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SAIPAN, MARIANA ISLANDS

VOLUME 18 NUMBER 04



APRIL 15, 1996

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REGISTER

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TABLE OF CONTENTS

PROPOSED and AMENDMENTS:

Proposed Rules and Regulations Governing Medical Referral Program
Commonwealth Health Center.....14039

Amendments to Rules and Regulations to the Workers' Compensation Commission.
Workers' Compensation Commission/NMI Retirement Fund.....14066

ADOPTION:

Adoption of Amendments to the Revenue and Taxation Regulations No. 2200.
Department of Finance Division of Revenue and Taxation.....14076

Adoption of Amendments to the Regulations for Engineers, Architects, Land
Surveyors and Landscape Architects.
Board of Professional Licensing.....14078

Adoption of the Final Marianas Visitors Bureau Procurement Regulations.
Marianas Visitors Bureau.....14082



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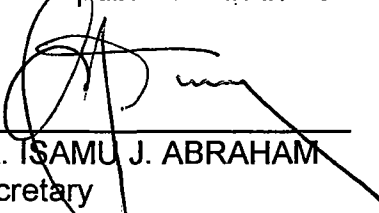
GOVERNMENT OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

PUBLIC NOTICE

**PROPOSED RULES AND REGULATIONS GOVERNING
THE ADMINISTRATION OF THE MEDICAL REFERRAL PROGRAM**

The Secretary of the Department of Public Health of the Commonwealth of the Northern Mariana Islands, in accordance with the authority vested pursuant to 1 CMC §2605, proposes these Rules and Regulations governing the establishment and administration of the Medical Referral Program.


It is the intention of the Department of Public Health to comply with the requirements of the Administrative Procedures Act, specifically 1 CMC §9104, in proposing these Rules and Regulations. Copies of the proposed Rules and Regulations may be obtained from the Office of the Secretary of Public Health located on the ground floor of the Commonwealth Health Center. Comments on the proposed Rules and Regulations may be sent to the Office of the Secretary of Public Health, Department of Public Health, P.O. Box 409 CK, Saipan, MP 96950. All comments must be received within thirty (30) days from the date this notice is published in the Commonwealth Register.

Certified By: 
DR. ISAMU J. ABRAHAM
Secretary
Department of Public Health

4-7-96
Date

Filed By: 
SOLEDAD B. SASAMOTO
Registrar of Corporations

4-8-96
Date

Received by: 
DONNA J. CRUZ
Governor's Office

4/9/96
Date



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GOVERNMENT OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

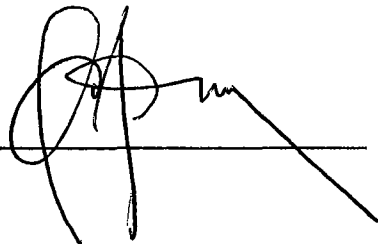
NOTISIA PARA I PUBLIKU

I Secretarian i Depattamenton i Hinemlo Publiko para i Commonwealth Notte Marianas, Kompromisu gi aotoridat ni mana'i Segun gi i CMC § 2605, i mapropositon este siha na Lai yan Areklamento (Regulasion) ni gumobebetna i ma'estapblese yan i Administrasion i programan i Medical Referral.

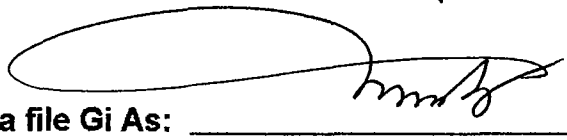
I intension i Depattamenton if Hinemlo Publiko para u kumple i nisisidat i Administrative Procedure Act espisifikatmente i CMC § 9104 ni promopositu este siha na Lai yan Areklamento.

Sina i kopian i mapropositu na Lai yan Areklamento machule' ginen i ofisinan i Secreratian i Depattamenton i Hinemlo Publiko ni gaige gi primet bibienda gi Commonwealth Health Center. Todu rekomendasion pot i mapropositu na Lai yan Areklamento sina u mana' hanao guatu gi Office of the Secretary of Public Health, Department of Public Health, P.O. Box 409 CK, Saipan M. P. 96950.

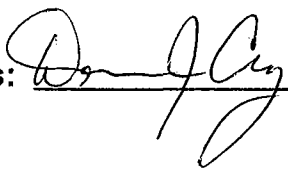
Todu rekomendasion debi di u fanmarisibi gi halom trenta (30) dias ginen este na fecha guini na notisia ni marehistra gi Commonwealth Register.

Ma Setifiku Gi As: 

4-7-96
Date

Ma file Gi As: 

4-8-96
Date

Marisibi Gi As: 

4/9/96
Date



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OFFICE OF THE SECRETARY

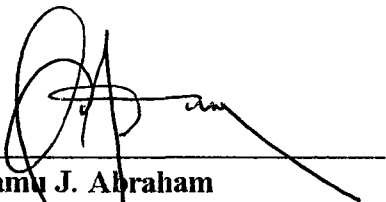
GOVERNMENT OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

ARONGORONG NGA'LIIR TOULAP

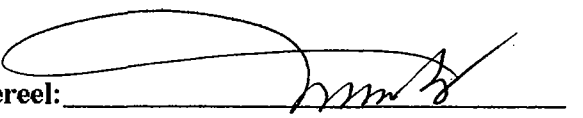
**PROPOSE-UL AFAL ME ALLE'GH REEL
AMINSTRATION-UL MEDICAL REFERRAL PROGRAM**

Sekreteriil Bwulasiyool limilimal Toulap (Department of Public Health) ilo'l Commonwealth Northern Marianas sa'ngi mereel authority la effer'e'ta' nga'li 1CMC § 2605, e propose-lil afal me alle'gh bwelle reel mwo'ghutu'ghu'l me administration-ul Medical Referral Program.

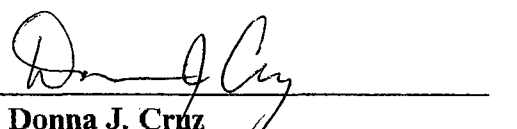
Intention-ul Bwulasiyool limilimal Toulap (Department of Public Health) bwe ebwe attabweey requirement reel Administrative Procedures Act, ebwe maas ghil ngali ilo'l 1CMC § 9104 igha ebwe propose-lil Afal me Alle'gh. Kopiyaal propose-ul Afal me Alle'gh emmwel ubwe bweibwogh sangi leliyel sekreteriil limilimal Toulap mereel Commonwealth Health Center. Nga're eyoor ya'a'mi mengemeng me aiyegh reel propose-ul Afal me alle'gh kkaal afangengeli leliyel Sekreteriil Bwulasiyool limilimal Toulap, P.O. Box 409 CK. Saipan M.P. 96950. Alongal aiyegh ngare mengemeng nge ebwe isisilong llo'l eliigh ra'l sa'ngi lloil ra'l ye a published llo'l Commonwealth Register.

Certified Mereel: 
Dr. Isamu J. Abraham
Sekrekeriil
Bwulasiyool Limilimal Toupal

4-7-96
Ra'l

Filed Mereel: 
Soledad B. Sasamoto
Registrar of Corporation

4-8-96
Ra'l

Bwughiyal: 
Donna J. Cruz
Bwulasiyool Gobenno

4/9/96
Ra'l

**RULES AND REGULATIONS GOVERNING
THE ADMINISTRATION OF THE MEDICAL REFERRAL PROGRAM**

INTRODUCTION

The criteria and procedures established in these Rules and Regulations for patient medical referrals are designed to provide residents of the CNMI with a means of receiving medical care and treatment which is not available within the Commonwealth. By sending patients approved for medical referral to established referral health care facilities for extended medical care and treatment, the Medical Referral Program can expand the range of medical specialties and procedures attainable for enhanced patient health. In establishing this Medical Referral Program, it is incumbent upon the CNMI Government to manage the Program's operations to ensure that the health care benefits afforded to residents of the CNMI are provided in a reasonable and equitable manner. It is therefore an objective of these Rules and Regulations to contain the costs of medical referrals by excluding unnecessary referrals, minimizing inappropriate lengths of stay at the referral health care facility, and establishing a cost-sharing mechanism with the patient. The procedures set forth below are essential to a cost-effective health care program.

I. Medical Referral Program

There is hereby established a Medical Referral Program within the Department of Public Health which shall facilitate the referral of patients to established referral health care facilities outside the CNMI for extended medical care as set forth in these Rules and Regulations. Financial assistance for medical care outside the CNMI, and related costs, shall be available as provided in these Rules and Regulations to the extent that funds for the program are appropriated by the CNMI Legislature. If in any fiscal year, appropriated funding for the Medical Referral Program is exhausted prior to the end of the fiscal year, the Medical Referral Program shall cease operations until additional funding is appropriated or reprogrammed for its operations.

II. Medical Referral Office

There is hereby established a Medical Referral Office within the Department of Public Health which shall be headed by a Medical Referral Officer appointed by the Secretary of Public Health. The duties and responsibilities of the Medical Referral Office shall include the following:

a. Assisting the patient's primary care physician to ensure that all necessary documentation is included with a patient's petition for medical referral prior to the patient's case being submitted to the Medical Referral Committee for review.

b. Making all arrangements for patient medical referral, including verifying that sufficient funds exist to cover any medical referral costs chargeable to the Medical Referral Program, scheduling doctor appointments, arranging for air and ground transportation, and arranging for accommodations.

c. Communicating with the various CNMI Liaison Offices to verify and confirm arrangements for patients arriving or departing the city where the referral health care facility is located, and to obtain continuous updates on the medical status of referral patients.

d. Maintaining records of: the names of patients petitioning for medical referral; the patients' diagnosis; patients approved and denied medical referral; the names of any escorts accompanying patients; the names of the referral health care facility physicians to whom patients are sent; the treatment to be provided to the patients; and the costs associated with the medical referrals.

e. Maintaining medical referral data including the following: the number of cases considered for medical referral within a fiscal year; the number of cases approved and disapproved; the medical justification for the referrals; the medical justification for the denied cases and the alternatives offered to the patients; the status of patients sent on medical referral and of those denied medical referral; a financial analysis depicting costs based on the medical treatment provided to patients; a summary of the type of cases approved for medical referral and of the treatment and care provided at the referral health care facility.

f. Reviewing patient medical bills from the referral health care facility providers, verifying the validity of the medical bills, and approving for payment those medical bills which are the financial responsibility of the Medical Referral Program.

g. Assisting in the preparation of an annual budget for the Medical Referral Program.

h. Performing other duties and responsibilities as assigned by the Secretary of Public Health.

III. Medical Referral Committee

3.1. Composition. There is hereby established a Medical Referral Committee which shall be comprised of six (6) voting members appointed by the Secretary of Public Health. The voting members shall be clinically privileged Commonwealth Health Center medical staff who practice in various specialty areas. A representative from each of the following Department of Public Health divisions or units shall attend the Medical Referral Committee meetings to facilitate the medical referral process, but shall not be voting members of the Committee: Medical Referral Office; Social Services; Utilization Review; Medicaid Office; and Vocational Rehabilitation Services. The Secretary of Public Health shall serve as an ex-officio member of the Committee.

3.2. Chairperson. At the beginning of each fiscal year, the Medical Referral Committee shall elect a Chairperson to serve for a one year term. The Chairperson shall schedule regular meetings of the Medical Referral Committee and advise each voting member and non-voting participant of the date and time of the meeting at least one week prior to the scheduled date of the meeting. The Chairperson may also call emergency Medical Referral Committee meetings whenever necessary, or upon the request of the voting members of the Committee, or the Secretary of Public Health.

