary, Department of Lands and Natural Resources, P.O.

Box 10007 Lower Base, Saipan MP 96950 Tel. (670) 322-5017; Fax 670) 322-2633

Citation of Related and/or Affected Statutes, Rules and Regulations, And Orders: None

Dated this 22 day of May 2007.

Submitted by:

DR./IGNACIO T. DELA CRUZ, D./V.M.

Secretary, Department of Lands and Natural Resources

NOTISIAN PUPBLIKU POT MAN MAPROPONE NA AMENDASION SIHA PARA I REGULASION HÅNOM ATIKULU IV, SEKSIONA 4 GIYA SAIPAN YAN SANKATTAN SIHA NA ISLAS

I Dipåttamenton I Guinahan Naturåt Siha yan Tano'-giya Saipan yan I Sankattan Siha Na Islan Mariana Distritun I man Konsetban Hånom yan Odda (DLNR-Sand NISWCD) ginen I Commonwealth I SanKattan Siha Na Islan Mariana, manotififika I pupbliku heneråt na man propopositu para u ma'amenda I Atikulu IV, Seksiona 4 gi Regulasion man Konsetban Hånom yan Odda giya Saipan yan I Sankattan Siha Na Islan Mariana na Distritu, ma'adopta ni inamenda gi Rehistran I Commonwealth, Baluma 26, Numiru 10, gi Oktubre 26, 2004. Este na amendasion mapropone para u tulaika I åpas I hanom ni bente-singko sentimus para kada mit na galon (\$.25/1000 gallons), ni maprobeniyi gi prisente para gi Atikulu IV, Seksiona 4 na u ma'amenda ya u tulaika I åpas para dis pesos (\$10) gi mes ni masångan dinuebu enteramente gi propio na inadoptasion, despues di I tiempo ni ginagagåo para I opinion pupbliku yan I man propio na tinilaika siha.

I intension I Dipåttamenton I Guinahan Naturåt Siha yan Tano'-giya Saipan yan I Sankattan Siha Na Islan Mariana Distritun I man Konsetban Hånom yan Odda para u adopta yan propone I amendasion para I Atikulu IV, Seksiona 4, petmanente, ya u kininsiste ni lai 1 CMC Seksiona 9101 et seq. Este na pupblikasion pot I man mapropone na amendasion gi Rehistran I Commonwealth aprobeniyi notisia yan opottunidåt para opinion pupbliku. Yanggen nisisårio, maprobeniyi inekungok pupbliku. Todu I man enteresåo na petsona siña man nahalom tinige' opinion pot I man mapropone na amendasion siha guato as Dr. Ignacio T. Dela Cruz, D.V.M. Sekritårion I Dipåttamenton I Guinahan Naturåt Siha yan Tano', giya P.O. Box 10007 gi Lower Base, giya Saipan MP 96950, osino facsimile guato gi numiru (670) 322-2366 pat entrega petsonat guato gi ofisinan I Dipåttamenton I Guinahan Naturåt Siha yan Tano' gi Lower Base Drive, Lower Base, giya Saipan durånten I trenta diha na tiempo insigidas tinatitiye' ni I pupblikasion este man mapropone na amendasion siha.

Ninahalom as:

IGNACIO T. DELACRUZ, D.V.

Sekritarion, DLNR

Maresibe' as:

ESTHER S. FLEMING

Espesiat ha Ayudante Para I Atministrasion

Pine'lo yan Marikot as: BERNADITA B. DELA CRUZ	<u>6/6/07</u> Fecha
Sigun I lai 1 CMC Seksiona 2153 (e) yan 1CM na amendasion siha ni man che'che'ton esta fotma yan ligåt sufisiente ginen I Ofisinan I Ab	man ma'ina yan ma'aprueba pot para u
Mafecha este gi mina na ha'åne g	gi <u>//</u> 2007.
	MATTHEW T. GREGORY Abugådu Heneråt

MATALUN TUMUGE NUMIRU 3

NOTISIAN PUPBLIKU

MAN MAPROPONE NA AMENDASION PARA I REGULASION SIHA POT I MA'USAN SUPLIKAN HÅNOM PARA I KOMETSIÅNTE NA PROPIADÅT GUÅLO SIHA GIYA KAGMAN NI MAN MASUPLIKA GINEN I PROJECT WATERSHED KAGMAN YAN MAMANEHA NI DISTRITUN MAN KONSETBAN HÅNOM YAN ODDA SAIPAN YAN SANKATTAN SIHA NA ISLA

Este na amendasion mapropone ni kininsiste ni I Akton Areklamenton Atministrasion, ni makodigu gi 1 CMC Seksiona 9101 et seq. I Distritun Man Konsetban Hånom yan Odda Saipan yan Sankattan Siha Na Isla gi Dipåttamenton Guinahan Naturåt yan Tano' a propopone para u amenda Atikulu Kuåttro (IV) Seksiona Kuåttro (4) gi Regulasion siha pot Ma'usan I Suplikan Hånom para I Kometsiånte na Propiadåt Guålo Siha Ni Man Masuplika ginen I Project Watershed Kagman Yan Mamaneha Ni Distritun Man Konsetban Hånom Yan Odda Saipan yan Sankattan Siha Na Isla, ni mapupblika gi Rehistran I Commonwealth, Baluma 26, Numiru 10, ya ma'adopta gi Oktubre 26, 2004.

Annok I Aturidåt I Lai:

Este na amendasion mapropone sigun I aturidåt ni ma'entrega I Dipåttamenton Guinahan Naturåt yan Tano' papa I Lai Pupbliku 4-44, ni makodigu gi 2 CMC Seksiona 3211 et seq.

Kada'da' Na Mensåhe Pot Finiho yan Diniseha:

I maproponen este na amendasion siempre a probeniyi I Dipåttamenton Guinahan Naturåt van Tano' van I Distritun Man Konsetban Hånom yan Odda Saipan yan Sankattan Siha Na Isla linibre gi båndan åpas hånom, ni mamensiona gi Atikulu IV Seksiona 4, gi regulasioña, durânten I tiempo anai machochogue I Project Watershed Kagman ya ti gof sufisiente I suplikan hånom para I Kometsiånte na Propiadåt Guålo Siha.

Kada'da' Na Mensåhe Pot I Maproponen I Nuebu Na Atikulu:

Para u establesi nuebu na åpas hånom para kada mes para eyu siha I munasesetbe I Propiadåt Kagman para Komtsiånten Guålo siempre debi di u ma'otden para u ma'apsi I ma'usa na hanom gi suplikan hanom ginen I Project Watershed Kagman sisteman suplikan hånom ya para u entrega I Sekritårion I Dipåttamenton Guinahan

Naturåt yan Tano' aturidåt para u håtsa I mamensiona na åpas hånom kada mes yanggen nisisårio.

Para Mås

Infotmasion Ågang:

Dr. Ignacio T. Dela Cruz, D.V.M., Sekritårio, gi Dipåttamenton Guinahan Naturåt yan Tano', gi P.O. Box 10007, gi Lower Base, giya Saipan, MP 96950 Numirun Tilifon (670) 322-5017; fax guato (670) 322-2633.

Annok I Man Achule' yan/pat Man Inafekta Na Lai, Areklamento, Regulasion yan Otden Siha:

Tåya

rion, Dipåttamenton Guinahan Waturåt yan Tano'

ARONGOL TOULAP REEL POMWOL SSIWEL KKAAL NGÁLI ALLÉGHÚL SCHAAL WÓÓL SEIPÉL ME FALÚW KKA FALÚWASCH EFÁNG ARTICLE IV, TALIL 4

Bwulasiyool Falúw me Ngúlúwal kkaal mellól Seipél me Pwelil Falúw kka falúwasch efáng me Ammwelil schaal (Water Conservation District) (DLNR-Sand NISWCD) mellól Commonwealth falúw kka falúwasch Marianas, ekke arongaar toulap bwe ekke pomwoli bwe ebwe fillóóy Article IV, Tálil 4 mellól Seipél me Pwelil Falúw kka Falúwasch Efáng me Ammwelil schaal District, fillóól igha aa ssiwel mellól Commonwealth Register, Vol, 26, No, 10, Itch (October) 26, 2004. Lliwel yeel nge ebwe liweli óbwós ye \$ 0.25/1,000 galoon, iye eyoor llól Art. IV, Talil. 4 sángi allégh kkaal, ebwe eew schagh óbwóssul schaal llól maram \$ 10.00. Mwiril mángemáng kka re bwughil bwelle pomwol lliwel yeel. Rekke pomwoli bwe Art. IV, Tálil. 4 ebwe lliwel me fféér sefál alongal mmwal igha rebwe fillóóy, mwiril schagh mangemangiir toulap me ssiwel kka rebwe ammwela.

Mángemángil DLNR me NISWCD rebwe fillóóy pomwol lliwel yeel ngáli Art. IV, Tálil. 4 mellól Seipél me Pwelil Falúw kka Falúwasch Efáng me Alléghúl Ammwelil schaal District bwe ebwe schéschéél, sángi allégh ye 1 CMC 9101 et seq. Ammatafal pomwol ssiwel mellól Commonwealth Register ebwe ayoora arong me aghiyeghiir toulap. Ngare e welepakk, ammataf nge rebwe ayoora. Schóókka eyoor mafiyeer nge emmwel rebwe ischilong reel Dr Ignacio T. Dela Cruz, D.V.M. Samwoolul Bwulasiyool Falúw me Ngúlúwal Seipel, reel P.O. Box 10007 Lower Base, Seipél MP 96950, me ngáre facsimile reel (670) 322-2366 me ngáre afanga ngáli Bwulasiyool Falúw me Ngúlúwal Seipél mellól Lower Base Drive, Lower Base, Seipél, ótol eliigh (30) ráálil mwiril schagh yaal akkaté pomwol lliwel yeel.

Isaliyallong: Janacio Cello G

NACIO T. DELA CRUZ, DY.M.

Sanwoolul, DLNR

Mwir sángi:

ESTHER S. FLEMING Sownalillisil Sow Lemelem

Sow Allilisi Sow Lemeler

Ammwel sángi:

BERNADITA B. DELA CRUZ

5/22/07
Ráil

6/05/07
Ráil

appassch nge raa takkal amweri fischiy me allégheló mereel Bwulasiyool CNMI Sów Bwungul Alleégh Lapalap.

Rállil ye _____llól _____2007

MATTHEW T. GREGORY, Sow Bwungul Allégh Lapalap.

Sángi allégh ve 1 CMC Tálil 2153 (e) me 1 CMC 9101 et seg., pomwol lliwel ve e

ARONGORONGOL TOULAP

POMWOL SSIWEL REEL ALLÉGHÚL SCHAAL IYE REBWE YÁÁYÁ NGÁLI FÓÓT MELLÓL KAGMAN IYE E TOOTO MEREEL <u>KAGMAN WATERSHED</u> <u>PROJECT</u> ME AMMWEL SÁNGI SEIPÉL ME PWELIL FALUW KKA FALÚWASCH EFÁNG

Lliwel yeel nge rekke pomwoli bwelle reel <u>Administrative Procedure Act</u>, ammwel mellól 1 CMC Tálil 9101 et seq. Ammwelil Pwel me Schalúl Seipél me Falúw kka Falúwasch Efáng <u>District</u> mellól Bwulasiyool Falúw me Ngúlúwal Seipél ebwe fillóóy Article IV Tálil 4 mellól Allégh kkaal reel yááyál schaal mellól fóót kka Kagman yeel iye e yááyá sángi Kagman Watershed Project me ammwel sángi Seipél me Schalúl,Pwelil Falúw kka Falúwasch Efáng Ammwelil schaal <u>District</u>, iye aa akkatééwow mellól <u>Commonwealth Register</u>, Volume 26, Numero 10, me fillóól ótol Itch (October) 26, 2004.