3.3. Case Review. It shall be the sole responsibility of the Medical Referral Committee to screen and evaluate medical cases brought before the Committee on a petition for medical referral, including requests for patient

transfers from the Rota Health Center and the Tinian Health Center, requests for additional patient treatment not initially authorized, and requests from referral health care facility physicians to refer the patient to a second referral health care facility for additional care. After a complete case evaluation, the Medical Referral Committee shall determine whether a referral for extended medical care is warranted.

3.4. Decisions Final. Decisions of the Medical Referral Committee shall be final.

3.5. Review of Emergency Medical Referral Cases. All medical referral cases approved on an emergency basis pursuant to Section 6.2 of these Rules and Regulations shall be reviewed by the Medical Referral Committee at the next regular meeting for assessment of whether the referral was justified. Any referral found to be unjustified by the Medical Referral Committee shall be treated as an unauthorized medical referral.

3.6. Modifications to These Rules and Regulations. Prior to the end of each fiscal year, the Medical Referral Committee shall submit a list of recommended changes to these Medical Referral Program Rules and Regulations, if any, to the Secretary of Public Health.

3.7. Approval of Reports. The Medical Referral Committee shall approve all written and financial reports relating to the Medical Referral Program before they are submitted by the Secretary of Public Health to the Governor or the Commonwealth Legislature.

IV. Program Eligibility

For a patient to be eligible for consideration for medical referral through the Medical Referral Program, each of the criteria in subsections 4.1 and 4.2 must be satisfied:

4.1. Medical Criteria.

a. The patient must be evaluated by a CNMI licensed physician who is the primary care provider. Medical specialists visiting the CNMI

to provide limited term health care services shall not initiate a patient medical referral.

b. After a thorough diagnosis of the patient's case, and full utilization of the resources available within the CNMI, including consideration of forthcoming visits by medical specialists, the primary care physician must determine that the health care services required to satisfactorily treat the patient's illness or condition cannot adequately be provided within the CNMI.

c. The patient's illness or condition, including diagnosis and prognosis, must substantiate the need for the medical referral. The primary care physician must be prepared to demonstrate to the Medical Referral Committee that the medical referral would significantly benefit the patient's health outcome.

4.2. Residency Criteria

a. The patient must be a United States citizen residing in the CNMI, or other individual who has established legal residence in the CNMI.

b. It shall be the responsibility of the patient, or patient representative, to demonstrate residency in the CNMI to the satisfaction of the Medical Referral Office staff. In determining the residency of a patient, Medical Referral Office staff shall consider all of the following:

- i) the number of days spent in the CNMI each year;
- ii) employment within the CNMI;
- iii) whether the patient maintains an abode in the CNMI;
- iv) enrollment in a CNMI school;
- v) possession of a valid CNMI drivers license;
- vi) current postal address within the CNMI;
- vii) whether a CNMI personal income tax return was filed with the Department of Finance for prior years;

viii) enrollment in other CNMI welfare programs such as the Medicaid program, Food Stamps program, or Low Income Housing Energy Assistance Program; and

ix) any other evidence considered by Medical Referral Office staff as indicative of residency within the CNMI.

4.3. Persons Ineligible for Participation In the Program

The following categories of persons are ineligible for participation in the Medical Referral Program:

a. Former residents of the CNMI who are no longer residing in the CNMI;

b. Persons who have entered the CNMI under tourist visas;

c. Persons who establish residency in the CNMI for the sole purpose of obtaining a medical referral;

d. Residents of the CNMI and their dependents who are traveling abroad and are not on official CNMI Government business;

e. Residents of the CNMI traveling abroad on official CNMI Government business who independently make arrangements for medical care or hospitalization;

f. Residents of the CNMI and/or their dependents who exercise their right to obtain medical care outside the CNMI Government health care system and obtain medical care which has not been previously authorized by the Medical Referral Committee; and

g. Persons who have entered the CNMI or are residing in the CNMI in violation of the CNMI Immigration laws.

V. Covered Benefits Under The Medical Referral Program

Subject to the payment guidelines set forth in Section XI of these Rules and Regulations, the Medical Referral Program provides for the following medical, ancillary, transportation, escort, and maintenance benefits while a patient is on medical referral:

5.1. Medical Costs.

a. Inpatient Medical Care. Inpatient medical care at a referral health care facility for the following health care services: i) necessary admission to special units such as intensive care or coronary care; ii) necessary admissions to the operating room and recovery room; iii) anesthesia services; iv) X-rays, radiology services, and other investigatory services provided by the referral health care facility; v) radiation therapy provided by the referral health care facility; vi) regular nursing care services; vii) prescribed rehabilitative therapy; viii) medical supplies such as casts, surgical dressings, and splints; ix) drugs furnished by the referral health care facility during the hospital stay; x) use of appliances such as wheelchairs; xi) a semi-private room (2 to 4 beds to a room); xii) all hospital meals, including those which require special preparation for particular diets.

b. Outpatient Care. Outpatient medical care at a referral health care facility for the following health care services: i) services in an emergency room or outpatient clinic, including ambulatory and surgical procedures; ii) blood transfusions furnished to the patient on an out-patient basis; iii) laboratory tests provided by the referral health care facility; iv) X-rays, radiology services, and other investigatory services provided by the referral health care facility; v) radiation therapy provided by the referral health care facility; vi) medical supplies such as splints and casts; vii) drugs and biological products which cannot be self-administered.

c. Professional Fees. Fees for professional health care services specifically authorized by the Medical Referral Committee in the Treatment Authorization Form. Professional fees for health care services beyond those approved by the Medical Referral Committee, or for the health care services of medical specialists not listed in the Treatment Authorization

Form, are not covered under the Medical Referral Program unless the written authorization of at least two members of the Medical Referral Committee is obtained prior to the rendering of such additional health care services in non-emergency situations.

5.2. Ancillary Costs.

a. Prescribed Drugs. Drugs prescribed for the cure, mitigation, or prevention of disease, or for health maintenance if:

i) prescribed in writing by a licensed referral health care facility physician, or other referral health care facility licensed practitioner authorized to prescribe drugs under state law;

ii) dispensed by a licensed pharmacist or licensed practitioner authorized to dispense drugs who records and maintains the written prescription in the pharmacy records; and

iii) they cannot be dispensed without a prescription (i.e., over-the-counter drugs excluded).

b. Durable Medical Equipment. Durable medical equipment provided by the referral health care facility which is essential for the management of the patient's condition during transfer to the CNMI. Examples of durable medical equipment covered by this subsection are portable oxygen equipment, cardiac monitoring equipment, or mechanical ventilators. Such durable medical equipment provided to patients under the Medical Referral Program shall become the property of the Commonwealth Health Center and must be turned over by the patient after it is no longer needed. Patients who fail to deliver to the Commonwealth Health Center any durable medical equipment provided to them by the referral health care facility after it is no longer in use shall be charged the replacement value for the equipment.

5.3 Transportation Costs.

a. Air Transportation. The least expensive, round trip air transportation for the medical referral patient, considering the patient's condition for travel, to the medical referral health care facility.

b. Ambulance Transportation. The cost of medically necessary ambulance transportation for the medical referral patient from the Commonwealth Health Center to the Saipan International Airport; from the city airport in which the referral health care facility is located to the referral health care facility; and as otherwise approved by the Medical Referral Committee.

5.4 Patient Escorts. Medical personnel and/or one family member or close friend to serve as a patient escort in the following situations, as authorized by the Medical Referral Committee:

a. Physician or Nurse Escort. A physician escort may accompany a medical referral patient who: i) requires a ventilator or other breathing assistance; ii) has an unstable blood pressure; or iii) is at high risk of cardiac arrest. A nurse escort may accompany a medical referral patient whenever: i) the physician escort needs assistance in attending the patient; ii) the patient requires monitoring of vital signs and other nursing care; iii) intravenous lines must be maintained for the patient; or iv) medications must be administered to the patient by means of intravenous or intramuscular injection, or by a feeding tube during the transport. The patient's primary care physician, in conjunction with the Director of Medical Affairs and the appropriate Nurse Supervisor, shall decide which members of the Commonwealth Health Center medical staff and/or nursing staff shall accompany the patient. In those cases where a physician and/or nurse escort accompany the patient, it shall be such escort's responsibility to:

(1) assist and attend to the patient during the flight;

(2) ensure that the patient's medical documents are turned over to the appropriate personnel from the referral health care facility; and

(3) ensure that all medical instruments, pillows, sheets, and other hospital supplies used during the medical transport are accounted for and returned to the Commonwealth Health Center.

b. Family Escorts. The least expensive, round trip air transportation accompanying patient, medically necessary ambulance transportation accompanying patient, accommodations, and a subsistence allowance for one non-medical escort, such as a family member or close friend of the patient, as provided by these Rules and Regulations. Unless specifically determined by the Medical Referral Committee to be unnecessary, the Medical Referral Committee shall approve one non-medical escort for the patient in those cases where the patient is unable to travel independently because of:

- i) physical disability, frailty, or age;
- ii) psychiatric disability or mental deficiency;
- iii) blindness or deafness;
- iv) fecal or urinary incontinence requiring the patient to seek assistance to use the toilet;
- v) the patient's inability to make himself or herself understood in English;
- vi) the patient's inability to feed himself or herself or to perform other activities of daily living; or
- vii) the high probability that the patient will die at the referral health care facility as a result of the severity of the illness or condition.

If no medical professional escort accompanies the patient, it shall be the responsibility of the family or friend escort to perform those duties set forth in Section 5.4.a. (1), (2), and (3) above.

5.5. Maintenance Costs.

a. Accommodations and Subsistence Allowance. Accommodations and a daily subsistence allowance as follows:

i) In-Patient Referrals. Room and board for in-patients are provided through the referral health care facility. In-patients shall not receive any cash subsistence allowance.

ii) Out-Patient Referrals. Out-patients on medical referral shall receive reasonable accommodations at CNMI government expense, and Twenty Dollars (\$20.00) per day subsistence allowance.

iii) Patient Escorts. Authorized family or friend escorts shall receive reasonable accommodations at CNMI government expense, except that whenever possible, the escort shall share a room with the medical referral patient. Authorized family or friend escorts shall be provided Twenty Dollars (\$20.00) per day subsistence allowance.

It shall be the responsibility of the escort to file a travel voucher and any other requested documentation with the Medical Referral Office, upon return from the medical referral. It shall then be the responsibility of the Medical Referral Office staff to forward these documents to the Department of Finance, Accounting and Travel Section. If the escort fails to comply with the requirements of the Accounting and Travel Section's prescribed time lines, the CNMI government reserves the right to seek reimbursement from the escort for the costs incurred in connection with the escort's referral travel.

b. Right To Refuse Government Room and Board. Medical referral patients and authorized non-medical escorts have the right to refuse CNMI government arranged accommodations. However, if a patient and/or non-medical escort make independent arrangements for accommodations, the CNMI government shall not be liable for any expenses incurred with respect to the accommodations during the medical referral.