Akkatéél Bwángil: Lliwel yeel nge ekke pomwoli bwelle bwángil Bwulasiyool

Falúw me Ngúlúwal kka elo faal Alléghúl Toulap 4-44, ammwel mellól allégh ye 2 CMC Tálil 3211 et seq.

Aweweel Pomwol lliwel: Pomwol lliwel ebwe ayoora ngáli Bwulasiyool Falúw me

Ngúlúwal kkaal mellól Seipél me Schalúl, Pwelil Falúw kka Falúwasch Eféng me Ammwel District igha ebwe mwóghut ágheli óbwóssul schaal, iye aa ammwelló ighila. IV, tálil. 4 mellól allégh kkaal. Sángi schagh igha Kagman

Watershed Project rekke mwóghut ágheli (under

construction) me yááyál schaal mellól Kagman bwelle fóót

esaal ghi ghatch.

Aweweel pomwol ye ffé: Rebwe ayoora obwós llól maram iye schóóy mamaat mellol

Kagman rebwe yááyá ngáli fóót nge rebwe óbwóssuw schaal ye e tooto mereel Ammwelil Kagman <u>Commercial Watershed Project</u> me ayoora bwángil Samwoolul Falúw me Ngúlúwal kkaal mellól Seipél bwe rebwe sárághi óbwóssul schaal ótol maram ngare e welepakk (pirisisu).

COMMONWEALTH REGISTER

Reel ammataf:

Faingi Dr. Ignacio T. dela Cruz, D. V. M., Samwoolul

Bwulasiyool Falúw me Ngúlúwal kkaal, P.O. Box 10007 Lower Base, Seipél MP 96950 Tilifoon. (670) 322-5017;

Fax (670) 322-2633.

Aweweel akkááw Allégh:

Esóór

Isáliyallwow:

Salnyoolul, Bwulasiyool Falúw me Ngúlúwal kkaal

PAGE

PROPOSED AMENDMENT TO THE REGULATIONS ON THE USE OF IRRIGATION WATER FOR THE KAGMAN COMMERCIAL FARM PLOTS SUPPLIED BY THE KAGMAN WATERSHED PROJECT AND MANAGED BY THE SAIPAN AND NORTHERN ISLANDS SOIL AND WATER CONSERVATION DISTRICT

Article IV, Section 4 of the Regulations on the Use of Irrigation Water for the Kagman Commercial Farm Plots Supplied by the Kagman Watershed Project and Managed by the Saipan and Northern Islands Soil and Water Conservation District is hereby amended as follows:

SECTION 4. "Operation, maintenance, and replacement cost will be borne by the water users on a per cost per gallon used basis and by and the Division of Agriculture." (Kagman Watershed Plan Environmental Impact Statement, page 84.) The DLNR-S&NISWCD shall charge each water user a water rate of 10.00 per month. Each water user shall pay the \$10.00 monthly water rate on the first day of each month, to the Commonwealth Treasurer, as provided in Article IV, Section 1 of these regulations. A water user who is connected to one Kagman Commercial Farm Plot Farm Turnout shall be billed and must pay \$10.00 a month for that Farm Turnout. A water user who is connected to more than one Kagman Commercial Farm Plot Farm Turnout shall be billed for each Farm Turnout and must pay the monthly water rate of \$10.00 for each Farm Turnout. Water rates shall be \$0.25/1000 gallons used, per lot, paid on the first of each month. At \$0.25/1000 gallons, a user will pay \$25.00 per month using a fair share of the water available. If the user uses more, he/she will pay more. If the user does not get water, then they will not have to pay for what they did not use. Charging water use by the gallons will ensure a more equitable distribution of water and will encourage water conservation. It is expected that about 100,000 gallons/day will be available for 46 farm lots.

> The Secretary of Lands and Natural Resources, after consultation with the Saipan and Northern Islands Soil and Water Conservation District, may increase the monthly water rate of \$10.00 and may set a rate per gallon that will generate sufficient revenue necessary for DLNR-S&NISWCD to cover the regular maintenance cost of the irrigation system. maintenance cost shall include, but not necessarily limited to, repair, replacement of parts, pumps, water meters, water conduits, procurement of repair supplies, weed control around the irrigation turnouts and waterlines, etc.

> The DLNR-S&NISWCD must endeavor to increase the water rate and per gallon rate when sufficient supply of irrigation water is available or when water meters have been installed on all plots at the Kagman Commercial Farm Plots, whichever occurs first. It shall be the policy of DLNR-

S&NISWCD to charge a water user on a per gallon used so as to promote and encourage users of the Kagman Watershed Project irrigation system to conserve water. A per gallon used shall be billed based on the metered quantity of water a water user uses. Increase of a new water rate and per gallon rate shall only be effective after DLNR-S&NISWCD has amended this section by promulgation in the Commonwealth Register.

PUBLIC NOTICE

PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS GOVERNING THE NORTHERN MARIANA ISLANDS RETIREMENT FUND

The Board of Trustees of the Northern Mariana Islands Retirement Fund ("NMI Retirement Fund") hereby gives notice to its members and the general public that it has proposed amendments to the NMI Retirement Fund's Regulations pursuant to the Administrative Procedures Act, 1 CMC § 9101, et. seq. The attached proposed amendments would supplement the Regulations published in the Commonwealth Register, Volume 27, Number 11, at pages 25361-66, on December 30, 2005 (effective date April 9, 2006).

The purpose of these amendments is to effectuate the provisions of Public Law 15-13, entitled Defined Contribution Plan Act of 2006, codified at 1 CMC § 8458. The Board is soliciting comments and recommendations regarding these proposed amendments, which must be received by the NMI Retirement Fund within thirty (30) days of publication of this notice in the Commonwealth Register.

Written comments on these amendments should be sent to Mark A. Aguon, Administrator, NMI Retirement Fund, Retirement Fund Building, Isa Drive, Capitol Hill, P.O. Box 501247, Saipan, MP 96950-1247, or by facsimile to (670) 664-8080. Copies of these amendments may be obtained at the NMI Retirement Fund offices on Saipan, Tinian and Rota.

Dated this 4 day of June 2007.	$\Lambda \Lambda \Lambda$
Jum -	At Som
Juan N Guerrero	Mark'A. Aguofi\/ \(\
Chairman, Board of Trustees, NMIRF	Administrator, NMIR
	7
Reviewed for legal sufficiency this 4 day	of <u>June</u> 2007 by:
Julitalle	
Fund Legal Counsel	
RECEIVED BY:	FILED BY:
91a	(India Cruz
Special Assistant for Administration	Commonwealth Register
Date: 6/07/07	Date: 6-7-07
1 4 - /	<u>C</u> .

Certification by the Office of the Attorney General

Pursuant to 1 CMC § 2153, as amended by P.L. 10-50, the proposed amendments to the Rules and Regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the Office of the Attorney General.

Dated this Change and 2007.

June 18, 2007

PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS GOVERNING THE NORTHERN MARIANA ISLANDS RETIREMENT FUND

Citation of Statutory Authority:

The Board of Trustees ("Board") of the Northern Mariana Islands Retirement Fund ("Retirement Fund") has statutory power to promulgate and effect Rules and Regulations pursuant to 1 CMC § 8315(f). Furthermore, Public Law 15-13, entitled the Defined Contribution Plan Act of 2006, directs the Administrator of the Retirement Fund to promulgate Rules and Regulations to implement the objectives of that Public Law, codified at 1 CMC § 8455(a)(8), with the Board serving in an advisory capacity, codified at 1 CMC § 8455(e).

Statement of Goals and Objectives:

The Rules and Regulations provide guidelines for the Board to manage the government retirement program, as well as provide government employees and retirees information on how the program functions. The primary goals and objectives of the proposed amendments are to effectuate the changes outlined by Public Law No. 15-13, in order to provide for an effective mechanism for non-vested (less than ten (10) years) Defined Benefit Plan members to transfer/convert to the Defined Contribution Plan.

Summary of Amendments:

These proposed amendments to the Rules and Regulations includes provisions of Public Law No. 15-13, entitled the Defined Contribution Plan Act of 2006, codified at 1 CMC § 8458, et. seq., which provides statutory authority for Defined Benefit Plan Members with less than ten (10) years of contributing service to the Defined Benefit Plan to transfer/convert to the Defined Contribution Plan. This transfer/conversion opportunity only applies to those with less than ten (10) years contributing service, and is also affected by the eligible transferring member's marital and/or divorced status. The amount transferred on behalf of the eligible transferring member is a combination of the member's previous contributions into the Defined Benefit Plan; the amount of regular interest fixed by the Board, pursuant to 1 CMC § 8313(n); and, whatever amount legislatively appropriated for the transferring member, subject to 26 U.S.C. § 415(c).

For Further Information:

Contact Mark A. Aguon, Administrator, NMI Retirement Fund, by telephone (670) 322-3863 or facsimile (670) 664-8080.

Citation of Related and/or Affected Statutes, Regulations:

Public Law 15-13, codified at 1 CMC § 8458, et. seq., the Rules and Regulations governing the NMI Retirement Fund, as adopted in the Commonwealth Register, Volume 27, Number 11, dated December 30, 2005, effective April 9, 2006.

Dated this 4 day of June 2007.

Chairman Board of Trustees, NMIRF

RECEIVED BY:

Special Assistant for Administration

Date: Q/I/V

Administrator, NMIRP (

FILED AND RECORDED BY:

Commonwealth Register (Date: 10-7-07

COMMONWEALTH REGISTER VOLUME 29 NUMBER 06

UMBER 06 June 18, 2007

PAGE 26562

NOTISIAN PUPBLIKU MAN MAPROPONE NA AMENDASION SIHA PARA I AREKLAMENTO YAN REGULASION SIHA NI GUMUBIEBIETNA I FUNDON RITIRÅO GI SANKATTAN SIHA NA ISLAS MARIANAS

I Kuetpon <u>Trustees</u> I Fundon Ritirão gi Sankattan Siha Na Islas Marianas, ("NMI Retirement Fund"), sigun gi aturidåt I lai gi 1 CMC Seksiona 8315 (f), yan I <u>Administrative Procedures Act</u> gi papa 1 CMC Seksiona 9101, <u>et. seq.</u> ha nånå'i' I membru siha yan I publiku heneråt notisia pot I mapropopone siha na amendasion gi Areklamento yan Regulasion ni gumubebietna I Progråman I Fundon Ritirao gi Sankattan Siha Na Islas Marianas. I man checheton na amendasion ni man mapropone siempre a ometåyi I regulasion siha ni mapupblika gi Rehistran I Commonwealth, Baluma 27, Numiru 11, gi påhinan 25361-66, gi Disembre 30, 2005 (ha'åne anai efektibu gi Abrit 09, 2006).

I rason este siha na amendasion para u na efektibu I probension siha gi Lai Pupbliku 15-13, ni matitilu <u>Defined Contribution Plan Act of 2006</u>, yan makodigu gi lai 1 CMC Seksiona 8458. I Kuetpo ha sosohyo mensåhen opinion yan rekomendasion siha ni tineteka este siha na amendasion ni man mapropone, ni debi di u fan marisibe ni I Fundon Ritiråo gi Sankattan Siha Na Islas Marianas gi hålom trenta (30) diha siha gi pupblikasion este na notisia gi Rehistran I Commonwealth.

I tinige' opinion siha pot este na amendasion siha debi di u mana fan hålom guatu as Siñot Mark A. Aguon, I Atministradot, I Fund I Ritiråo gi sankattan Siha na Islas Marianas, gi Isa Drive, Capitol Hill, P.O. Box 501247, Saipan, MP 96950-1247, osino facsimile guatu gi (670) 664-8080. Siña man machule' I kopian este na mapropone na amendasion siha gi maseha amånu na Ofisinan I Fundon I Ritiråo giya Saipan, Luta yan Tinian.

2007

na diha oi Tulle

Juan T. Guerrero Kabiseyu, Kuetpon I Trustee Siha, NMIRF	Mark A. Aguon Atministradot, Fundon I Ritiråo gi NMI
Maribisa para u ligåt sufisiente gi mina 4 Konseherun Ligåt I Fundon Ritiråo	na diha gi <u>Vania</u> 2007 as:
MA'RISIBE AS:	MARIKOT AS:
Espisiat Na Ayudanten I Gubietnu Para I Atministrasion Fecha: 4070	Rehistran I Koporasion Fecha: 6-7-07

Mafecha este oi mina

Setifikasion ginen I Ofisinan I Abugåo Heneråt:

Sigun I lai 1 CMC Seksiona 2153, ni inamenda ni Lai Pupbliku 10-50, I man mapropone na amendasion siha para I Areklamento yan Regulasion siha ni man che'cheton guine esta man ma'ina yan ma'aprueba pot para u fotma yan ligåt sufisiente ni I Abugåo Heneråt I Commonwealth I Sankattan Siha na Islan Marianas.

Mafech este gi mina	na diha gi	_ 2007.	
		Abroas do Hanaris	
		Abugådu Heneråt	

ARONGOL TOULAP POMWOL LLIWEL REEL ALLÉGHÚL LEMELEMIL RETIREMENT FUND MELLÓL COMMONWEALTH

Mwiischil Trustees, Retirement Fund mellól Téél Falúwasch Marianas ("NMI Retirement') ekke arongowow reer membro me aramas toulap bwe raa fillóóy lliwel kkaal reel Alléghúl me Ammwelil Administrative mellol NMI Retirement Fund, sángi bwángil allégh ye 1 CMC Tálil 9101 et. seq. Pomwol lliwelil allégh kkaal e siweliló allégh kka aa akkatééwow llól Commonwealth Register Volume 27 Numero 11, llól 25361-66, Tumwur 30, 2005 (schescheel otol Seeta 9, 2006).

Bwulúl lliwel kkaal bwelle ebwe fillóóy Alléghúl Toulap ye 15-13, codified llól 1 CMC Tálil 8458. Mwiischil yeel nge ekke tingór mángemáng me tiip reel pomwol lliwel kkaal, iye NMI Retirement Fund ebwe bwughil ótol eliigh (30) ráálil akkatééló, arong yeel mellól Commonweath Register.

Ischil mangemang reel ssiwel kkaal ebwe akkafangelo reel Mark A. Aguon, Samwoolul, NMI Retirement Fund, Retirement Fund Building, Isa Drive, Capitol Hill, P.O. Box 501247, Seipél, MP 96950, me ngáre facsimile reel (670) 664-8080. Emmwel óubwe bwughil tilighial mereel Bwulasiyool NMI Retirement Fund me wóól Seipél, Tchúlúyól me Luuta.

Llól ráalil ye June 4, 2007.

Guerrero

Assamwoolul, Mwiischil Trustees, NMIRF

Samwoolul, NMRF

Aléghélégh sangi 4 rállil ye June, 2007 sángi:

chóóy Ammwelil Fundo

MWIR SÁNGI:

Alúghúlúgh sángi Bwulasiyool Sów Bwungúl Allégh Lapalap

Sángi allégh ye 1 CMC Tálil 2153, iye aa ssiwel mellól Alléghúl Toulap 10-50, pomwol ssiwel kkaal ngáli alléghúl kka e appasch nge raa takkal amweri fischiy me aléghéléghéló mereel Bwulasiyool Sów Bwungúl Allégh Lapalap.

Ráálil ye	llól	2007	
			Sów Bwungúl Allégh Lapalap

Proposed Amendments to the NORTHERN MARIANA ISLANDS RETIREMENT FUND ADMINISTRATIVE RULES AND REGULATIONS

PART 2, SECTION 2.01 is amended to add the following Definitions:

- Benefit Plan with less than 10 years of contributing member service who has the option, upon written election, to voluntarily and irrevocably elect to become a member of the Defined Contribution Plan, on a prospective basis, on or after the date selected by the Administrator, which is on or after the effective date of the establishment of the Defined Contribution Plan pursuant to Public Law 15-13, codified at 1 CMC § 8454. This option to elect in writing, to voluntarily and irrevocably become a member of the defined contribution plan, shall expire twelve (12) months after the date selected by the Administrator following the establishment of the Defined Contribution Plan.
- EE. "Date Selected by the Administrator" means the first date Eligible Defined Benefit Plan Members may elect in writing, to voluntarily and irrevocably become a member of the Defined Contribution Plan and shall be July 25, 2007.
- FF. "July 25, 2007" means the "Date Selected by the Administrator" and is the first date Eligible Defined Benefit Plan Members may elect in writing, to voluntarily and irrevocably become a member of the Defined Contribution Plan which same option to elect to become a member of the Defined Contribution Plan shall expire on July 25, 2008.
- GG. "July 25, 2008" means the date wherein Eligible Defined Benefit Plan Members may elect, voluntarily and irrevocably to become a member of the Defined Contribution Plan which same option to elect to become a member of the Defined Contribution Plan shall expire.
- HH. "Individual's Spouse" means an individual legally married to the Eligible Defined Benefit Plan Member whose written election to voluntarily and irrevocably become a member of the Defined Contribution Plan is not effective unless this same election is signed by the Individual's Spouse.
- II. "Qualified Domestic Relations Order" means a divorce or dissolution judgment under Commonwealth law, or subject to judicial recognition under Commonwealth law, which includes an order approving a property settlement, and otherwise complies with 1 CMC § 8451(22)(A-H)
- **JJ.** "Employee Contribution Account Balance" means the amount to be transferred from the Defined Benefit Plan into the Defined Contribution Plan on the behalf of the Eligible Defined Benefit Plan Member and shall include:

- (i) the amount of the employee's contributions into the Defined Benefit Plan;
- (ii) the amount of "regular interest" accrued on these employee contributions as fixed by the Board Resolution pursuant to 1 CMC § 8313(n), to be 7.5% per annum; and,
- (iii) any amount of matching employer contribution legislatively appropriated for that purpose, subject to the applicability of 26 U.S.C. § 415(c).

To re-designate PART 11 – EFFECTIVE DATE as PART 12 – EFFECTIVE DATE, and to include the following as PART 11:

PART 11. CONDITIONS FOR TRANSFER / CONVERSION OF NON-VESTED DEFINED BENEFIT PLAN MEMBERS INTO DEFINED CONTRIBUTION PLAN

- 11.01. Class I Members with Less than 10 Years Contributing Member Service. After being identified by the Administrator as Eligible Defined Benefit Plan Members, Class I members with less than 10 years of contributing member service shall have an option, upon written election, to voluntarily and irrevocably elect to become members of the Defined Contribution Plan, on a prospective basis, on or after July 25, 2007 ("Date Selected by the Administrator"). This option to voluntarily and irrevocably elect to become members of the Defined Contribution Plan shall expire 12 months, or up until and including July 25, 2008, after first taking effect with respect to such members.
- 11.02. Election to Participate in the Defined Contribution Plan. The election to participate in the Defined Contribution Plan must be made in writing on forms and in the manner prescribed by the Administrator. An election made by an Eligible Defined Benefit Plan Member who is married is not effective unless the election is signed by the Individual's Spouse.
- 11.03. Before Accepting the Election to Participate in the Defined Contribution Plan. Before accepting an election to participate in the Defined Contribution Plan, the Administrator must provide the Eligible Defined Benefit Plan Member planning on making an election to participate in the Defined Contribution Plan with written information, including calculations to illustrate the effect of moving the Eligible Defined Benefit Plan Member's retirement plan from the Defined Benefit Plan to the Defined Contribution Plan as well as other information to clearly inform the Eligible Defined Benefit Plan Member of the potential consequences of the Eligible Defined Benefit Plan Member's election. An election made under this section to participate in the Defined Contribution Plan is irrevocable.
- 11.04. Upon Making the Election to Participate in the Defined Contribution Plan. Upon making the election, the participant shall:
 - a. be enrolled as a member of the Defined Contribution Plan;

- 11.05. Effective Date of Transfer to the Defined Contribution Plan. Eligible Defined Benefit Plan Members transferring to the Defined Contribution Plan will have their transfers effective at the end of the first pay period following the month of transfer or at such other time as determined by the Administrator for administrative necessity.
- 11.06. Transfer of Membership Service from the Defined Benefit Plan to the Defined Contribution Plan. Upon a transfer, all membership service previously earned under the Defined Benefit Plan shall be nullified for purposes of entitlement to a future benefit under the Defined Benefit Plan but shall be credited for purposes of determining vesting in Employer Contributions under the Defined Contribution Plan. For these purposes, "membership service" earned under the Defined Benefit Plan means service under which Employee Contributions to the Defined Benefit Plan have been paid and does not include any service for which reinstatement indebtedness to the Defined Benefit Plan has not been fully paid.

11.07. All Other Class I Members and Class II Members.

- All Class I members with 10 or more years of contributing member service and all Class a. II members of the Defined Benefit Plan of the Retirement Fund are not eligible to transfer under this subsection to the Defined Contribution Plan.
- b. An eligible Class I or Class II member whose account is subject to a Qualified Domestic Relations Order may not elect to become a member of the Defined Contribution Plan under any elective provisions set forth in Sections 11.01 through 11.05 above, unless the Qualified Domestic Relations Order is amended or vacated and court-certified copies of the Order are received by the Administrator.
- 11.08. Limitations of Federal Law for Participation in the Defined Contribution Plan. To the extent permitted by federal law, each Eligible Defined Benefit Plan Member who elects to participate in the Defined Contribution Plan shall have transferred to a new account the Employee Contribution Account Balance held in trust for the Eligible Defined Benefit Plan Member under the Defined Benefit Plan of the Northern Mariana Islands Retirement Fund. A matching Employer Contribution may be made on behalf of that included Employee to the new account if the Employer makes the matching contribution from funds appropriated by the Legislature for that purpose. The amount of the matching Employer Contribution shall be subject to, and may not exceed, the limitation of 26 U.S.C. § 415(c) during the applicable limitation year in which the contribution is made.
- 11.09. U.S. Internal Revenue Service Notification. If the Administrator receives notice from the United States Department of the Treasury, Internal Revenue Service, that this section or a portion of this section will cause the retirement plan under this Part, to be disqualified for tax purposes under the Internal Revenue Code, the portion that will cause the disqualification does not apply. and the Administrator shall notify the Governor and presiding officers of the Legislature.