VI. Procedures For Medical Referral

6.1. Non-Emergent Referral Cases. All non-emergent patient cases which may be appropriate for medical referral shall comply with the following procedures:

a. Physician Assessment. Once the patient's primary care physician has made a thorough evaluation of the patient's illness or medical condition and determined that the patient satisfies the medical criteria for medical referral as provided in Section 4.1 of these Rules and Regulations, the primary care physician shall discuss the patient's case with the chairperson of the applicable medical department, or if the primary care physician is the chairperson, then with another physician in the applicable medical department, to obtain a second opinion on whether the patient's case is appropriate for a petition for medical referral. If both physicians concur that the patient's case should be forwarded to the Medical Referral Committee for review, the primary care physician shall contact the appropriate physician specialist at a referral health care facility to discuss the patient's case and to assess the available treatment at the referral health care facility.

b. Medical Referral Documentation. If, after a complete assessment of the patient's case as specified above in Section 6.1.a, the primary care physician determines that the patient's case is appropriate for a petition for medical referral, the primary care physician shall confirm with the Medical Referral Office staff that the patient satisfies the eligibility criteria for medical referral set forth in subsection 4.2 of these Rules and Regulations. If the patient is found to be eligible, the primary care physician shall prepare a typed medical report, obtain any relevant laboratory and/or X-ray reports, and complete the following forms:

- i) Patient Referral Record (Form CHC 62-0255 1186)
- ii) Consultation Report Form (Form CHC 60-0022 1186)
- iii) Air Travel Medical Report (Form CHC 60-0258 1186)
- iv) Treatment Authorization Form (Form CHC 62-0448)

The primary care physician shall submit the completed forms and other pertinent reports and information to the Medical Referral Office.

c. Case Presentation. The primary care physician shall present the patient's case to the Medical Referral Committee at the next regular Committee meeting. It shall be the responsibility of the primary care physician to present the prepared documentation, explain the patient's illness or medical condition and why medical referral is appropriate, and answer any questions raised by the Medical Referral Committee.

d. Medical Referral Committee Determination. The Medical Referral Committee shall consider the primary care physician's presentation, review the documentation, assess whether the patient's condition can be adequately treated with the resources available within the CNMI, and decide whether medical referral of the patient is warranted. The decision of the Medical Referral Committee shall be final, except as provided in subsection 6.4. The Medical Referral Officer shall advise the primary care physician of the Medical Referral Committee's decision regarding the patient's case.

e. Execution of Medical Referral Authorization Documentation. If the patient's case is approved for medical referral, two voting members of the medical referral committee shall sign the Patient Referral Record. The authorization documentation shall then be forwarded to the Secretary of Public Health or, in his absence, the Deputy Secretary of Public Health, for signature.

f. Medical Referral Arrangements. The primary care physician shall provide the Medical Referral Office staff with the time frame and procedure for transferring the patient to the referral health care facility. The Medical Referral Office staff shall make all medical, travel, and accommodation arrangements in the city where the referral health care facility is located. The Medical Referral Office staff shall also inform the CNMI Liaison Office in such city of the patient's travel schedule, and of the other appointments and arrangements which have been made for the patient. The patient must have a confirmed appointment with the referral health care facility physician prior to departing the CNMI.

g. Documents To Be Prepared By Patient. Prior to the patient's departure from the CNMI, the Medical Referral Office staff shall require the patient to complete the following forms:

- i) Release of Liability
- ii) Consent to Receive Medical Treatment
- iii) Payment Agreement
- iv) Subrogation of Claims Form
- v) Power of Attorney (when appropriate)

6.2. Emergency Referral Procedures. In those cases where the primary care physician determines that the patient is in a critical medical condition, and must receive emergency medical care which cannot adequately be provided in the CNMI, thereby justifying immediate evacuation of the patient to the referral health care facility, the following procedures shall be followed:

a. Expedited Approval. The patient's primary care physician, after consultation with at least one of the Medical Referral Committee members, may refer the patient without the case being reviewed by the full Committee.

b. Notice to Referral Health Care Facility. The primary care physician shall contact the appropriate physician specialist, or another available physician, at the referral health care facility to report the imminent patient referral and to discuss the details of the patient's case.

c. Medical Referral Documentation. The primary care physician shall prepare the forms required to be completed as set forth in Section 6.1.b.

d. Medical Referral Arrangements. Medical Referral Office staff shall immediately contact the commercial airline's office or a travel agency to make the referral patient's travel arrangements. Copies of the CNMI government Travel Request and Travel Authorization shall be delivered to the commercial airline or travel agency as soon as possible. Medical Referral Office

staff shall also contact the CNMI Liaison Office in the city where the referral health care facility is located, and advise the Liaison Officer of the referral patient's name, sex, age, diagnosis, flight number, estimated time of arrival, and whether an ambulance, stretcher, and/or other supportive devices will be needed at the airport.

e. Funding Approval. Travel Authorizations for patients needing emergency medical referral during non-working hours shall be executed by the Secretary of Public Health on the morning of the next business day following the emergency medical referral.

f. Medical Evacuation. If an emergency medical referral is necessary and commercial airline transportation is unavailable, the Medical Referral Officer, or designee, shall first attempt to contact the Coordinating Officer at the Emergency Operations Center (EOC) and request an Air or Sea Rescue Unit. If the Coordinating Officer of the EOC cannot be reached, the Medical Referral Officer, or designee, shall contact the Supervisor on Duty at the Department of Public Safety and request assistance in locating the Coordinating Officer of the EOC or his representative.

The Medical Referral Officer, or designee, may exercise discretion in deciding to contact the United States Coast Guard, Navy, or Air Force located in the Territory of Guam. However, before contacting any of the U.S. Armed Forces, the Medical Referral Officer, or designee, must ensure that: i) the medical case involves a life and death situation; and ii) that there will be no commercial flight available for transport in the time period specified by the primary care physician for medical referral. Once the Medical Referral Officer, or designee, contacts one of the divisions of the U.S. Armed Forces requesting assistance on a medical referral case, the primary care physician must be available to provide the Chief of the U.S. Armed Forces division, or other military official in charge, with the details of the medical case and the requirements for the evacuation.

The Medical Referral Officer, or designee, shall advise the Secretary of Public Health about the details of all emergency medical evacuation cases.

6.3. Origin For All Medical Referrals. All medical referrals to health care facilities outside the CNMI must originate from the Commonwealth Health Center. A patient already on medical referral at a referral health care facility may not be transferred to a second referral health care facility without the express authorization of the Medical Referral Committee, except in cases of emergencies.

6.4. Denial of a Presented Referral Case. If a patient's medical referral petition is denied by the Medical Referral Committee, the Medical Referral Officer shall inform the primary care physician of the Committee's decision. If the referring physician is not satisfied with the Committee's decision, he or she may submit the patient's case for reconsideration at the next Committee meeting, provided additional facts are added for discussion.

VII. Transfers from Rota, Tinian, and the Northern Islands

7.1. Medical Transfers from Rota, Tinian, and the Northern Islands. All residents of Rota, Tinian, and the Northern Islands in need of medical care or follow-up medical appointments which cannot be adequately provided at the Rota Health Center, Tinian Health Center, or the Northern Islands medical facility shall be transferred to the Commonwealth Health Center. If the patient is in need of additional medical care which cannot be provided at the Commonwealth Health Center, the case shall be presented to the Medical Referral Committee for evaluation as set forth above in Section VI.

7.2. Emergency Evacuation From Rota. Notwithstanding Section 6.3 of these Rules and Regulations, and because of the Rota Health Center's proximity to the Territory of Guam, the Rota resident physician may request that emergency medical cases be evacuated directly to Guam Memorial Hospital after confirming through a member of the Medical Referral Committee that the required medical services cannot be provided at the Commonwealth Health Center. Any such emergency referral directly to Guam Memorial Hospital must be authorized by the Secretary of Public Health, or in his absence, by an Emergency Room physician prior to the patient's transfer.

7.3. Authority To Transfer. Only a CNMI licensed physician, or in the absence of a CNMI licensed physician, another licensed medical professional

authorized by the Resident Director of the health center to make medical transfer decisions, may approve the transfer of patients from the Rota Health Center, Tinian Health Center, or Northern Islands medical facility to the Commonwealth Health Center. No other individual, regardless of office or title, may authorize the transfer of a patient from Rota, Tinian, or the Northern Islands to the Commonwealth Health Center.

7.4 Responsibility For Payment of Medical Care. Residents of Rota, Tinian, Saipan, and the Northern Islands are equally responsible for the payment of medical bills they incur for medical services rendered to them. All medical bills incurred by residents of Rota, Tinian, and the Northern Islands while patients at the Commonwealth Health Center, that are not covered by health care financial support or a third-party payor, shall be the financial responsibility of the patients.

7.5. Room and Board. Patients transferred from the Rota Health Center, the Tinian Health Center, or the Northern Islands medical facility to the Commonwealth Health Center for out-patient services may be provided a room at the Rota/Tinian Guest House, depending on availability, and meal tickets redeemable at the Commonwealth Health Center cafeteria. Meal tickets shall be issued by the Medical Referral Office.

7.6. Airline Transportation. The Medical Referral Program shall be responsible for the cost of airline transportation from Rota, Tinian, or the Northern Islands to the Commonwealth Health Center for authorized transfers.

VIII. Follow-Up Medical Appointments.

Medical referral patients are not automatically entitled to a follow-up medical appointment at a referral health care facility. Patient petitions for follow-up appointments shall be treated the same as initial petitions for medical referral, and shall be subject to the same standards and procedures as an initial medical referral. This restriction applies to transfers from the Rota Health Center, Tinian Health Center, and Northern Islands medical facility to the Commonwealth Health Center.

IX. Medical Referral Program Exclusions

The following charges shall be excluded from coverage under the Medical Referral Program, and shall be the financial responsibility of the patient:

9.1. Any charges related to medical treatment or care which could have been adequately provided at the Commonwealth Health Center.

9.2. Any charges for occupational diseases or injury that are covered by workmen's compensation benefits.

9.3. Any charges incurred at a Veteran's Administration facility except in emergency situations.

9.4. Any charges related to health care services provided by any government-funded public health program.

9.5. Any charges incurred for personal comfort items, including telephones, radios, housing, and car rental.

9.6. Any charges related to nursing home-type care provided by an institution not qualified as a hospital under state law.

9.7. Any charges related to cosmetic surgery except as required for repair of catastrophic injury or congenital malformation.

9.8. Any charges related to organ transplant surgery.

9.9. Any charges related to a patient obtaining a second opinion on a recommended treatment or procedure.

9.10. Any charges related to medical treatment rendered for investigatory or experimental purposes, or medical treatment for which there is no established benefit to the patient's health.

9.11. Other tertiary services that may be identified by the Medical Referral Committee as so expensive as to impact the overall financial integrity of the Medical Referral Program.

9.12. Any charges specifically excluded or limited by other policies of the Department of Public Health.

X. Humanitarian and Emergency Provisions

In the event a person who would be ineligible for medical referral pursuant to subsection 4.2 of these Rules and Regulations is found by his or her primary care physician to require an emergency medical referral, the Medical Referral Committee may authorize the Medical Referral Office to assist with the arrangements for the medical care to be provided outside the CNMI. However, such patient shall be required to pay for any medical referral related costs incurred by the Medical Referral Program.

XI. Referral Fees

11.1. Administrative Fee. Other than transfers to the Commonwealth Health Center, every patient approved for medical referral shall pay a \$25.00 administrative fee to the Medical Referral Office prior to their departure from the CNMI.

11.2. Payment of Medical Referral Costs. The Medical Referral Program is the payor of last resort. Prior to departing the CNMI, every patient approved for medical referral shall provide the Medical Referral Office staff with proof of any and all health care financial support and/or third-party payors, such as a health insurance identification card, Medicaid identification card, or Medicare claim card, responsible for providing financial coverage for the costs associated with the patient's medical referral. Medical referral patients shall also execute a subrogation of claims form prior to their departure from the CNMI, authorizing the Medical Referral Office, through the Office of the Attorney General, to pursue any legal claims on behalf of the patient against third parties who may be liable for payment of the medical referral costs.