PUBLIC NOTICE

PROPOSED REGULATION REGARDING AMENDMENTS TO IMMIGRATION REGULATIONS 706(D) AND 706(E)

The Attorney General notifies the general public of his intention to amend the regulations regarding Immigration Regulations 706(D) and 706(E), which govern Entry Permits for immediate relatives of non-aliens and immediate relatives of aliens. The regulations are attached and are promulgated pursuant to the Attorney General's authority as set forth in 3 CMC § 4312(d)(1).

All interested persons may examine the proposed regulations and submit written comments, positions, or statements for or against the regulations to the Office of Attorney General, 2nd Floor Sablan Memorial Administration Building, Saipan, MP 96950 or by facsimile to 234-7016 within 30 calendar days following publication of this notice in the Commonwealth Register.

Dated this $l^{\mathcal{CP}}$ day of June 2007 at Saipan, Northern Mariana Islands.

OFFICE OF THE ATTORNEY GENERAL

By: Matthew T. Gregory

Pursuant to 1 CMC §2153, as amended, the proposed regulations amending Immigration Regulations 706(D) and 706(E), a copy of which is attached hereto, have been reviewed and approved as to form and legal sufficiency by the Attorney General's Office.

Attorney General

Filed by:

Bernadita Dela Cruz

Commonwealth Registrar

Rec'd by:

Esther Fleming

Special Assistant for Administration

 $\frac{6/14/07}{\text{Date}}$ $\frac{6/14/07}{\text{Date}}$ $\frac{6/14/07}{\text{Date}}$

PUBLIC NOTICE

PROPOSED REGULATION REGARDING AMENDMENTS TO IMMIGRATION REGULATIONS 706(D) AND 706(E)

This amendment is promulgated in accordance with the Administrative Procedure Act, 1 CMC § 9101, et seq. The Office of the Attorney General is adopting rules and regulations clarifying the status and requirements regarding entry permit classifications 706(D) and 706(E).

Citation of Statutory Authority:

Sources of Authority: The Attorney General is authorized to Promulgate rules and regulations to enforce the Commonwealth Entry and Deportation Act, 3 CMC § 4301 et seg. 3 CMC § 4312(d)(1); Covenant § 503(a) (CNMI local immigration control), 48 U.S.C. § 1801 note; 3 CMC §4303(a) (defining alien); Compact of Free Association, § 141(a) & (b)(2) (right of FSM & Marshallese FAS citizens to establish habitual residence subject to regulations), § 461(g) & (h) (defining habitual residence and actual residence), 48 U.S.C. § 1901 note; Compact of Free Association, § 141(a) & (b)(2) (right of Palauan FAS citizens to establish habitual residence subject to regulations), § 461(e) & (f) (defining habitual residence and actual residence), 48 U.S.C. § 1931 note; cf. 8 C.F.R. § 214.7 (2007) (FAS habitual residence in a territory); 8 C.F.R. § 214.7(a)(5) (defining FAS dependent as requiring FAS citizenship); 8 C.F.R. § 214.7(b) (federal regulations inapplicable to CNMI while Immigration and Nationality Act does not apply).

Short Statement of Goals and Objectives:

The regulations clarify the eligibility for Entry Permits issued to Immediate Relatives of non-aliens and Immediate Relatives of aliens.

Brief Summary of the Proposed Regulations:

These regulations establish a time frame for applying for status as an immediate relative of a non-alien, and establish income requirements for the sponsoring spouse. They provide a transition period for the alien spouse in the event the marriage is terminated, clarify the status of children entering the Commonwealth for purposes of adoption, and clarify the status of alien widows or widowers of non-aliens. The regulations recognize that persons from the Federated States of Micronesia are aliens for purposes of sponsoring immediate relatives.

26571

Citation of Related and/or Affected Statutes, Rules and Regulations:

Immigration Regulations 706(D) and 706(E), finally published and adopted in the Commonwealth Register

Vol. 27, No. 02, February 17, 2005, p. 024052.

For Further

Information Contact:

Kevin A. Lynch, Assistant Attorney General, Legal

Counsel, CNMI Office of the Attorney General, Division of

Immigration Service, telephone (670) 664-2366 or

facsimile (670) 234-7016.

Dated this / day of June 2007.

Submitted by:

MATTHEW T. GREGORY ATTORNEY GENERAL

NOTISIAN PUPBLIKU POT MAN MAPROPONE NA REGULASION NI TINETEKA I AMENDASION SIHA PARA I REGULASION IMIGRASION 706 (D) YAN 706 (E)

I Abugådu Heneråt a notififika I pupbliku heneråt pot I intension niha para u ma'amenda I regulasion ni tineteka I Regulasion Immigrasion 706(D) yan 706 (E), ni a gubiebetna I Petmisun Entråda para Imidiamente siha na Parientis ni man suidådånu yan Imidiamente siha na Parientis I estrangheru siha. I Regulasion siha ni man che'che'ton ya man ma'establesi sigun I aturidåt I Abugådu Heneråt ni mamensiona gi lai 3 CMC Seksiona 4301.

Todu I man enteresåo na petsona siña ma'ina I man mapropone na regulasion siha ya u Manahålom tinige' opinion, pusision, osino testamento para osino I kumokontra I regulasion siha guatu I Ofisinan I Abugådu Heneråt, gi mina dos na bibienda gi Sablan Memorial Atministration Building, MP 96950 osino facsimile guatu gi 234-7016 gi hålom trenta (30) diha siha tinatitiyi ni pupblikasion este na notisia gi Rehistran I Commonwealth.

Mafecha este gi mina Siha Na Islan Mariana.	_ na ha'åne gi Junio 2007 giya Saipan, Sankattan
OFISINAN	I ABUGÅDU HENERÅT
	atthew T. Gregory Abugådu Heneråt
Sigun I lai 1 CMC Seksiona 2153, ni inamenda, I man mapropone na regulasion siha a amemenda I Regulasion Immigrasion 706 (D) yan 706 (E), I kopian I man che'che'ton guine, esta man ma'ina ya man ma'aprueba pot para u fotmayan ligåt sufisiente ginen I Ofisinan I Abugådu Heneråt.	
Ginen as: Matthew T. Gregory Abugådu Heneråt	Fecha

Pinelo' yan Rinikot as: 6/18/07 Fecha Bernadita Dela Cruz Rehistradoran I Commonwealth Maresibe' as: Esther S. Fleming
Espisiat Na Ayudanten I Atministrasion

NOTISIAN PUPBLIKU POT MAN MAPROPONE NA REGULASION NI TINETEKA I AMENDASION SIHA PARA I REGULASION IMIGRASION 706 (D) YAN 706 (E)

Este na amendasion siha man ma'establesi para u kininsiste ni I Akton Areklamenton Atministrasion, 1 CMC Seksiona 9101, et seq. I Ofisinan I Abugådu Heneråt a adodopta I Areklamento yan Regulasion siha ni a klarififika I eståo yan I nisisidåt siha ni tineteka I petmisun entråda klasifikasion 706 (D) yan (E).

Annok I Aturidåt I Lai:

Guinaha siha pot I Aturidat: I Abugadu Henerat ma'aturisa para u establesi areklamento yan regulasion siha pot para u enfuetsa I Akton Dipottasion yan I Entråda gi Commonwealth, 3 CMC Seksiona 4301 et. seq. 3 CMC Seksiona4312 (d) (1). Seksionan Covenant 503 (a) (CNMI Local Immigration Control), 48 U.S.C. Seksiona 1801 Nota: 3 CMC Seksiona 84303 (a)(defifina I estrangheru); Compact of Free Association, Seksiona 141 (a) & (b)(2) (dire'chon suidådånun I FSM & Marshallese FAS [I sigente siha na palåbra ni boldface] pot para u ma'establesi habitual residence na sinågan niha para residente pot asunton I regulasion), Seksiona 461(g) & (h) (madefifina I habitual residence para residente yan aktuat na residensia), 48 U.S.C. Seksiona 1901 Nota: Compact of Free Association Seksiona 141(a) & (b)(2) (dire'chon I suidådånun Palåu FAS [I sigente siha na palåbra ni boldface] pot para u ma'establesi I habitual residence na sinågan niha para residente pot asunton I regulasion) 461(e) & (f) (madefifina I habitual residence para residente yan aktuåt na residensia), 48 U.S.C. Seksiona1931 Nota; cf. 8 C.F.R. Seksiona 214.7 (2007)(FAS habitual residence gi hålom I teritorio); 8 C.F.R. Seksiona 214.7 (a)(5)(a defifina FAS na dependente kumo manisisita FAS na suidadanu'at); 8 C.F.R. Seksiona 214.7(b)(regulasion federåt ni ti aplikapble para CNMI mientras ti a aplilika I Akton Immigrasion yan Nationalidat).

Kada'da' Na Mensåhe Pot Finiho yan Diniseha:

Este siha na regulasion siha siempre a klarifika I kuålifikasion para I malalaknos na Petmisun Entrada yan Imidiamente siha na Parientis I man ni man suidådånu yan Imidiamente siha na Parientis I estrangheru siha.

Kada'da' Na Mensåhe Pot I Man Mapropone Na Regulasion:

Este na regulasion siha a establesi I tiempo para yanggen para u fan man aplika I eståo kumo man Imidiamente siha na Parientis I man ni man suidådånu, ya a establesi I nisisidåt suetdu para I asagua ni man spoponsor. A probeniyi tiempo para transision para I asagua ni estrangheru yanggen siankåsu mana påra I kasimento, a klarifika I eståon I famagu'on ni man håhålom gi Commonwealth pot para u fan ma'adopta, ya a klarifika I eståon I man bi'uda osino bi'udu I man estrangheru siha. I regulasion siha a rekognisa I petsona siha ginen I Federal States of Micronesia na man estrangheru siha pot para u fan man sponsor imidiamente na parientis.

Annok I Man Achule' Yan/pat Man Inafekta Na Lai, Areklamento,

Regulasion yan Otden siha: Regulasion Immigrasion 706 (D) yan 706(E), ni los uttimos mapupblika yan ma'adopta gi Rehistran I Commonwealth

Baluma 27, Numiru 02, gi Febreru 17, 2005p. 024052.

Para Mås Infotmasion Ågang:

Kevin A. Lynch, Ayudånten I Abugådu Heneråt, Akonseherun Ligåt, gi Ofisinan I Abugådu Heneråt I CNMI, Dibision I Setbisiun Immigrasion, numirun tilifon (670)664-2366 osino facsimile (670)234-7016.

Mafecha este gi mina	na ha'åne gi Junio 2007.	
Ninahalom as:		
	Matthew T. Gregory Abugådu Heneråt	Fecha

ARONGORONGOL TOULAP POMWOL ALLÉGH BWELLE SSIWEL KKAAL NGÁLI ALLÉGHÚL <u>IMMIGRATION</u> 706(D) ME 706(E)

Sów Bwungul Allégh Lapalap ekke arongaar toulap igha ebwe ssiweli allégh kkaal bwelle Ammwelil Immigration 706(D) me 706(E), iye e lemelem Lisensial atotoolong (Entry Permit) reer aschóól aramasal faleey me aschóól aramasal lúghúl kkaal. Allégh kka e appasch nge e akkaté bwelle reel bwangil Sów Bwungul Allégh iye ekke apasa mellól 3 CMC Talil 4301.

Schóókka eyoor mángemángiir rebwe amweri pomwol allégh kkaal me ischilong aingiingil, me ngáre aweewee reel allégh kkaal ngáli Bwulasiyool Sów Bwungul Allégh Lapalap, aruwowal pwó, Sablan Memorial Administration Building, Seipél, MP 96950 me ngáre facsimile reel 234-7016 ótol eliigh (30) ráálil mwiril schagh yaal akkaté arong yeel mellól Commonwealth Register.

Ráálil ye____llól Alimaté (June) 2007mewóól Seipél, Falúw kka falúwasch Efáng Marianas.

BWULASIYOOL SÓW BWUNGUL ALLÉGH LAPALAP

SÁNGI:	
•	Matthew T. Gregory
Sów	Bwungul Allégh Lapalap

Sángi allégh ye 1 CMC Talil 2153, iye aa ssiwel, pomwol allégh kka e fillóóy Alléghúl Immigration kkaal 706(D) me 706(E), tilighial kka e appasch ighila, nge raa takkal amweri fischi aléghéléghéló me Bwulasiyool Sów Bwungul Allágh Lapalap.

Sángi:	
Matthew T. Gregory	Rál
Sów Bwungul Allégh Lapalap	
Ammwel sángi: Dela Cruz Bernadita Dela Cruz Commonwealth Registrar	<u>6/18/67</u> Rál
Mwir sángi Esther Heming Sów Abllisil Sów Lemelem	<u>6/18/0</u> 7 Rál

ARONGOL TOULAP

POWMOL ALLÉGH BWELLE SSIWEL KKAAL NGÁLI ALLÉGHÚL <u>IMMIGRATION</u> KKAAL 706 (D) ME 706(E)

Ssiwel kkaal nge e akkaté bwelle reel Alléghúl <u>Administrative Procedure Act</u>, 1 CMC Tálil 9101, et seq. Bwulasiyool Sów Bwungul Allégh Lapalap ebwe fillóóy allégh kkaal me allégh kka ebwe affata aweewe kkaal me yááyál ngáli lisensial atotoolong me aweweel (classifications) 706(D) me 706(E).

Wiisal Bwáng: Sów Bwungul Allégh nge eyoor bwángil ebwe Akkatéél bwángil: akkaté allégh kkaal me alléghúl ebwe mwóghut ágheli Commonwealth Entry reel atotoolong me All;éghúl assáfál (Deportation Act), 3 CMC Tálil 4301 et seq. 3 CMC Tálil 4312 (d)(1). Covenant Tálil 503 CMC(a) (CNMI ammwelil local Immigration), 48 U.S.C. Tálil 180 ischil; 3 CMC Tálil 4303(a) (aweweel alien); kkapasal Free Association, Tálil 141(a) me (b)(2) (bwángiir FSM me Marshallese aramasal FAS [Tepalal kkepas kka e ffat | ayoora alléghúl aramas kka raa fasúl), Tálil 461(g) me (h) (aweweel habitual residence me schéschéél aramasal faleey (actual resident), 48 U.S.C. Tálil 1901 ischil; Kkapasal Free Associations, Tálil 141 (a) me (b)(2) (bwángiir aramasal Repalley [Tepalal kkapas kka e ffat] ayoora alleghul habitual residence), Talil 461 (e) me (f) (aweweel habitual residence me actual residence), 48 U.S.C Tálil 1931 ischil; ef 8 C.F.R. Tálil 214.7 (2007) (FAS habitual residence llol territory); 8 C.F.R. Tálil 214.7(a)(5)(aweweel FAS dependent iye e yááyá ngáli aramasal FAS); 8 C.F.R. Tálil 214.7(b) (alléghúl federóód ye e fil ngáli CNMI bwelle igha alleghul Immigration me Nationality ese tabweey fillongol).

Aweweel pomwol lliwel: Allégh kkaal ebwe affata fillongol Entry Permit (Lisensial atotoolong) iye e mwete ngáli <u>Immediate Relatives</u> me <u>non-aliens</u> me <u>Relatives of aliens</u>.

Aweweel pomwol allégh: Allégh kkaal ebwe ayoora ótol (time frame) ubwe tingór (apply) reel aweweel ngare immediate relatives ngáli non-alien, me ayoora yááyál ngáli salaapial igha ubwe umwuw schóólimwómw (spouse). Rebwe ayoora ótol mwóghutul alien spouse ngáre e akkayúúló yaar schóólimw, afatta kkapaseer olighát kka re toolong Commonwealth bwelle mweimweey, me afatta kkapasal non-alien kka re akkascheló me ngare esóór schólimweer. Allégh kkaal nge e bwáári bwe aramasal Federated State of Micronesia nge re alien bwelle igha re lemelem immediate relatives.

Aweweel pomwol akkááw allégh: Alléghúl <u>Immigration</u> 706(D) ME 706(E), schéscéél akkatééló me fillóól mellól <u>Commonwealth Register Vol</u>. 27, No. 02 Mááischigh (February) 17, 2005 p. 024052.

Aramas ye ubwe faingi: Kevin A. Lynch, Sów Alillisil Sów Bwungul Allégh Lapalap, Legal Counsel, CNMI Bwulasiyool Sów Bwungul Allégh Lapalap, Divison mellól <u>Immigration Services</u>, tilifoon (670) 664-2366 me ngáre facsimile reel (670) 234-7016.

Ráálil ye	_llól Alimaté (June) 2007.
Isaliyallwow:	
	T. GREGORY GUIL ALLÉGH LAPALAP

PROPOSED AMENDMENTS TO IMMIGRATION REGULATIONS 706(D) AND 706(E)

- (D) Immediate Relative of Non-alien Entry Permit:
- (i) Permits immediate relatives of persons who are not aliens to remain in the CNMI for one year so long as the immediate relative status is in effect and all other qualifications are met. The application for an Immediate Relative Entry Permit shall be filed not earlier than 60 days following the marriage, during which entire time the alien must maintain lawful immigration status. To be eligible as a sponsor, the non-alien must demonstrate a gross annual income of not less than \$6100.00 per year until July 24, 2007 and \$7100.00 thereafter. The Director of Immigration may waive this income requirement for extraordinary and compelling reasons. In the event the marriage is terminated by judicial decree, the alien has a grace period of 30 days to either change to a different lawful immigration status or depart the Commonwealth.
- (ii) This permit also allows an alien under age 18 who is the subject of a petition for adoption to be filed in the Commonwealth Superior Court by a non-alien to remain within the Commonwealth for a period of one year to satisfy the requirements for adoption. Upon renewal the applicant must provide evidence of filing of the adoption action.
 - This subsection 706 (D) does not apply to relatives of citizens of the (iii) Freely Associated States (FAS) of the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau, as FAS citizens are aliens under CNMI law.
 - (iv) An alien holder of an Immediate Relative Entry permit may maintain status as an Immediate Relative of a non-alien if, after two calendar years of marriage, the permit holder becomes widowed. Such status shall continue until the remarriage of the permit holder or until expiration and nonrenewal of the permit. A person married less than two calendar years must secure a new immigration status within a reasonable time of the death of the spouse but in no event shall that time period exceed 90 days.
 - An Immediate Relative Entry Permit issued under 706 (D) may be (v) renewed.
 - (vi) A person granted a 706 (D) immigration status may be employed in the same manner as a non-alien.
- (E) Immediate Relative of Alien Entry Permit An immediate relative of an alien may enter under a permit for the same term as the alien's entry if, in addition to satisfying such other requirements as may be imposed by law or regulation, the alien posts cash as a bond with the Director of Immigration in the amount of twice the cost of return travel to the point of origin at the time of application. An alien may not obtain a permit under this section solely by virtue of his or her relationship with an alien who holds an immediate relative of a non-alien entry permit issued pursuant to subsection 706(D). If the sponsoring alien is a citizen of the Freely Associated States the permit shall be valid for a period of one year and shall be renewable as long as the FAS citizen continues to reside

COMMONWEALTH REGISTER

in the Commonwealth. FAS citizens are not required to secure an entry permit to reside and work in the Commonwealth.

The permit does not entitle the permit-holder to work.

Commonwealth of the Northern Marians Islands

Commonwealth Utilities Corporation (CUC)
Anthony C. Guerrero, Executive Director
PO Box 501220, Saipan MP 96950
(Joeten Commercial Complex, Dandan, 3rd Floor)
tel: (670) 235-7025 fax: (670) 235-5131

PUBLIC NOTICE

PUBLIC NOTICE OF CERTIFICATION AND ISSUANCE OF PROCUREMENT REGULATIONS OF THE COMMONWEALTH UTILITIES CORPORATION

<u>Title 50, Chapter 50 Northern Mariana Islands Administrative Code</u>: <u>Procurement Regulations of the Commonwealth Utilities Corporation</u>.

Please take notice that I, Anthony C. Guerrero, Executive Director of the Commonwealth Utilities Corporation (CUC), hereby adopt as permanent, the attached CUC Procurement Regulations, currently codified at Title 50, Chapter 50 of the Northern Mariana Islands Administrative Code (NMIAC). I also certify by signature below that, as published, such adopted regulations are a true, complete and correct copy of the CUC Procurement Regulations, and that they are being issued pursuant to CUC's enabling statute, set forth at 4 CMC sec. 8111 et. seq., as amended by Executive Order 2006-4. I further request and direct that this notice be published in the Commonwealth Register.

Authority for Adoption.

The adoption of the CUC Procurement Regulations attached hereto is made pursuant to 4 CMC secs. 8123(g), 8134, 8152, and 8157, as amended by Executive Order 2006-4.

Effective Date of Regulations / Ratification.

Pursuant to 4 CMC sec. 8123(g), 8134, 8152, and 8157, as amended by Executive Order 2006-4, the issuance of these regulations by the Executive Director is effective upon the approval of the Attorney General and the Secretary of Finance. See 4 CMC sec. 8152(a) ("The corporation shall comply with the procurement regulations or such other procurement regulations as may be issued by the executive director and approved by the Secretary of Finance and the Attorney General . . ."

The issuance of these regulations shall also be deemed a ratification of the CUC's Procurement Regulations as codified at NMIAC Title 50, Chapter 50.

Conforming Amendments.

The Law Revision Commission has the authority to make conforming amendments to the attached regulations to reflect the language of Executive Order 2006-4.

Agency Statement.

Pursuant to 4 CMC secs. 8122, 8123(g), 8134, 8152, and 8157, as amended by Executive Order 2006-4, the Executive Director of the CUC has the authority to adopt all regulations necessary for the efficient administration of CUC, and to issue all necessary procurement regulations. The issuance of procurement regulations is effective upon the approval of the Secretary of Finance and the Attorney General. See 4 CMC sec. 8152(a), as amended by Executive Order 2006-4.

The CUC Procurement Regulations are presently codified at NMIAC Title 50, Chapter 50 (Chapter History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990)).

The Executive Director of CUC has determined that the continued application of such procurement regulations is in the bests interests of CUC and the CNMI Government and that such regulations should be adopted as permanent under the authority provided by Executive Order 2006-4.

Attorney General and Secretary of Finance Approval. The issuance of the attached procurement regulations requires the review and approval of the Attorney General and the Secretary of Finance.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the day of June, 2007, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:

ANTHON & GUERRERO

Executive Director, Commonwealth Utilities Corporation

tion

Reviewed and Approved by:

MATTHÈW T. GREGORY

Attorney General

Date

Reviewed and Approved by: **ELOY S. INOS** Secretary, Department of Finance Filed and Record by: 6-18.07 Commonwealth Registrar

June 18, 2007

TITLE 50 COMMONWEALTH UTILITIES CORPORATION

Chapter 50 - Procurement Regulations

Chapter Authority: 4 CMC §§ 8122 and 8123; 4 CMC § 8157.