The Medical Referral Office shall presume that the following entities or individuals are responsible for the costs associated with the patient's medical referral:

a. Recipients of Benefits From Medicaid, Medicare, Vocational Rehabilitation, or Other Government Assistance Programs: 100% of the program coverage for the medical, ancillary, transportation, escort, and maintenance costs incurred in connection with the patient's medical referral shall be paid by the appropriate Federal and/or CNMI government program. Any amount not covered by the government program shall be the patient's financial responsibility, except as provided in subsection 11.2.f.

b. Health Care Insurance: 100% of policy limit coverage for medical, ancillary, transportation, escort, and maintenance costs incurred in connection with the patient's medical referral as provided in the patient's health care insurance policy shall be paid by the insurance company (including HMO's). If a patient's health care insurance policy does not cover air transportation costs to the referral health care facility and maintenance costs, the Medical Referral Program shall pay these costs as provided in subsections 5.3 and 5.5 of these Rules and Regulations. Any amount not covered by the patient's health care insurance policy or this subsection shall be the patient's financial responsibility, except as provided in subsection 11.2.f.

c. Nonresident Worker Health Medical Coverage. 100% of the medical referral costs incurred in connection with the patient's medical referral shall be paid by the employer as provided by the Nonresident Workers Act, 3 CMC §4437(c).

d. Third Party Acts Against A Patient. The Medical Referral Office, with the assistance of the medical referral patient, shall use its best efforts to collect the costs incurred in connection with the patient's medical referral from any of the following: i) any third-party found guilty of a physical crime against the patient which resulted in the patient's need for medical referral; ii) any third-party tortfeasor whose actions injured the patient and resulted in the patient's need for medical referral; or iii) such third-party's insurance company.

e. No Responsible Third-Party Payor. 100% of the medical, ancillary, and escort costs incurred in connection with the patient's medical referral shall be the patient's financial responsibility, except as provided in subsection 11.2.f. The Medical Referral Program shall pay the air transportation

costs to the referral health care facility and maintenance costs, as provided in subsection 5.3 and 5.5 of these Rules and Regulations.

f. Exceptions For Indigent Patients. The Medical Referral Program shall pay the applicable percentage of the medical referral costs for which an indigent patient is personally liable whenever the patient is able to establish to the satisfaction of the Medical Referral Office staff that he or she falls within the indigency standards set forth below:

i) The Medical Referral Program shall pay 95% of the medical and ancillary costs, and 100% of the transportation, escort, and maintenance costs associated with the medical referral for those patients whose family income from all sources falls within the following levels:

<u>Family Size*</u>	<u>Maximum Annual Income¹</u>
1	\$13,365
2	\$17,880
3	\$22,395
4	\$26,910
5	\$31,425
6	\$35,940
7	\$40,455
8	\$44,970

* For family units of more than 8 members, add \$4,515 for each additional member.

ii) The Medical Referral Program shall pay 70% of the medical and ancillary costs, and 100% of the transportation, escort, and maintenance costs associated with the medical referral for those patients whose family income from all sources falls within the following levels:

¹ Maximum annual income levels are based on the 1995 Consumer Price Index, and are the levels published in the Federal Register by the Secretary of the Department of Health & Human Services pursuant to the Omnibus Budget Reconciliation Act (OBRA) of 1981, §652 and §673(2), as a guideline to the Hawaii State Medicaid Agency.

<u>Family Size*</u>	<u>Maximum Annual Income²</u>
1	\$17,820
2	\$23,840
3	\$29,860
4	\$35,880
5	\$41,900
6	\$47,920
7	\$53,940
8	\$59,960

* For family units of more than 8 members, add \$6,020 for each additional member.

Any amount not covered by the Medical Referral Program shall be the financial responsibility of the patient.

The patient, or patient representative, shall have the burden of providing the Medical Referral Office staff with verifiable documentation which establishes that the patient falls within the indigency levels set forth above, and is thus eligible for financial assistance through the Medical Referral Program. The Medical Referral Office staff shall include the documentation provided by the patient to establish indigency in the patient's medical referral file. The Medical Referral Office shall be prepared to demonstrate to the Secretary of Public Health, the Governor, and/or the Legislature, upon request, that the patient satisfactorily established that he or she was indigent, and required financial support to pay the medical referral costs.

11.3 Assignment of Rights. Every patient approved for medical referral shall assign any and all rights he or she may have to health care financial support or other third-party payments to the Medical Referral Office up to the amount of the medical referral costs, and shall use his or her best efforts to secure such financial assistance for the entire medical referral costs. If, at any time, a medical referral patient receives a direct reimbursement from an insurance company or other third-party payor for medical bills arising from an authorized medical referral, such patient shall immediately endorse such

² Id.

payment to the Medical Referral Office for deposit in the Medical Referral Program account.

11.4 Utilization Review. Whenever a patient is referred to a referral health care facility in the State of Hawaii, it shall be the responsibility of the utilization review nurse employed by the Hawaii Liaison Office to review the medical treatment and care provided to the patient, and to audit the medical bills prior to their payment by the Medical Referral Office. If the utilization review nurse determines that: i) a patient is receiving, or has received, health care services which are unnecessary, or are unauthorized by the Medical Referral Committee; ii) the patient's stay in the hospital has been unnecessarily extended; iii) irregularities or inconsistencies exist in the patient's medical bills; or iv) there are other factors regarding patient care which may compromise the financial integrity or managed health care policy of the Medical Referral Program, such nurse shall immediately notify the Medical Referral Officer in writing of the situation. The Medical Referral Officer, in conjunction with the Secretary of Public Health, shall promptly notify the referral health care facility in writing about the utilization review nurse's report regarding the specific charges for unauthorized or inappropriate services and advise the facility that the Medical Referral Program shall not be responsible for such charges.

11.5 Lifetime Cap. The Medical Referral Program shall pay expenses incurred for medical referral up to a lifetime limit of Fifty Thousand Dollars (\$50,000.00) per patient. Transportation costs for the referral patient and any authorized escort, maintenance expenses for patients receiving outpatient treatment, and maintenance expenses for an authorized escort shall not be included in the calculation of the patient's total lifetime limit of Fifty Thousand Dollars.

XII. Limited Government Liability.

12.1. Statutory Exemption. As provided in 7CMC §2204(d) of the Commonwealth Code, the CNMI Government shall not be liable for any claim arising from the Medical Referral Committee's denial of, or failure to make, a medical referral to a medical facility outside the CNMI.

12.2. Medical Referral Program Not Responsible For Unauthorized Services. The Medical Referral Program shall not be responsible for the medical, ancillary, transportation, escort, or maintenance costs incurred by a patient whose off-island medical care was not authorized by the Medical Referral Committee. Similarly, the CNMI Government shall not be responsible for the cost of medical or health care services rendered to a patient at a health care facility or by a health care provider not recognized by the Medical Referral Committee as a CNMI established medical referral health care facility or provider.

XIII. Penalties For Violations of These Rules and Regulations

Any person found by the Department of Public Health to have violated these Rules and Regulations shall be liable for either a) a civil penalty of up to \$1,000.00; or (b) the costs incurred by the Medical Referral Program as a result of the violation, whichever is greater, and court costs and attorneys fees incurred by the CNMI government in collecting such penalty, for each violation of the Rules and Regulations.

XIV. Severability

If any provision of these Rules and Regulations or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of these Rules and Regulations or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.



WORKERS' COMPENSATION COMMISSION

NMI RETIREMENT FUND

P.O. Box 1247, Saipan, MP 96950
Telephone: (670) 234-7228 / Fax: (670) 234-9624




PUBLIC NOTICE OF PROPOSED AMENDMENTS TO ADMINISTRATIVE RULES AND REGULATIONS OF THE WORKERS' COMPENSATION COMMISSION

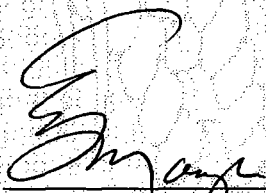
The Board of Trustees/Workers' Compensation Commission, NMI Retirement Fund, hereby gives notice to the general public that it has adopted proposed amendments to the WCC's Administrative Rules and Regulations, pursuant to its authority under 1 CMC 8315(f) and the Administrative Procedure Act at 1 CMC 9101, et. seq.

The purpose of these amendments is to provide for the effective administration of Public Law 6-17, and to provide updates of the existing regulations, and for other purposes. The Board is soliciting comments and recommendations regarding these amendments, which must be received by the Fund within 30 days of first publication of this notice.


Copies of these proposed regulations may be obtained at any of the NMI Retirement Fund offices on Saipan, Tinian and Rota.

Dated this 29th day of March, 1996.



Vicente C. Camacho
Chairman
Board of Trustees


Edward H. Manglona
Administrator
NMI Retirement Fund

RECEIVED BY:


DONNA J. CRUZ
Office of the Governor

FILED BY:


SOLEDAD B. SASAMOTO
Registrar of Corporation



WORKERS' COMPENSATION COMMISSION

NMI RETIREMENT FUND

P.O. Box 1247, Saipan, MP 96950
Telephone: (670) 234-7228 / Fax: (670) 234-9624



NOTISIAN PUBLIKO POT I MAPROPOPONE NA TINILAIKA GI AREKLAMENTION I PROGRAMAN WORKERS' COMPENSATION COMMISSION

I Board of Trustees/Workers' Compensation Commission, i Northern Mariana Islands Retirement Fund, sigun gi atoridat i lai gi 1 CMC 8315(f), yan i Administrative Procedure Act gi papa i 1 CMC 9101, et. seq., mananae noticia gi publiko pot i ha propopone na tinilaika gi areklamenton i programan Retirement Fund.

Copian este na tinilaika guaha gi ofisinan i Retirement Fund nui gaige gi primet piso gi Nauru Building, Susupe, Saipan.

I Board of Trustees ha sosojo i publiko para ufan satmiti rekomendasion osino komentos pot este na tinilaika gi halom 30 dias despues de mapublika gi Commonwealth Register. Pot fabot satmiti todo redomendasion gi sigente na address:

NMI Retirement Fund
P. O. Box 1247
Saipan, MP 96950

Mafecha gi 29th dia de Matsu, 1996.

Vicente C. Camacho
Chairman
Board of Trustees

Edward H. Manglona
Administrator
NMI Retirement Fund

RECEIVED BY:

DONNA J. CRUZ
Office of the Governor

FILED BY:

SOLEDAD B. SASAMOTO
Registrar of Corporations

**PROPOSED AMENDMENTS TO THE REGULATIONS OF THE WORKERS'
COMPENSATION COMMISSION**

The Board of Trustees/Workers' Compensation Commission (Commission), pursuant to 4 CMC 9351 (a)(1), and the Administrative Procedure Act, 1 CMC §9101, et. seq., hereby proposes to promulgate and adopt these amendments to the rules and regulations governing the CNMI Workers' Compensation Program.

PART I. GENERAL PROVISIONS

Section 1. Authority. Under and by virtue of the authority granted to the Commission by 4 CMC §9351 (a)(1), the Commission proposes to promulgate the following amendment to the WCC Rules and Regulations.

PART II. AMENDMENTS

A. To amend Part 6, adding Sections 6.109 and 6.110, to the Workers' Compensation Rules and Regulations.

PART 6. SPECIAL DISABILITY FUND

6.109 Authority to Transfer

The Commission is authorized to transfer One Hundred Fifty Thousand Dollars (\$150,000.00) solely from the collected penalties and fines deposited into the Special Disability Fund for operation and maintenance, and payment of compensation claims of the Government Self Insurance Fund pursuant to 4 CMC Section 9353(h).

6.110 Transfer Effected

The transfer of any amount from the Special Disability Fund shall be effected only in the absence of sufficient appropriation from the Legislature.

B. To add a new Part, Part 29, to the Rules and Regulations of the Workers' Compensation Commission.

PART 29. SELF INSURANCE

29.100 General Provisions

The Purpose of this section is to provide general guidelines for the review and approval of

**PROPOSED AMENDMENTS TO THE REGULATIONS OF THE WORKERS'
COMPENSATION COMMISSION**

self-insurance for workers' compensation liability for employers. The authority to promulgate these rules is provided under P.L. 9-33 Section 9341.