Chapter History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Commission Comment: PL 4-47 (effective October 1, 1985), the "Commonwealth Utilities Corporation Act," codified as amended at 4 CMC §§ 8111, et seq., created the Commonwealth Utilities Corporation (CUC) and empowered CUC to implement the provisions of the Act. See 4 CMC §§ 8121(a) and 8123. Executive Order 94-3 (effective Aug. 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 304(b):

Section 304. Department of Public Works

(b) Commonwealth Utilities Corporation. The Commonwealth Utilities Corporation is allocated to the Department of Public Works for purposes of administration and coordination.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

Part 001 - General Provisions

Subpart A - General

§ 50-50-001 Purposes

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

Modified, 1 CMC § 3806(d), (f).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-005 Authority

This chapter is promulgated under the authority of 4 CMC §§ 8122 and 8123, which give 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.

Modified, 1 CMC § 3806(d), (g).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Commission Comment: The commission changed "gives" to "give" to ensure proper subject verb agreement.

§ 50-50-010 Supplementary General Principles of Law Applicable

Unless displaced by the particular provisions of this chapter, 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 this chapter.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-015 Requirement of Good Faith

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

Modified, I CMC § 3806(d).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-020 Application of Regulations

Except as otherwise specified by law, this chapter applies 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 this chapter shall be construed to prevent CUC from complying with the terms and conditions of any grant, cooperative agreement or memoranda of understanding.

Modified, 1 CMC § 3806(d).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-025 Validity of Contract

No CUC contract covered by this chapter shall be valid unless it

complies with this chapter.

Modified, I CMC § 3806(d).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-030 Remedy Against Employee

Any procurement action of an employee of CUC in violation of this chapter 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.

Modified, 1 CMC § 3806(d).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Subpart B - Definitions

§ 50-50-035 Definitions

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

- (a) "Attorney General" means the Attorney General of the Northern Mariana Islands.
- (b) 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.
- (c) "Contract" means all types of agreements regardless of what they may be called for the procurement of supplies, services or construction.
- (d) "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 this chapter, and a fee, if any.
- (e) "CUC" means the Commonwealth Utilities Corporation of the Commonwealth government.
- (f) "Director" means the Executive Director of the Commonwealth Utilities Corporation or his designee.
- (g) "Dispute" means a disagreement concerning the legal rights and obligations of contracting parties, which, if not settled by

mutual agreement, must be referred to a neutral third party for resolution.

- (h) "Employee" means an individual receiving a salary from 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.
- (i) "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.
- (j) "Governor" means the Governor of the Northern Mariana Islands.
- (k) "Invitation for Bids" means all documents, whether attached or incorporated by reference, utilized for soliciting bids.
- (l) "Person" means an individual, sole proprietorship, partnership, joint venture, corporation, other unincorporated association or a private legal entity.
- (m) "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.
- (n) "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.
- (o) "Responsible" in reference to a bidder, means a person who has the capability in all respects to perfom fully the contract requirements, and the integrity and reliability which will assure good faith performance.
- (p) "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.
- (q) "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.

Modified, I CMC § 3806(d), (f), (g).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Commission Comment: In subsection (b), the commission moved the comma after "capital improvements" inside of the closing parenthesis.

Subpart C - Public Access

§ 50-50-040 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.

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Part 100 - Procurement Organization

§ 50-50-101 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 4 CMC §§ 8122 and 8123.

Modified, I CMC § 3806(f).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-105 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.

Modified, 1 CMC § 3806(f).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-110 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:

- (a) Oversee that this chapter is observed in all CUC procurement;
- (b) Hear all appeals of protests and disputes;
- (c) Conduct bidding, procurement, negotiation or administration

- of CUC contracts upon request of the official with expenditure authority;
- (d) Provide advanced planning for the centralized purchase of CUC supplies;
- (e) Exercise general supervision and control over all inventories of supplies belonging to CUC; and
- (f) Establish and maintain programs for the inspection, testing and acceptance of supplies.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-115 Contract Oversight

- (a) 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 this chapter, that the contract is for CUC purpose, and does not constitute a waste or abuse of CUC funds.
- (b) A contract shall next be approved by the Comptroller who shall certify the availability of funds.
- (c) 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 days.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) 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 this

chapter. If the Director withdraws approval or refuses to approve a contract, he shall state in writing the basis for his determination.

- (h) It is the responsibility of the 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.
- (i) 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.

Modified, 1 CMC § 3806(d), (e), (f).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-120 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.

Modified, 1 CMC § 3806(g).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Commission Comment: The commission deleted a "2" in the first sentence to correct a typographical error.

§ 50-50-125 Acceptance of Gratuities by the Director and CUC Employees

- (a) In addition to the restriction found in § 50-50-525, the Director and the employees of CUC shall be subject to these additional restrictions to avoid the appearance of impropriety.
- (b) 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.

Modified, 1 CMC § 3806(c).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Part 200 - Source Selection and Contract Formation

Subpart A - Source Selection

§ 50-50-201 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:

- (a) § 50-50-210 (Small Purchase);
- (b) § 50-50-215 (Sole Source Procurement);
- (c) § 50-50-220 (Emergency Procurement);
- (d) § 50-50-225 (Competitive Sealed Proposals);
- (e) § 50-50-230 (Professional Services);
- (f) § 50-50-305 (Architect- Engineer Services).

Modified, 1 CMC § 3806(c).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-205 Competitive Sealed Bidding

- (a) Invitations for Bids. An invitation for bids shall be issued and shall include at the minimum:
- (1) An invitation for bids number;
- (2) Date of issuance;
- (3) Name, address and location of issuing office;
- (4) Specific location where bids must be submitted:
- (5) Date, hour and place of bid opening;
- (6) A purchase description in sufficient detail to permit full and open competition and allow bidders to properly respond;
- (7) Quantity to be furnished;
- (8) Time, place and method of delivery or performance requirements;
- (9) Essential contractual terms and conditions; and
- (10) Any bonding requirements.
- (b) Public Notice. Adequate public notice of the invitation for bids shall be given a reasonable time prior to the date set forth for the opening of bids. Publication of notice in a newspaper of general circulation in the Commonwealth once in each week over a period of calendar days shall be deemed to be adequate notice.
- (c) Bidding Time. A bidding time of at least thirty calendar days shall be provided, unless the Director detenaines a shorter period is reasonable and necessary.
- (d) 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.
- (e) 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.
- (f) Bid Acceptance and Bid Evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria as is necessary to reasonably permit a determination as to the acceptability of the bid for the particular purpose intended.
- (g) Bid Rejection. A bid may be rejected for any of the following reasons:
- (1) Failure to confom to essential requirements of the invitation for bids such as specifications or time of delivery;
- (2) Imposition of conditions or restrictions in the bid which modify requirements of the invitation or limit the bidder's liability to 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.
- (3) Unreasonableness as to price;
- (4) A bid from a nonresponsible bidder
- (h) Correction or Withdrawal of Bids. Cancellation of Awards. Correction or withdrawal of inadvertently erroneous bids, before or after award, or cancellation of awards or contracts based on bid mistakes must be approved by the 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 (1) or (2).

- (1) Correction of bids. Correction of bids shall only be permitted when:
- (i) An obvious clerical mistake is clearly evident examining the bid document. Examples of such mistakes are error in addition or the obvious misplacement of a decimal point, or
- (ii) The otherwise lowest 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 judgment.
- (2) Withdrawal of Bids. Withdrawal of a bid shall only be permitted where the otherwise low bidder alleges a mistake and there is a clear and convincing evidence as to existence of a
- (3) 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.
- (i) Award.
- (1) The contract must be awarded with reasonable promptness by written notice to the lowest responsive bid by a responsible bidder whose bid fully meets the requirements of the invitation for bids and this chapter. Unsuccessful bidders shall also be promptly notified.
- (2) Notice of an award shall only be made by the presentation of a contract with all of the required signatures to the bidder. No other notice of an award shall be made 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.
- (3) In the event all bids exceed available funds and the bid of the lowest responsive and responsible bidder does not exceed those funds by more than fifteen percent, 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.

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

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Commission Comment: In subsection (g)(2), the commission changed the semi-colon to a colon to correct a manifest error.

§ 50-50-210 Small Purchases

- (a) Any procurement not exceeding the amounts established herein may be made in accordance with small purchase procedures. However, procurement requirements shall not be artificially divided so as to constitute a small purchase.
- (b) No bidding is required for procurement under \$25,000.00.
- (c) For procurement valued at \$25,000 to \$50,000, the Director must obtain price quotations from at least three vendors and base the selection on competitive price and quality.
- (d) Purchase orders may be utilized for small purchases in subparagraphs (b) and (c) only. In no other instance may purchase orders be utilized instead of contracts.

Modified, 1 CMC § 3806(c), (e).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-215 Sole Source Procurement

- (a) A contract may be awarded for a supply, service or construction item without competition when the Director dstemines in writing that there is a demonstrated benefit to CUC for sole source procurement for the required supply, service or construction item.
- (b) The written determination shall be prepared by the Director and shall contain the following information:
- (1) The unique capabilities required and why they are required and the consideration given to alternative sources.

Modified, 1 CMC § 3806(f).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-220 Emergency Procurement

- (a) Notwithstanding any other provision of this chapter, 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.
- (b) 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.

Modified, I CMC § 3806(d), (g).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Commission Comment: In subsection (a), the commission changed "an other" to "any other" to correct a manifest error.

§ 50-50-225 Competitive Sealed Proposals

- (a) 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.
- (b) Request for proposals. Proposals shall be solicited through a request for proposals.
- (c) Public notice. Adequate public notice of the request for proposals shall be given in the same manner as provided for in competitive sealed bids.
- (d) Receipt of proposals. Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be prepared and opened for public inspection after contract award.
- (e) Evaluation factors. The request for proposals shall state the relative importance of price and other evaluation factors.
- (f) Discussion with responsible offerors and revisions to proposals. As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification and to insure full understanding of, and responsiveness to, solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submission and prior to award for the purpose of obtaining the best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.
- (g) Award. Award shall be made to the responsible offeror whose proposal is determined in writing to be the 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.

Modified, I CMC § 3806(g).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Commission Comment: In subsection (e), the commission changed "an" to "and" to correct a manifest error. In subsection (g), the commission deleted the

> 26590 PAGE June 18, 2007

repeated word "shall."

§ 50-50-230 Competitive Selection Procedures for **Professional Services**

- (a) Procurement method. The services of accountants, physicians or lawyers shall be procured as provided in this section except when authorized as a small purchase, emergency procurement or sole-source procurement.
- (b) 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 filing a new statement.
- (c) Public announcement and form of request for proposals. Adequate notice of the need for such services shall be given by the official with expenditure authority through a request for proposals. The request for proposals shall describe the services required, list the type of information and data required of each offeror and state the relative importance of particular qualifications.
- (d) Discussions. The 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.
- (e) 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 the request for proposals and negotiations of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best qualified offerer 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.

Modified, 1 CMC § 3806(g).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Commission Comment: In subsection (a), the commission changed "lawyer" to "lawyers" and in subsection (b) the commission changed "filling" to "filing a" to correct manifest errors. The commission also deleted the repeated word "in" in subsection (e).

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

§ 50-50-235 Cancellation

An invitation for bids or request for proposals may be cancelled, and any and all bids or proposals may be rejected, when such action is determined 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:

- (a) Inadequate or ambiguous specifications contained in the solicitation;
- (b) Specifications which have revised;
- (c) Goods or services being procured which are no longer required;
- (d) Inadequate consideration given to all factors of cost to CUC in the solicitation;
- (e) Bids or proposals received indicate that the needs of CUC can be certified by a less expensive good or service;
- (f) All offers with acceptable bids or proposals received are at unreasonable prices; or
- (g) Bids were collusive.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Commission Comment: In subsection (e), the commission deleted the repeated phrase "by a less expensive."

Subpart C - Qualifications and Duties

§ 50-50-240 Responsibility of Bidders and Offerors

- (a) Award shall be made only to responsible contractors. To be determined responsible, a prospective contractor must:
- (1) Have adequate financial resources to perform the contract, or the ability to obtain them;
- (2) Be able to comply with the required delivery or performance schedule;
- (3) Have a satisfactory performance record;
- (4) Have a satisfactory record of integrity and business ethics;
- (5) Have the necessary organization, experience and skill, (or the ability to obtain them), required to successfully perform the contract;
- (6) Have the necessary production, construction and technical equipment facilities, or the ability to obtain them; and
- (7) Be otherwise qualified and eligible to receive an award

June 18, 2007

under applicable laws and rules.

- (b) 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 subsection (a) above. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for determination of nonresponsibility with respect to that bidder or offeror.
- (c) Right of nondisclosure. Information furnished by a bidder or offeror pursuant to subsection (b) 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.
- (d) 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.

Modified, 1 CMC § 3806(c), (f), (g).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Commission Comment: In subsection (b), the commission changed "form" to "from" to correct a manifest error.

§ 50-50-245 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.

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Subpart D - Types of Contracts

§ 50-50-250 Types of Contracts

- (a) Use of a cost-plus-a-percentage-cost and percentage of construction cost methods of contracting is prohibited.
- (b) CUC contracts shall utilize a firm fixed price unless use of a cost reimbursement contract is justified under subsection (c).
- (c) A cost reimbursement contract may be used when the

Director determines in writing, which is attached to the contract, that:

- (1) Uncertainties in the work to be performed make the cost of performance too difficult to estimate with the degree of accuracy required for a firm fixed price contract;
- (2) Use of a firm fixed price contract could seriously affect the contractor's financial stability or result in payment by CUC for contingencies that never occur; or
- (3) 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.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Subpart E - Inspection and Audit

§ 50-50-255 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.

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-260 Right to Audit Records

As required by § 404 of Public Law No. 3-91, the contractor and subcontractor or grantee or 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 years after the final payment under the contract or grant. A clause to this effect shall appear in all CUC contracts and obligations.

Modified, 1 CMC § 3806(e).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Subpart F - Reports and Records

§ 50-50-265 Report of Anticompetitive or Deceptive **Practices**

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

Modified, 1 CMC § 3806(f).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

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

§ 50-50-270 Retention of Procurement Records

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

Modified, 1 CMC § 3806(e), (f).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Part 300 - Procurement of Construction and Architect-**Engineer Services**

§ 50-50-301 Construction Procurement

- (a) Invitation for Bids.
- (1) Deposit. The Director shall determine the amount of deposit required for potential bidders to obtain the invitation for bids.
- (2) Contents. The invitation for bids shall be prepared in accordance with § 50-50-205(a). 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.
- (b) Bid Security.
- (1) 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.
- (2) Amount. Bid security shall be an amount to at least fifteen percent of the amount of the bid or other amount as specified in the invitations for bids depending upon the source of funding.
- (3) Rejection of bid. Failure to furnish bid security, when required by the invitation, shall result in rejection of the bid as nonresponsive.
- (c) Contract Performance and Payment Bonds.
- (1) 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 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 of the price specified in the contract.
- (d) 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 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 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.*

*So in original.

(e) Suite 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 year after the day on which the last of the labor was performed or material was supplied by the person bringing suit. The oblige named in bond need not be joined as a party in any such suit.

**So in original; probably should be "no."

(f) Fiscal responsibility. Every contract modification, change order, or contract price adjustment under a construction contract shall be subject to prior written certification by the 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.

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

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Commission Comment: In subsection (a)(2)(v), the commission changed the final semi-colon to a period to correct a manifest error. In subsection (d), the commission changed "clam" to "claim."

§ 50-50-305 Architect-Engineer Services

- (a) Procurement Method. Architect-engineer services shall be procured as provided in this section except when authorized as a small or emergency procurement.
- (b) Policy. It is the policy to publicly announce all requirements for architect-engineer services and negotiate contracts on the basis of demonstrated competence and qualifications at a fair and reasonable price.
- (c) Selection. The 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 of the firms, regarding the contract requirements and technical approach and selection made therefrom, in order of preference, of no less than three firms determined to be the most highly qualified to perform the services required.

(d) Negotiation. The 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.

Modified, 1 CMC § 3806(e), (g).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Commission Comment: In subsection (c), the commission changed the period after "Sewer" to a comma to correct a manifest error.

Part 400 - Protests and Disputes

Subpart A - Bid Protests and Appeals

§ 50-50-401 Protests to the Director

- (a) General.
- (1) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Director. The protest shall be received by the Director in writing within ten 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 before or 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;
- (2) 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 week;
- (3) The Director shall decide the protest within thirty calendar

days after all interested parties have submitted their views, unless he certifies that the complexity of the matter requires a longer time, in which event he shall specify the appropriate longer time;

- (4) When a protest, before or after award, has been appealed to the 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 subsection (b)(4) below.
- (5) Since timely action on protests is essential, they should be handled on a priority basis. Upon receipt of notice that an appeal from the 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 (4) 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.
- (b) Protests Before Award.
- (1) The Director shall require that written confirmation of an oral protest be submitted by the time specified in subsection (a)(1) and may inform the protester that the award will be withheld until the specified time. If the written protest is not received by the time specified, the oral protest may be disregarded. An award may be made in the normal manner unless the Director finds it necessary in his discretion to take remedial action.
- (2) When a proper protest against the making of an award 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 subsection (3) below.
- (3) 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.
- (4) If award is under subsection (3) 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.
- (c) Protests After Award. Although persons involved in or affected by the filing of a protest after award may be limited, in addition to the Director, at least the contractor shall be furnished the notice of protest and its basis in accordance with subsection (a)(2) above. When it appears likely that an award may be invalidated and a delay in receiving the supplies or services is not prejudicial to CUC's interest, the Director should consider seeking a mutual agreemmt with the contractor to suspend perforance on a no-cost basis.
- (d) Computation of Time.
- (1) Except as otherwise specified, all "days" referred to in this part are deemed to be working days of the Commonwealth government. The term "file" or "submit" except as otherwise provided refers to the date of transmission.
- (2) In computing any period of time prescribed or allowed by these procedures, the day of the act or event from which the designated period of time begins to run shall not be included.

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

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Commission Comment: In subsection (a)(1), the commission changed "or before after" to "before or after," and in subsection (a)(5), the commission changed "form" to "from" and "I" to "In" to correct manifest errors.

In subsection (b)(1), the commission changed "disregard" to "disregarded" and in subsection (b)(4) the commission changed "concern" to "concerned."

§ 50-50-405 Appeals of Director's Decisions to the Public Auditor

- (a) 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 § 50-50-401 of these procedures, and the Director has denied the protest or has failed to act on the protest within the time provided for in § 50-50-401(a)(3) above.
- (b) Form of Appeal. No particular form of pleading is required for filing an appeal to the Public Auditor. The appeal shall, however:
- (1) Include the name and address of the appellant;

- (2) Identify the number of the solicitation or contract;
- (3) Contain a concise, logically arranged, and direct statement of the grounds for appeal; and
- (4) Specifically request a ruling by the Public Auditor.
- (c) 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 days after the appellant receives the decision of the Director, or, in the event that the Director has not decided the protest within ten days from the date that he should have pursuant to § 50-50-401(a)(3) 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.
- (d) Notice of Protest. Submission of Director's Report and Time for Filing of Comments on Report.
- (1) The Public Auditor shall notify the Director by telephone and in writing within one 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 § 50-50-401(a)(2) of these procedures copies of the protest and appeal documents to such parties with instruction to communicate further directly with the Public Auditor.
- (2) Material submitted by an appellant will not be withheld from any Commonwealth or federal agency which may be involved in the appeal except to the extent that the withholding of information if* permitted or required by law or regulation. If the appellant considers that the protest contains material which should be withheld, a statement advising of this fact must be affixed to the front page of the appeal document and the allegedly proprietary information must be so identified wherever it appears.
- (3) The 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 § 50-50-401(a)(4) of these procedures and to furnish a copy of the report to the appellant and other interested parties as defined in § 50-50-301(d)(3).
- (4) Comments on CUC report shall be filed with the Public Auditor within ten 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 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 days after receipt by the CUC of the comments to which rebuttals directed.
- (5) 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.

- *So in original; probably should be "is."
- **So in original.
- (e) 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.
- (f) Furnishing of Information on Protests. The Public Auditor shall, upon request, make available to any interested party information 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 days.
- (g) 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 days after the receipt of such request. If it is necessary to obtain additional information from the Director, the Public Auditor that such information be furnished as expeditiously as possible.
- (h) Conference.
- (1) 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.
- (2) 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.
- (3) 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 days of the date on which the conference was held.
- (4) Time for Decision; Notice of Decision: The Public Auditor shall, if possible, issue a decision on the appeal within 25 days after all infomation 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.

June 18, 2007

(i) Request for Reconsideration.

- (1) Reconsideration of a decision of the Public Auditor may be requested by the appellant, any interested person 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.
- (2) Request for reconsideration of a decision of the Public Auditor shall be filed not later than ten 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.
- (3) A request for reconsideration shall be subject to these bid protest procedures consistent with the need for prompt resolution of the matter.

Modified, I CMC § 3806(c), (e), (f), (g).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Commission Comment: In subsection (d)(3), the commission changed "he" to "the" to correct a manifest error.

§ 50-50-410 Remedies

- (a) 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:
- (1) Cancelled; or
- (2) Revised to comply with law or regulation.
- (b) 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:
- (1) If the person awarded the contract has not acted fraudulently or in bad faith:
- (i) The contract may be ratified and affirmed, provided it is determined that doing so is in the best interests of 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;
- (2) If the person awarded the contract has acted fraudulently or in bad faith:
- (i) The contract may be declared null and void; or
- (ii) The contract may be ratified and affirmed if such action is in the best interests of CUC, without prejudice to CUC's rights to such damages as may be appropriate.
- (c) 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.

Modified, I CMC § 3806(f).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-415 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 this chapter shall be heard in accordance with this subpart upon the request of the actual or prospective bidder, offeror, or contractor who is aggrieved.