29.101 Definitions

- (a) *Commission:* shall mean the Workers' Compensation Commission which shall be the Board of Trustees of the Northern Mariana Islands Retirement Fund.
- (b) *Employer:* shall mean any person, corporate or unincorporated, public or private, who employs the services of others in return for wages, salaries, or other remuneration and includes the legal representative of a deceased employer. "Employer excludes a person who employs for a specified recompense for a specified result an independent contractor and who may or may not in turn employ others whose work is directed as to the means of accomplishing such result by the independent contractor. If the employer is insured it includes his insurer as far as applicable.
- (c) *Employee:* shall mean any person in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and where the employer has the power or right to control and direct the employee in the material details of how the work is to be performed. Employee includes aquacultural and agricultural workers. Employee excludes a person whose employment is purely casual and not for the purpose of the employer's trade or business, independent contractors, and any person employed by the inhabitant of a private contractor, and any person employed by the inhabitant of a private dwelling to reside at the dwelling and perform household domestic service.
- (d) *Self-Insurer:* shall mean an employer who has been granted relief from the requirement of procuring insurance by the Commission, after having complied with the provisions of the self-insurance regulations.
- (e) *Insolvency:* shall mean the inability of a workers' compensation self-insurer to pay its lawful outstanding obligations as they mature in the regular course of business, as may be shown by either an excess of its liabilities over its assets or by its not having sufficient assets to insure all of its outstanding liabilities after paying all accrued claims owed by it.

29.102 Eligibility for Self-Insurance

**PROPOSED AMENDMENTS TO THE REGULATIONS OF THE WORKERS'
COMPENSATION COMMISSION**

- (a) Employers with 200 or more employees are eligible to be self-insured. Any employer with at least 200 employees may elect to be self-insured by submitting an application form prescribed by the Commission which, upon approval shall be bound by the requirements and procedures set forth below in addition to the provisions of the statutes.
- (b) *Employers Unable to Secure Coverage.*
 - (1) Employers who have demonstrated their inability to procure coverage from at least three (3) carriers authorized to do business in the Commonwealth, may seek coverage from outside the Commonwealth. If the employer is still unable to obtain coverage from carriers outside the Commonwealth, employer is eligible for self-insurance.
 - (2) If employer is unsuccessful in obtaining outside coverage, employer shall automatically become self-insured two (2) months from the date of notice from the Commission to seek coverage and must comply with the self-insurance provisions of these regulations.

29.103 Requirements for Self-Insurance

To qualify to receive a certificate of authorization and relief from procuring workers' compensation insurance, an employer must satisfy the following requirements:

- (a) File with the Workers' Compensation Commission an annual **surety bond** issued by an insurance company licensed to do business in the Commonwealth in an amount of **\$100,000.00**, or if the employer cannot procure a bond, then any other security such as cash or negotiable securities, or real property free of any encumbrances acceptable to the Commission, in an equal amount. If in the case of real property, its value shall be based on an appraisal completed by a licensed appraiser. Surety bonds shall be in the form prescribed by the Commission, which in the event of insolvency shall be payable to the WCC to ensure the payment of the employer's workers' compensation liabilities subject to the dollar limitation of the surety bond.
- (b) Except as otherwise noted, all statutes, provisions, and rules and regulations applicable to non-self-insured employers shall also be applicable to self-insured employers. In addition, the self-insured employer shall adhere to the requirements as

**PROPOSED AMENDMENTS TO THE REGULATIONS OF THE WORKERS'
COMPENSATION COMMISSION**

follow:

- (1) *Special Disability Fund.* Employers shall pay into the Special Disability Fund an amount equal to one percent (1%) of the total salaries paid but payment to the Special Disability Fund shall not to exceed \$1,500.00 each quarter, and shall be remitted quarterly to the Commission.
 - (2) All amounts due the Special Disability Fund shall be remitted within 30 days following the end of each quarter.
 - (3) *Records Inspection.* Self-Insured employers shall avail its records including but not limited to quarterly tax reports as well as reports pertaining to salaries and wages for inspection and review by the Commission to ensure compliance with applicable statutes and rules and regulations.
 - (4) *Self-Insured Notice.* Employers shall keep posted in a conspicuous place, a notice prescribed or approved by the Commission indicating employer is self-insured.
- (c) *Administration of Self-Insurance.* Each self-insured employer shall have within its own organization a specific plan to administer its self-insurance program. A competent personnel should be available to service such program with respect to claims, administration, loss prevention, loss control safety programs, etc.. Upon request by the Commission, such plans should be readily available for review by the Commission.
- (d) *Additional Security Requirements.* The Commission may require additional security if the following exist:
- (1) Insufficient liquid assets or retained earnings;
 - (2) A declining financial condition, as evidenced by a comparison of current financial reports to recent past financial statements in file;
 - (3) The workers' compensation loss experience is significantly higher than prior years;
 - (4) The loss potential as a result of business expansion or there is a significant increase in the number of employees, etc.; or,
 - (5) Any other relevant considerations.

**PROPOSED AMENDMENTS TO THE REGULATIONS OF THE WORKERS'
COMPENSATION COMMISSION**

(e) *Types of additional security.* Any one or more of the following types of security may be required, in an amount determined by the Commission:

- (1) Additional surety bond
- (2) Irrevocable Letter of Credit
- (3) Specific per occurrence excess insurance
- (4) Trust Fund

- i.* If a trust fund is established, the Commission shall be the Trustee, and may invest said funds as it deems fit.
- ii.* Interest accrued on the investment of the trust fund shall accumulate to the Trust Fund.
- iii.* The trust fund shall be used to pay losses and expenses in the event the employer is unable to pay for compensation benefits required by law.

29.104 Application for Self-Insurance

(a) An applicant for a certificate of self-insurance shall submit a completed application to the Workers' Compensation Commission together with the following:

- (1) A surety bond or other security specified under 29.102 (1) above.
- (2) Most recent audited financial statement
- (3) Business Gross Revenue Report for past three (3) years and most recent quarter completed.
- (4) Data from immediate past 3 years on paid and outstanding compensation losses.

(b) After an initial review, the Commission may require additional information or additional security.

(c) Within a reasonable time but no later than 60 days, the Commission will rule on the application and either issue a certificate for self-insurance or send a letter denying the application with a specific reason or explanation.

29.105 Insolvency

**PROPOSED AMENDMENTS TO THE REGULATIONS OF THE WORKERS'
COMPENSATION COMMISSION**

If the employer becomes insolvent, the Commission may appoint or designate an individual or company to receive funds under the trust or disperse the funds to individual claimants.

29.106 Term of Self-Insurance Authorization

- (a) Self-Insurance Authorization shall be issued not to exceed one year, and are renewable in accordance with renewal procedures.
- (b) Terms and provisions of the Self-Insurance Authorization shall remain unchanged if, during the term of the self-insurance authorization, employer shall have less than 200 employees.

29.107 Termination of Self-Insurance

- (a) Employer may, without penalty, purchase coverage and terminate self-insurance, provided claims and penalties due under the self-insurance authorization are fully paid.
- (b) Should employer obtain coverage and terminate the self-insurance authorization prior to the end of the quarter, payments due the Special Disability Fund shall be prorated for the actual period the self-insurance authorization is in effect.

29.108 Renewals

- (a) Self insurance certificate is valid for one year, unless sooner revoked as provided herein.
- (b) Renewal application shall be accompanied with the following:
 - (1) A completed application;
 - (2) An audited financial statement;
 - (3) Any additional relevant information required by the Commission.
- (c) The Commission may require additional security depending on the change on financial condition of the employer.
- (d) The Commission may require financial reports more frequently than once each year if the financial condition of the employer shows signs of deterioration and closer scrutiny is deemed warranted.

**PROPOSED AMENDMENTS TO THE REGULATIONS OF THE WORKERS'
COMPENSATION COMMISSION**

29.109 Periodic Examination

The Commission may examine relevant records of an employer as often as it deems necessary. Examination shall include but not be limited to adequacy of loss reserves, adequacy of securities provided, and claims handling practices.

29.110 Grounds for Non-renewal or Revocation of a Certificate of Authorization for Self-Insurance

The following constitute grounds for non-renewal or revocation of a certificate of authorization from self-insurance:

- (a) Failure to comply with any provisions of these rules and regulations;
- (b) Failure to comply with lawful orders of the Commission; or
- (c) Committing an unfair or deceptive act or practice; or
- (d) Poor financial condition adversely affecting employers' ability to pay expected losses.

29.111 Hearing and Appeal

- (a) Prior to denying a renewal application, or revoking a certificate of self insurance authorization issued pursuant to this regulations, employer shall be given a hearing and a right to appeal as provided herein.
- (b) The Workers Compensation Commission shall hear the appeal no later than 90 days from the date of the request.

29.112 Renewal Request for Self-Insurance

All self-insured employers shall be subjected to an annual review for eligibility and shall submit application forms prescribed by the Commission. The renewal request shall be submitted no later than 30 days prior to the expiration of current self-insurance authorization.

29.113 Penalties

- (a) A civil penalty of \$100.00 shall be assessed each employee upon failure to post notice of self-insurance pursuant to Section 9343 (b) of P.L. 9-33.
- (b) Employers who fail to remit payments due under the Special Disability Fund shall be

**PROPOSED AMENDMENTS TO THE REGULATIONS OF THE WORKERS'
COMPENSATION COMMISSION**

assessed a penalty of 10 percent per month or a fraction thereof of the amount unpaid, not to exceed 50% in the aggregate, plus interest of 12% per annum.

29.114 Disposition of Receipts Upon Termination of Self-Insurance.

Employer is not entitled to a refund of any payments made into the Special Disability Fund in the event coverage is obtained from a carrier, or have elected not to be self insured.

29.116 Severability Clause

These rules are promulgated to implement Section 9341 of P.L. 9-33. If any provision of these rules is held to be invalid, such invalidity shall not affect other provisions.

PART III. EFFECTIVE DATE

The effective date of these amendments shall be pursuant to 1 CMC §9105(b).

Adopted as proposed amendments to the WCC Rules and Regulations by the Workers' Compensation Commission this 29th day of March, 1996.



Vicente C. Camacho
Chairman



Edward H. Manglona
Administrator



Department of Finance

Office of the Director

Commonwealth of the Northern Mariana Islands

P.O. Box 5234 CHRB

Saipan, MP 96950

Cable Address

Gov. NMJ Saipan

Phone: 664-1100

Facsimile: 664-1115

NOTICE OF ADOPTION OF AMENDMENTS

DEPARTMENT OF FINANCE

REVENUE AND TAXATION REGULATIONS NO. 2200

The Acting Secretary of Finance hereby adopts as permanent regulations for the Division of Revenue and Taxation the Proposed Amendments to Revenue and Taxation Regulations No. 2200 which were published in the February 15, 1996, Commonwealth Register. The permanent Revenue and Taxation Regulations are promulgated by virtue of the authority and directions set forth in the Commonwealth Code including, but not limited to, 1 CMC §2553, 1 CMC §2557, 4 CMC §1104, 4 CMC §1701(c), and 4 CMC §1818.

Revenue and Taxation Regulations No. 2200 provides for the day to day operation of the Division of Revenue and Taxation, including the licensing of Poker, Pachinko, and Amusement Machines. The Secretary of Finance did not receive any public comments, therefore the amendments to the regulations are adopted as originally published in the February 15, 1996, Commonwealth Register.

The Amendments to Revenue and Taxation Regulations No. 2200 became effective on March 18, 1996.