Modified, 1 CMC § 3806(d).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Subpart B - Disputes

§ 50-50-420 Disputes

- (a) Any dispute between CUC and a contractor relating to the performance, interpretation of or compensation due under a contract, which is the subject of this chapter, must be filed in writing with the Director within ten calendar days after knowledge of the facts surrounding the dispute.
- (b) When a claim by or against a contractor cannot be satisfied or settled by mutual agreement and a decision on the dispute is necessary, the Director shall review the facts pertinent to the dispute, secure necessary legal assistance and prepare a written description that shall include:
- (1) Description of the dispute;
- (2) Reference to pertinent contract terms;
- (3) Statement of the factual areas of disagreement or agreement; and
- (4) Statement of the decision as to the factual areas of disagreement and conclusion of the dispute with any supporting rationale.
- (c) Appeals. The 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.
- (d) 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 denied to be a material breach of the contract unless he obtains a waiver of this provision by the official with expenditure authority.

Modified, I CMC § 3806(d), (e), (f).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Part 500 - Ethics In Public Contracting

Subpart A - Definitions

§ 50-50-501 Definition of Terms

- (a) "Confidential information" means any information which is available to an employee only because of the employee's status as an employee of CUC and is not a matter of public knowledge or available to the public on request.
- (b) "Conspicuously" means written in such special or distinctive form, print or manner that a reasonable person against whom it is to operate ought to have noticed it.
- (c) "Direct or indirect participation" means involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity.
- (d) "Financial interest" means:
- (1) 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
- (2) Holding a position in a business such as an officer, director, trustee, partner, employee or the like or holding any position of management.
- (e) "Gratuity" means a payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- (f) "Immediate family" means spouse, children, parents, brothers, sisters, mother-in-law, father-in-law, sister-in-law and brother-in-law or any member of the household.

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Subpart B - Standards of Conduct

§ 50-50-505 Policy

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

(a) Insure fair competitive access to CUC procurement by reasonable contractors; and

(b) Conduct themselves in a manner as to foster public confidence in the integrity of CUC.

Modified, I CMC § 3806(f).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-05-510 General Standards

- (a) 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 public trust. In order to fulfill this ethical standard, employees must meet the requirements of this chapter.
- (b) Contractors. Any effort to influence any CUC employee to breach the standards of ethical conduct set forth in this chapter is also a breach of ethical standards.

Modified, 1 CMC § 3806(d).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-515 Employee Disclosure Requirements

- (a) 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.
- (b) Failure to disclose benefit received. Any employee who knows or should have known of such benefit and fails to report such benefit is in breach of these ethical standards.

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-520 Employee Conflict of Interest

- (a) Conflict of interest. It is a breach of ethical standards for any employee to participate directly or indirectly in a procurement when the employee knows that:
- (1) The employee or any member of the employee's immediate family has a financial interest pertaining to the procurement;
- (2) A business or organization in which the employee, or any member of the employee's immediate family has a financial interest pertaining to the procurement; or
- (3) Any other person, business or organization with whom the employee or any of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.
- (b) Discovery of actual or potential conflict of interest, disqualification and waiver. Upon discovery of an actual or potential conflict of interest, an employee shall promptly file

with the 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.

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-525 Gratuities and Kickbacks

- (a) 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.
- (b) 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.

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-530 Prohibition Against Contingent Fees

- (a) Contingent fees. It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure 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.
- (b) 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 of standards.

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-535 Contract Clauses

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

and solicitation therefor.

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-540 Restrictions on Employment of Present and Former Employees

- (a) Present employees. It shall be a breach of ethical standards for any employee who is participating directly or indirectly in the procurement process to become or be while such an employee, the employee of any person contracting with CUC by whom the employee is employed.
- (b) Restrictions on former employees in matters connected with their former duties. Permanent disqualification of former employee personally involved in a particular matter. It shall be a breach of ethical standards for any former employee knowingly to act as a principal or as an agent for anyone other than CUC, in connection with any:
- (1) Judicial or other proceeding, application, request for a ruling or other determination;
- (2) Contract;
- (3) Claim; or
- (4) Charge or controversy in which the employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation or otherwise while an employee, where CUC is a party or has a direct or substantial interest.
- (c) Disqualification of business when an employee has a financial interest. It shall be a breach of ethical standards for a business in which an employee has a financial interest knowingly to act as a principal, or as an agent for anyone other than CUC, in connection with any:
- (1) Judicial or other proceeding, application, request for a ruling or other determination;
- (2) Contract;
- (3) Claim; or
- (4) Charge or controversy in which the employee either participates personally and substantially through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or which is the subject of the employee's official responsibility, where CUC is a party or has a direct and substantial interest.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Commission Comment: In subsection (c)(4), the commission changed "responsible" to "responsibility" to correct a manifest error.

§ 50-50-545 Use of Confidential Information

26599

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.

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-550 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 the contract was obtained by a bidder or bidders by reason of collusive or secret agreement among the bidders to the disadvantage of CUC.

Modified, 1 CMC § 3806(g).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Commission Comment: The commission changed "he" to "the" to correct a manifest error.

§ 50-50-555 Penalties

- (a) CUC employees. CUC employee is any person whether appointed, excepted service or civil service. An employee who violates the provisions of this chapter is subject to adverse action as may be appropriate in his or her particular circumstances. This action includes but is not limited to reprimand, suspension without pay, termination of employment, civil injunction, civil suit for damages or return of CUC money, or criminal prosecution.
- (b) Contractors. A contractor who violates a provision of this chapter 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.
- (c) All proceedings under this section must be in accordance with due process requirements.

Modified, 1 CMC § 3806(d).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

§ 50-50-560 Authority to Debar or Suspend

(a) Authority. After reasonable notice to the person involved and reasonable opportunity for the person to be heard under the Administrative Procedures Act [1 CMC §§ 9101, et seq.], the Director, after consultation with the Board of Directors and the

Attorney General or the CUC legal counsel, shall have authority to debar a person for cause from consideration for award of contracts. The debarment shall not be for a period of more than three 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 months.

- (b) The causes for debarment or suspension include the following:
- (1) Conviction for commission of a criminal offense is* an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
- (2) Conviction under Commonwealth or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, violation of the Consumer Protection Act (4 CMC §§ 5101, et seq.), violation of unfair business practices as prescribed by 4 CMC § 5202, or any other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects its responsibility as a government contractor;
- (3) Conviction under Commonwealth or federal antitrust statues arising out of the submission of bids or proposals such as in chapter 2 of division 5 of title 4 of the Commonwealth Code;
- (4) Violation of contract provisions, as set forth below, of a character which is regarded by the 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.
- (5) 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
- (6) For violation of any of the ethical standards set forth in this part 500.
- *So in original; probably should be "as."
- (c) Decision. The Director shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken.
- (d) Notice of Decision. A copy of the decision shall be mailed or otherwise furnished immediately to the debarred or suspended person.

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

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Commission Comment: In subsection (a), the commission deleted the repeated word "have." In subsection (b)(2), the commission inserted a comma after "5101" and deleted the period after "et" and in subsection (b)(6) the commission changed "se" to "set" to correct manifest errors.

Part 600 - Miscellaneous Provisions

§ 50-50-601 Severability

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

Modified, 1 CMC § 3806(d).

History: Adopted 13 Com. Reg. 7853 (Aug. 15, 1991); Proposed 12 Com. Reg. 7069 (June 15, 1990).

Statutory authority checked through June 30, 2003.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS OFFICE OF THE ATTORNEY GENERAL

DIVISION OF IMMIGRATION

Second Floor Afetna Square Building, San Antonio, P.O. Box 10007, Saipan, MP 96950 Telephone no.: (670) 236-0921/2/3, Facsimile no.: (670) 664-3190



PUBLIC NOTICE

June 12, 2007

To: General Public, All Immigration Personnel

From: Matthew T. Gregory, Attorney General

Re: Excluded Locations

Pursuant to Immigration Regulation Section 804(B), notice is hereby given that the Attorney General hereby designates the following locations as Excluded Locations:

- Afghanistan
- Algeria
- Bahrain
- Bangladesh
- Cuba
- Egypt
- Eritrea
- Fujian Province China
- Indonesia
- Iran
- Iraq
- Jordan
- Kuwait
- Lebanon
- Libya

- Morocco
- Myanmar
- Nigeria
- North Korea
- Oman
- Pakistan
- Qatar
- Saudi Arabia
- Somalia
- Sri Lanka
- Sudan
- Syria
- Tunisia
- United Arab Emirates
- Yemen

Under Immigration Regulation § 804(C) waivers are issued on a case-by-case basis. However, when a location appears on the list of Excluded Locations the presumption is in favor of excluding all persons seeking to enter the CNMI from those locations. For the information of the general public, below I have outlined some of the factors that will be considered when exercising my discretion in deciding whether to grant or deny a request for a waiver of the exclusion. Note that 1) this is a non-exhaustive list, and that there may be other relevant factors considered in making the decision, 2) an applicant may satisfy one or more of the factors but still be denied for other reasons, and 3) this list does not create any rights, nor should it create an expectation that a waiver will be granted if factors on the list are satisfied by an applicant. Also, the applicant must comply with all other requirements of the Immigration Regulations in the application process, including bonding, sponsor requirements, etc.

For visitors entering the Commonwealth pursuant to a Visitor's Entry Permit (VEP):

Visitors may be allowed entry for humanitarian reasons such as attendance at a funeral or brief visits between a parent and child.

Visitors in transit to embark on commercial fishing or other vessels from a seaport in the CNMI, or crew members of a commercial air or sea vessel may be allowed entry pursuant to a prior agreement between the Attorney General's Office, Division of Immigration and an approved agent for the employer.

Tourists entering under the Electronic Visitor Entry Permit Program when the application has been subjected to scrutiny and approval by the Division of Immigration and all entry requirements under statute, regulation, and any additional requirements stated in any Memorandum of Understanding regarding Electronic Visa Waivers have been met.

For persons applying for entry as alien workers:

The applicant must show that the presence of the worker will substantially benefit the Commonwealth. This benefit must be specific and related to significantly improving the quality of life or economy in the Commonwealth. The ordinary contributions of an alien worker made during the course of employment do not constitute adequate grounds for waiver.

The prospective worker must have knowledge, skills, or abilities that cannot be found in the population present in the Commonwealth, and the applicant must demonstrate that it is not feasible to hire a person of similar knowledge, skills or abilities from a non-excluded location.

The fact that a prospective worker shares language, culture, or traditions in common with other workers or company management does not constitute adequate grounds for a waiver. The fact that the prospective worker is a relative of the applicant does not constitute adequate grounds.

The fact that a person has been granted a waiver under § 804 for one immigration classification (eg. Tourist) does not guarantee that a waiver will be granted for another purpose (eg. Immediate Relative, student, contract worker, etc.). Generally, any request for a change of status or immigration classification of a person entering the Commonwealth from an excluded location will be denied, and may subject the sponsor of the alien to an assessment against the bond posted pursuant to § 804 (C)(1)(a).

Special Conditions under Immigration Regulation 804 (C)(2).

Special conditions to be required may include notification that the Division of Immigration may not allow that visitor to change status or immigration classification while in the Commonwealth, such as from Short- or Long-term Tourist to Immediate Relative, Foreign Investor, student, etc. Under no circumstances will a person entering on a tourist status be allowed to transfer to a nonresident worker classification unless the person departs the Commonwealth and separately applies for the new position, which application will be reviewed de novo. Special conditions may also prohibit the issuance of a tourist extension and may require adherence to the itinerary submitted with the VEP application. Other conditions may be imposed when deemed appropriate under the circumstances.

Respectfully submitted,

MATTHEW T. GREGORY Attorney General

Commonwealth of the Northern Mariana Islands

COMMONWEALTH REGISTER