Issued by: *Rufin S. Inos*
RUFIN S. INOS
ACTING SECRETARY OF FINANCE

4/11/96
Date

Concurred by: *Jesus C. Borja*
JESUS C. BORJA
ACTING GOVERNOR

4/11/96
Date

Filed and Recorded by: *Soledad B. Sasamoto*
SOLEDAD B. SASAMOTO
REGISTRAR OF CORPORATIONS

4/11/96
Date



Department of Finance

Office of the Director

Commonwealth of the Northern Mariana Islands
P.O. Box 5234 CHRB
Saipan, MP 96950

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Gov. NMI Saipan
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CERTIFICATION

DEPARTMENT OF FINANCE

AMENDMENTS TO REVENUE AND TAXATION REGULATIONS NO. 2200

I, Rufin S. Inos, Acting Secretary of the Department of Finance who is publishing the Notice of Adoption of Amendments to Revenue and Taxation Regulations No. 2200, by signature below hereby certifies that Revenue and Taxation Regulations No. 2200 with all amendments incorporated as specified within the attached Notice of Adoption is a true, correct, and complete copy of the regulations adopted by the Department of Finance. I further request and direct that this certification and the Notice of Adoption be published in the Commonwealth Register.

I declare under penalties of perjury that the foregoing is true and correct and that this declaration was executed on the 11th day of April, 1996, at Saipan, Commonwealth of the Northern Mariana Islands.

Rufin S. Inos
Acting Secretary of Finance



BOARD OF PROFESSIONAL LICENSING
Commonwealth of the Northern Mariana Islands

P.O. Box 2078
Saipan, MP 96950
Tel. No.: (670) 234-5897
Fax No.: (670) 234-6040

NOTICE OF ADOPTION
OF AMENDMENTS TO THE REGULATIONS FOR
ENGINEERS, ARCHITECTS, LAND SURVEYORS & LANDSCAPE ARCHITECTS

Having received no comments on the proposed amendments to the Regulations for Engineers, Architects, Land Surveyors and Landscape Architects, the Board of Professional Licensing hereby adopts this Regulations as published in the Commonwealth Register on February 15, 1996.

This said regulations takes effect ten (10) days after this publication in the Commonwealth Register.

FRANCISCO Q. GUERRERO
CHAIRMAN

Filed by:

Soledad B. Sasamoto
Registrar of Corporations

4/10/96
Date

2:00 pm
Time

Received by:

Donna J. Cruz
Governor's Office


4/10/96
Date

1:50 pm
Time

NOTISIA PUT I MA ADOPTAN
I AMENDASION GI REGULASION SIHA PARA I
"ENGINEERS, ARCHITECTS, LAND SURVEYORS YAN LANDSCAPE ARCHITECTS"

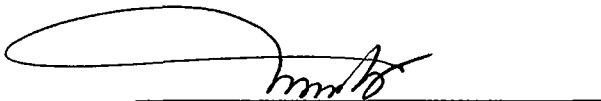
Put i taya' komento ma risibi put i manma prupoñi siha na amendasion gi regulasion para i Engineers, Architects, Land Surveyors yan Landscape Architects, i Board of Professional Licensing ginen este ha adopta este siha na regulasion ni esta ma publika gi halom i Rehistran Commonwealth gi Febrero 15, 1996.

Este i manma sangan siha na regulasion para u efektibu gi halom dies (10) dias despues di ma publika-ña este na nutisia gi halom i Rehistran Commonwealth.


FRANCISCO Q. GUERRERO
CHAIRMAN

4/10/96
Date

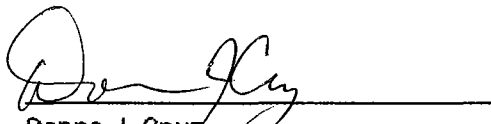
Ma Satmiti as:


Soledad B. Sasamoto
Rehistradoran Kotporasion

4/10/96
Fecha

2:00 pm
Date

Ma Risibi as :


Donna J. Cruz
Ofisinan Gubetno

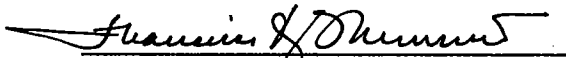
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4/10/96
Date

Arongorong Reel Adoption-Ul
Amendments Reel Allégh Ngáliir,
Engineers, Architects, Land Surveyors me Landscape Architects


Esáál yoor mwo comments reel propose-ul amendments reel allégh ngáliir Architects, Land Surveyors me Landscape Architects, iwe, Board of Professional Licensing sáangi mílleel a adoptáali allégh kka published llól Commonwealth Register wóol Febreero 15, 1996.

Allégh kkaal nge ebwe fis lléghéló llól seigh(w) rái takelóól publication llól Commonwealth Register.


FRANCISCO Q. GUERRERO
CHAIRMAN

4/10/96
Rái

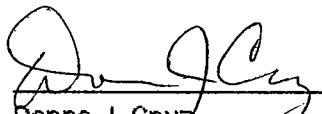
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Soledad B. Sasamoto
Registrar of Corporation

4/10/96
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Bwughiyal:


Donna J. Cruz
Bwulastiyoo) Gobanno
Registrar of Corporation

4/10/96
Rái

1:50 pm
ótol



BOARD OF PROFESSIONAL LICENSING
Commonwealth of the Northern Mariana Islands

P.O. Box 2078
Saipan, MP 96950
Tel. No.: (670) 234-5897
Fax No.: (670) 234-6040

**CERTIFICATION OF ADOPTION OF
AMENDMENTS TO THE REGULATIONS
FOR ENGINEERS, ARCHITECTS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS**

I, Francisco Q. Guerrero, Chairman of the Board of Professional Licensing which is promulgating the Regulations for Engineers, Architects, Land Surveyors and Landscape Architects hereinabove set for, by signature below hereby certify that such adopted amendments to the Regulations are true, complete and correct copy of the Regulations for Engineers, Architects, Land Surveyors and Landscape Architects formally adopted by the Board of Professional Licensing.

I declare under penalty of perjury that the foregoing is true and correct and this declaration was executed on this 10th day of April, 1996, at Saipan, Commonwealth of the Northern Mariana Islands.

FRANCISCO Q. GUERRERO
CHAIRMAN

PUBLIC NOTICE


**NOTICE OF ADOPTION OF FINAL MARIANAS VISITORS BUREAU
PROCUREMENT REGULATIONS**

The Marianas Visitors Bureau, pursuant to the authority of 4 CMC 2106(q), and in accordance with 1 CMC 9104(a), published proposed regulations governing procurement activities by the Marianas Visitors Bureau in the Commonwealth Register, Volume 16, Number 12, pages 12616-12650, on December 15, 1994.

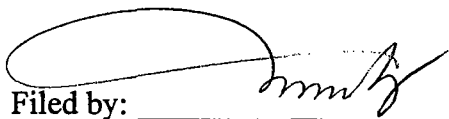
In response to comments received, certain changes and modifications were made to the regulations. The Final Regulations adopted by the Marianas Visitors Bureau are published herewith.

Copies of the Final Regulations may be obtained from the Marianas Visitors Bureau, PO Box 861, Saipan MP 96950.


DATED, this 2nd day of April, 1996



ANICIA Q. TOMOKANE
Managing Director
Marianas Visitors Bureau

Filed by:  4/10/96

SOLEDAD B. SASAMOTO
Registrar of Corporations

Filed by:  4/11/96

DONNA J. CRUZ
Governor's Office

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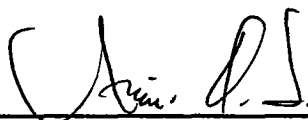
**Arongorong Reel Alléghélóól Aighúúghúl Alleghúl
Bwulasiyool Marianas Visitors Bureau
Reel Mwóghutughutul Lemelemil**

Bwulasiyool Marianas Visitors Bureau, sáangi bwángil 4 CMC 2106 (q), meigha ebwe attabweey ailéewal 1 CMC 9104 (q) atoowowul allégh kka e ghil ngáli mwóghulughulul lemelemil Bwulasiyool Marianas Visitors Bureau mellól Commonwealth Register Volume 16, Numuro 12, schéel kka 12616 mwet ngáli 12650, wóól Disembre 15, 1994.

Igha rebwe tabweey me palawalil mángemáng me tiip kke e atotoolong nge eyoor akkááw siiwel mellól allégh kkaal. Aighúúghúl Allégh kka aa alléghéló sáangi Bwulasiyool Marianas Visitors Bureau nge ikka atoowow mellól milleel.

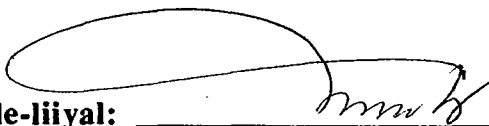
Kopiyaal Aighúúghúl Allégh kkaal nge emmwel schagh aramas ye e tipáli ebweló bweibwogh mellól Bwulasiyool Marianas Visitors Bureau, P.O. Box 861, Seipél MP 96950.

Efféer llól rááilil ye 2nd April, 1996.



**Anicia Q. Tomokane
Samwoolul Bwulasiyool
Marianas Visitors Bureau**

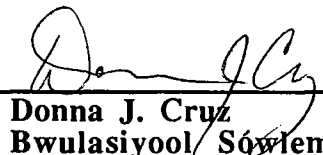
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**Soledad B. Sasamoto
Registrar of Corporations**

File-liiyal:



4/11/96

**Donna J. Cruz
Bwulasiyool Sóltem**

NUTICIAN PUBLICO

NUTICIAN ADAPTION NI FIET NA AREKLAMENTON PROCURMENT I MARIANAS VISITORS BUREAU

I Marianas Visitors Bureau, sigon i authoridat i 4 CMC 2106(q) yan sigon i 1 CMC 9104(a) ha publika gihalom i Rehistran Commonwealth, Baluma 16, Numiru 12, pahina 12616-12650 gi Decembre dia 15, 1994 i actividat Marianas Visitors Bureau. Pot guaha commento marisibi tiniget pot tinilaika yan modification para i Areklamento, I ofisinan i Marianas Visitors Bureau ha publika i uttimo na regulation niman ma adopta.

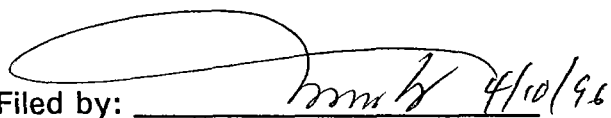
Copian i fiet na Areklamento sinaha ma hentan gi Marianas Visitors Bureau, P.O. Box 861, Saipan, MP 96950.

Dated: April 2, 1996

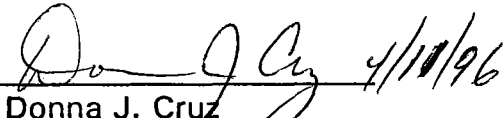


Anicia Q. Tomokane
Managing Director
Marianas Visitors Bureau

Filed by: _____

 4/10/96
Soledad B. Sasamoto
Registrar of Corporations

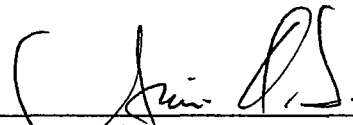
Filed by: _____

 4/10/96
Donna J. Cruz
Governor's Office

DECLARATION

I, ANICIA Q. TOMOKANE, Managing Director of the Marianas Visitors Bureau, which is adopting its regulations concerning procurement activities by the Marianas Visitors Bureau, by signature below, certify that such adoption and regulations are a true, complete, and correct copy of the procurement regulations formally adopted by the Board of Directors of the Marianas Visitors Bureau.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this 2nd day of April, 1996, on Saipan, Commonwealth of the Northern Mariana Islands.


ANICIA Q. TOMOKANE
Managing Director
Marianas Visitors Bureau

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TABLE OF CONTENTS

PART 1 - GENERAL PROVISIONS	1
1.1 AUTHORITY	1
1.2 PURPOSES	1
1.3 REQUIREMENT OF GOOD FAITH.	1
1.4 APPLICATION OF REGULATIONS	2
1.5 SEVERABILITY	2
1.6 VALIDITY OF CONTRACT	2
1.7 REMEDY AGAINST EMPLOYEE	2
1.8 DEFINITIONS	2
1.9 PUBLIC ACCESS TO PROCUREMENT INFORMATION	4
PART 2 - PROCUREMENT ORGANIZATION	5
2.1 MANAGING DIRECTOR	5
2.2 DUTIES OF THE CONTRACTING OFFICER	5
2.3 CONTRACT OVERSIGHT	5
2.4 ACCEPTANCE OF GRATUITIES	6
2.5 RIGHT TO AUDIT	6
PART 3 - SOURCE SELECTION AND CONTRACT FORMATION	6
3.1 METHODS OF SOURCE SELECTION	6
3.2 COMPETITIVE SEALED BIDDING -- INVITATION FOR BID	7
3.3 SMALL PURCHASES	11
3.4 SOLE SOURCE PROCUREMENT	11
3.5 EMERGENCY PROCUREMENT	11
3.6 COMPETITIVE SEALED PROPOSALS -- REQUEST FOR PROPOSALS	11
3.7 COMPETITIVE SELECTION PROCEDURES FOR PROFESSIONAL, ADVISORY, OR TECHNICAL SERVICES.	12
3.8 SELECTION PROCEDURES FOR MARKETING PROPOSALS.	13
PART 4 - CANCELLATION OF INVITATION FOR BIDS OR REQUESTS FOR PROPOSALS	14
4.1 CANCELLATION	14
PART 5 - QUALIFICATION AND DUTIES	15
5.1 RESPONSIBILITY OF BIDDERS AND OFFERERS	15
5.2 PRE-QUALIFICATION OF CONTRACTORS	16
PART 6 - TYPES OF CONTRACTS	16
6.1 TYPES OF CONTRACTS	16

PART 7 - INSPECTION AND AUDIT	17
7.1 RIGHT TO INSPECT PLACE OF BUSINESS	17
7.3 RIGHT TO AUDIT RECORDS	17
 PART 8 - REPORTS AND RECORDS	 18
8.1 RETENTION OF PROCUREMENT RECORDS	18
 PART 9 - PROCUREMENT OF CONSTRUCTION SERVICES	 18
9.1 CONSTRUCTION PROCUREMENT	18
 PART 10 - PROTESTS AND DISPUTES	 21
10.1 PROTESTS TO THE MANAGING DIRECTOR	21
10.2 APPEALS OF MANAGING DIRECTOR'S DECISION TO THE BOARD	24
10.3 REMEDIES:	27
10.4 EFFECTIVE DATE	28
10.5 DISPUTES	28
 PART 11 - ETHICS IN CONTRACTING	 29
11.1 DEFINITION OF TERMS	29
11.2 POLICY	30
11.3 GENERAL STANDARDS	30
11.4 NO FINANCIAL INTERESTS	30
11.5 GRATUITIES AND KICKBACKS	31
11.6 PROHIBITION AGAINST CONTINGENT FEES	31
11.7 CONTRACT CLAUSES	31
11.8 RESTRICTIONS ON EMPLOYMENT OF PRESENT AND FORMER BOARD MEMBERS OR EMPLOYEES	32
11.9 USE OF CONFIDENTIAL INFORMATION	32
11.10 COLLUSION BY BIDDERS	33
11.11 AUTHORITY TO DEBAR OR SUSPEND	33
11.12 CIVIL AND ADMINISTRATIVE REMEDIES	34

MARIANAS VISITORS BUREAU
PROCUREMENT RULES AND REGULATIONS

PART 1 - GENERAL PROVISIONS

1.1 AUTHORITY

These regulations are promulgated under the authority of 4 CMC §2106(q) for the use of the Marianas Visitors Bureau.

1.2 PURPOSES

The underlying purposes and policies of these regulations are:

- (a) to provide a procedure to obtain supplies and services for the Bureau;
- (b) to provide for increased public confidence in the procedures followed in the Bureau's procurement;
- (c) to insure the fair and equitable treatment of all persons who deal with the procurement system of the Bureau;
- (d) to provide increased economy in the Bureau's procurement activities and to maximize to the fullest extent practicable to the purchasing value of Bureau funds;
- (e) to foster effective broad-based competition within the free enterprise system; and
- (f) to provide safeguards for the maintenance of a procurement system of quality and integrity.

1.3 REQUIREMENT OF GOOD FAITH.

These regulations require all parties involved in the negotiation, bidding, performance or administration of Bureau contracts to act in good faith.

1.4 APPLICATION OF REGULATIONS

1. These regulations apply to every expenditure of Bureau funds. These regulations do not apply to contracts between the Bureau and the government or its political subdivisions or other governments. Nothing in these Regulations shall be construed to prevent the Bureau from complying with the terms and conditions of any grant, cooperative agreement or memorandum of understanding.
2. These regulations do not apply to employment contracts.

1.5 SEVERABILITY

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

1.6 VALIDITY OF CONTRACT

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

1.7 REMEDY AGAINST EMPLOYEE

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

1.8 DEFINITIONS

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

1. **"Appeal Committee"** means the special committee of the Board authorized to hear appeals.
2. **"Attorney"** means the legal counsel of the Bureau.

MVB Procurement Regulations

3. **"Bureau"** means the Marianas Visitors Bureau.
4. **"Board"** means the Board of Directors of the Bureau.
5. **"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.
6. **"Contract"** means all types of agreements, regardless of what they may be called for the procurement of supplies, services or construction.
7. **"Contracting Officer"** means the Managing Director, or any other individual authorized by the Board to execute contracts.
8. **"Cost-Reimbursement Contract"** means a contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and these regulations, and a fee, if any.
9. **"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.
10. **"Employee"** means an individual receiving a full time salary from the Bureau. Consultants, independent contractors and part-time workers shall not be considered employees.
11. **"Managing Director"** means the Managing Director of the Bureau or his designee.
12. **"Goods"** means all property, including but not limited to equipment, materials, supplies, and other tangible personal property of any kind or nature.
13. **"Government"** means the Commonwealth of the Northern Mariana Islands Government which includes the executive, legislative, and judicial branches.
14. **"Invitation for Bids"** means a solicitation by the Bureau to the public to make an offer to enter into a contract in which the contract will be awarded to the lowest responsive bid by a responsible bidder.
15. **"Person"** means an individual, sole proprietorship, partnership, joint venture, corporation, other unincorporated association or a private legal entity.

MVB Procurement Regulations

16. **"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.
17. **"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.
18. **"Request for Proposal"** means a solicitation by the Bureau to the public to make a proposal to enter into a contract.
19. **"Responsible"** in reference to a bidder, means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.
20. **"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.
21. **"Service"** 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. It does not include professional, advisory, or technical services.

1.9 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 Managing Director.

PART 2 - PROCUREMENT ORGANIZATION

2.1 MANAGING DIRECTOR

The Managing Director shall enforce these regulations.

2.2 DUTIES OF THE CONTRACTING OFFICER

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

1. oversee that these regulations are observed in all Bureau procurement;
2. conduct bidding, procurement, negotiation or administration of Bureau contracts;
3. provide advanced planning for the centralized purchase of Bureau supplies;
4. exercise general supervision and control over all inventories of supplies belonging to the Bureau;
5. establish and maintain programs for the inspection, testing and acceptance of supplies; and
6. receive protests from aggrieved parties in connection with the solicitation or award of a contract and to decide the merits of the protest.

2.3 CONTRACT OVERSIGHT

1. The Contracting Officer shall review all contracts for construction, the procurement of goods, leases, the sale of goods and for services by an independent contractor to insure compliance with these regulations, that the contract is for a Bureau purpose, and does not constitute a waste or abuse of Bureau funds.
2. The Attorney shall certify the form and legality of every applicable contract.
3. Upon approval as to form and legal sufficiency by the Attorney, the Contracting Officer shall execute the contract.

MVB Procurement Regulations

4. It is the responsibility of the Contracting Officer to ensure that the contractor does not sign the contract or incur any expenses under it until all necessary signatures have been obtained. The supervision and inspection of a project is the primary responsibility of the Contracting Officer.
5. No contract is effective against the Bureau until all of the officials whose signatures are required on the contract form have signed the contract.
6. Nothing in these regulations shall be construed to limit or prevent the Bureau's duty and power to enter into agreements with the government, its departments and agencies for the rendering and purchase of services.

2.4 ACCEPTANCE OF GRATUITIES

The members of the Board or employees of the Bureau cannot accept from any person any gift of value given to them with the intent to influence their business judgment.

2.5 RIGHT TO AUDIT

A contract shall contain a Right to Audit Records Clause.

PART 3 - SOURCE SELECTION AND CONTRACT FORMATION

3.1 METHODS OF SOURCE SELECTION

All Bureau contracts shall be awarded by competitive sealed bidding, except as provided in:

1. Part 3.3 (Small Purchases);
2. Part 3.4 (Sole Source Procurement);
3. Part 3.5 (Emergency Procurement);
4. Part 3.6 (Competitive Sealed Proposals);
5. Part 3.7 (Professional, Advisory, or Technical Services); and

6. Part 3.8 (Marketing Proposals).

3.2 COMPETITIVE SEALED BIDDING -- INVITATION FOR BID

1. The purchase of all supplies and materials and all construction works when the expenditure exceeds \$10,000 shall be by contract let to the lowest responsible bidder.
2. Invitation for Bids. An invitation for bids shall be issued and shall include at the minimum:
 - (a) an invitation for bids number;
 - (b) date of issuance;
 - (c) name, address and location of issuing office;
 - (d) specific location where bids must be submitted;
 - (e) date, hour and place of bid opening;
 - (f) a purchase description in sufficient detail to permit full and open competition and allow bidders to respond properly.
 - (g) quantity to be furnished;
 - (h) time, place and method of delivery or performance requirements;
 - (i) essential contractual terms and conditions; and
 - (j) any bonding requirements.
3. **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 thirty (30) calendar days shall be deemed to be adequate notice. For those islands within the Commonwealth where there are no newspapers of general circulation, the posting of invitations to bid and requests for proposals in public places designated by the Contracting Officer shall be deemed adequate notice. A bidding time of at least thirty (30) calendar days shall be provided, unless the Contracting Officer determines a shorter period is reasonable and necessary.

MVB Procurement Regulations

4. **Bid Receipt.** All bids shall be submitted to the main office of the Bureau at the Saipan International Airport. Bids shall be received prior to the time set for opening and shall be maintained sealed in a locked receptacle at the office. Bids submitted from vendors outside the Commonwealth must be postmarked by the date set in the Invitation for Bids and must be received within seven working days of that date. Bidders outside the Commonwealth must notify the Contracting Officer in writing of their intent to bid in order to receive this additional seven days for receipt of the actual documents. This notice of intent to bid may be made by any mode of written communication including telex, facsimile or other electronic transmission.
5. **Bid Opening.** The bid opening shall be conducted by the Contracting Officer at the main office of the Bureau at the Saipan International Airport. Bids shall be opened publicly at the time and place designated in the Invitation for Bids. 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 Contracting Officer shall prepare a written summary of the bid opening.
6. **Bid Acceptance and Bid Evaluation.** Bids shall be unconditionally accepted without alteration or correction, except as authorized in these regulations. Bids shall be evaluated based on the requirements set forth in the Invitation for Bids, which may include criteria as is necessary to reasonably permit a determination as to the acceptability of the bid for the particular purpose intended.
7. **Bid Rejection.** A bid may be rejected for any of the following reasons:
 - (a) failure to conform to essential requirements of the Invitation for Bids, such as specifications or time of delivery;
 - (b) imposition of conditions or restrictions in the bid which modify requirements of the invitation or limit the bidder's liability to the Bureau;
 - (c) unreasonableness as to price; or
 - (d) a bid from a nonresponsible bidder.
8. **Correction or Withdrawal of Bids; Cancellation of Awards.** Correction or withdrawal of inadvertently erroneous bids, before or after award, or cancellation of awards or contracts based on bid mistakes must be approved by the Contracting Officer in writing. After the bid opening, no changes in bid price or other provisions of bids prejudicial to the interest of the Bureau or fair competition shall be allowed. Whenever a bid mistake is suspected, the Bureau shall request confirmation of the bid

prior to award. In such an instance, if the bidder alleges an error, the Bureau shall only permit correction of the bid or withdrawal of the bid in accordance with subparagraph (a) or (b).

- a. **Correction of Bids.** Correction of bids shall only be permitted when:
 - (i) an obvious clerical mistake is clearly evident from examining the bid document. Examples of such mistakes are errors on addition or the obvious misplacement of a decimal point; or
 - (ii) the otherwise low bidder alleges a mistake and the intended bid is evident from the bid document or is otherwise supported by clear and convincing evidence as to the bid intended and the corrected bid remains the low bid. A low bidder may not be permitted to correct a bid mistake resulting from an error in judgment.
- b. **Withdrawal of Bids.** Withdrawal of a bid shall only be permitted where the otherwise low bidder alleges a mistake and there is clear and convincing evidence as to the existence of a mistake.
- c. **Cancellation of Awards.** Cancellation of awards or contracts shall only be permitted when:
 - (i) evidence as to the existence of the mistake is not discovered until after the award;
 - (ii) there exists no clear and convincing evidence to support the bid intended; and
 - (iii) performance of the contract at the award price would be unconscionable.

9. **Award.**

- (a) The contract must be awarded with reasonable promptness by written notice to the lowest responsive bid by a responsible bidder whose bid fully meets the requirements of the invitation for bids and these regulations. Unsuccessful bidders shall also be promptly notified.

(b) Notice of an award shall only be made by the presentation of a contract with all of the required signatures to the bidder. No other notice of an award shall be made. No acceptance of an offer shall occur nor shall any contract be formed until a Bureau contract is written and has been approved by the officials required by law and regulation. Bureau contracts shall contain a clause which states that the signature of the private contractor shall be the last in time to be affixed to a contract and that no contract can be formed prior to the approval of all required Bureau officials.

10. **Re-advertise.** The Board may reject any and all bids and re-advertise at its discretion. If, after rejecting bids for materials and supplies, the Board determines that, in its opinion, the materials supplies may be purchased at a lower price in the open market, the Board may authorize such purchases without further observance of the provisions requiring contracts, bids or notices.

3.3 SMALL PURCHASES

1. Any procurement not exceeding the amount established herein may be made in accordance with small purchase procedures. However, procurement requirements shall not be artificially divided as to constitute a small purchase.
2. No bidding is required for procurement of \$10,000.00 or less.
3. The Bureau must obtain price quotation from at least three (3) vendors and base the selection on competitive price and quality for procurement value of more than \$5,000.00 and less than \$10,000.00.
4. Purchase orders may be utilized for small purchases.

3.4 SOLE SOURCE PROCUREMENT

1. A contract may be awarded for a supply, service or construction item without competition when the Contracting Officer determines in writing that there is only one source for the required supply, service or construction item.
2. A contract may be awarded when the supplies or services to be rendered are unique and the Managing Director determines it is in the best interest of the Bureau to

procure the supplies or services without competitive bidding. A written justification for the sole source procurement shall be prepared by the Contracting Officer and the written determination shall state the unique capabilities required and why they should be procured without competition bidding.

3. The Board shall approve all sole source procurement.

3.5 EMERGENCY PROCUREMENT

In case of any major public calamity, or whenever it is in the interest of tourist safety, or necessary to keep the designated tourist sites operable by the Bureau, the Managing Director may determine that the public interest and necessity demand the immediate expenditure of funds to keep the Northern Marianas open to tourists or in a safe condition, and thereupon authorize the expenditure of such sums as may be needed without the observation of the provision requiring contracts, bids or notices. The Board may issue continuing authorizations for the expenditure of funds described in this section, placing therein the conditions which will give rise to such special expenditures.

3.6 COMPETITIVE SEALED PROPOSALS -- REQUEST FOR PROPOSALS

1. **Conditions for Use.** When the Contracting Officer determines in writing that the use of a competitive sealed bidding is either not practical or not advantageous to the Bureau, a contract may be entered by competitive sealed proposals.
2. **Requests for Proposals.** Proposals shall be solicited through a Request for Proposals.
3. **Public Notice.** Adequate public notice of the Request for Proposals shall be given in the same manner as provided for in competitive sealed bids.
4. **Receipt of Proposals.** Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be prepared and opened for public inspection after contract award.
5. **Evaluation Factors.** The Request for Proposals shall state the relative importance of price and other evaluation factors.
6. **Discussion with Responsible Offerors and Revisions to Proposals.** As provided in the Request for Proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification and to insure full understanding of, and

responsiveness to, solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submission and prior to award for the purpose of obtaining the best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

7. **Award.** Award shall be made to the responsible offeror whose proposal is determined in writing to be most advantageous to the Bureau taking into consideration price and the evaluation factors set forth in the Request for Proposals. The contract file shall contain the basis on which the award is made.

3.7 COMPETITIVE SELECTION PROCEDURES FOR PROFESSIONAL, ADVISORY, OR TECHNICAL SERVICES.

1. **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, expedited procurement, or sole-source procurement.
2. **Policy.** It is the policy to publicly announce all requirements for professional services and negotiate contracts on the basis of demonstrated competence and qualifications at a fair and reasonable price. The Managing Director shall maintain files of current statements of qualifications of professional advisory, and technical firms. Persons engaged in providing professional advisory or technical 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.
3. **Public Announcement and Form of Request for Proposals.** Adequate notice of the need for such services shall be given by the Contracting Officer through a Request for Proposals. The Request for Proposals shall describe the services required, list the type of information and date required of each offeror and state the relative importance of particular qualifications.
4. **Discussions.** The Contracting Officer may conduct discussions with any offeror who has submitted a proposal to determine such offerors qualification for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.
5. **Award.** Award shall be made to the offeror determined in writing by the Contracting Officer to be the best qualified based on the evaluation factors set forth in the Request

for Proposals, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best qualified offeror then negotiations will be formally terminated with the selection offeror. If proposals were submitted by one or more other offerors determined to be qualified, negotiations may be conducted with such other offeror or offerors, in the order of the respective qualification ranking, and the contract may be awarded to the offeror then ranked a best qualified if the amount of compensation is determined to be fair and reasonable.

3.8 SELECTION PROCEDURES FOR MARKETING PROPOSALS.

1. **Proposal for Joint Participation.** Any proposal made to the Bureau to promote an activity to foster tourism in the CNMI that seeks joint participation with the Bureau may be accepted by the Managing Director if it is in the best interests of the Bureau to participate in the activity.
2. **Sanction by A & P Committee.** Any participation by the Bureau in a joint marketing activity entered into by the Managing Director shall require the approval of the Advertising and Promotions Committee.
3. **Advertising Proposals.** Any proposal made to MVB by advertising agencies or publishers of tourist industry pamphlets, magazines, or newspapers shall be evaluated and selected by the Managing Director.
4. **Report to A & P Committee.** Any advertising to foster tourism in the CNMI shall be reported to the Advertising and Promotions Committee.

PART 4 - CANCELLATION OF INVITATION FOR BIDS OR REQUESTS FOR PROPOSALS

4.1 CANCELLATION

An invitation for bids or request for proposals may be cancelled, and any and all bids or proposals may be rejected, when such action is determined by the Contracting Officer including, but not limited to, the following:

1. inadequate or ambiguous specifications contained in the solicitation;
2. specifications which have been revised;

MVB Procurement Regulations

3. goods or services being procured which are no longer required;
4. inadequate consideration given to all factors of costs to the Bureau in the solicitation;
5. bids or proposals received indicate that the needs of the Bureau can be satisfied by a less expensive good or service.
6. all offers with acceptable bids or proposals received are at unreasonable prices;
7. bids were collusive;
8. non-responsive bids or proposals were submitted; or
9. cancellation is determined to be in the best interest of the Bureau.

The Contracting Officer shall have the right to cancel an award without liability to the bidder or offeror, except the return of any deposit, guarantee or other security, at any time before a contract had been fully executed by all parties.

PART 5 - QUALIFICATION AND DUTIES

5.1 RESPONSIBILITY OF BIDDERS AND OFFERERS

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

MVB Procurement Regulations

- (e) have the necessary organization, experience and skills, for the ability to obtain them, required to perform successfully the contract;
- (f) have the necessary production, construction and technical equipment facilities, or the ability to obtain them;
- (g) have an office in the island where the construction work is to be performed; and
- (h) be otherwise qualified and eligible to receive an award under applicable laws and rules.

The above factors are not to be deemed exclusive.

2. **Obtaining Information.** Prior to award, the Bureau shall obtain information from the bidder or offeror necessary to make a determination of responsibility using the factors in paragraph 1 above. The unreasonable failure of the bidder or offeror promptly to supply information in connection with an inquiry with respect to responsibility may be grounds for determination of non-responsibility with respect to that bidder or offeror.
3. **Right of Non-disclosure.** Information furnished by a bidder or offeror pursuant to paragraph 2 may not be disclosed outside of the office of the Bureau without prior consent by the bidder or offeror.
4. **Non-responsibility Determination.** When a bid or proposal on which a contract award would otherwise be made is rejected because the prospective contractor is found to be non-responsible, a written determination shall be signed by the Contracting Officer stating the basis for the determination and this shall be placed in the contract file.
5. **Preference for MVB Members.** Whenever possible, preference in awarding contracts shall be to a member of MVB as long as the member complies with the criteria of this subsection and it is determined that such award is in the best interest of MVB.

5.2 PRE-QUALIFICATION OF CONTRACTORS

Prospective suppliers of goods or services may be pre-qualified for particular types of construction, goods and services when determined necessary by the Bureau. Opportunity for qualification before

solicitation shall be afforded to all suppliers. Solicitation mailing lists of potential contractors shall include, but shall not be limited to, pre-qualified suppliers. In no event will bidders be allowed to qualify after the bid opening.

PART 6 - TYPES OF CONTRACTS

6.1 TYPES OF CONTRACTS

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

PART 7 - INSPECTION AND AUDIT

7.1 RIGHT TO INSPECT PLACE OF BUSINESS

The Bureau may, at reasonable times, inspect the place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the Bureau.

7.2 RIGHT TO AUDIT RECORDS

As required by 1 CMC §7845, the contractor and subcontractor or grantee and subgrantee at all levels shall provide the Public Auditor of the Commonwealth with access to and the right to examine and copy any records, data or papers relevant to a Bureau contract or grant for a period of three (3) years after the final payment under the contract or grant. All Bureau contracts and awards shall include a clause giving the Public Auditor the right and access to all contract records.

7.3 SPLIT CONTRACT

If the Contracting Officer, Managing Director, and/or Board 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 and responsive bidder, then they 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.

PART 8 - REPORTS AND RECORDS

8.1 RETENTION OF PROCUREMENT RECORDS

1. All procurement records shall be retained by the Bureau for at least three (3) years after the final payment under a contract or grant.
2. The Managing Director shall maintain a record listing all contracts made under sole-source procurement, emergency procurement, or professional, advisory, or technical services for a minimum of six (6) years. The record shall contain:
 - (a) each contractor's name;
 - (b) the amount and type of each contract; and
 - (c) a listing of the supplies, services or construction procured under each contract.
3. All procurement records, except those designated herein as not subject to disclosure, shall be available to public inspection.

PART 9 - PROCUREMENT OF CONSTRUCTION SERVICES

9.1 CONSTRUCTION PROCUREMENT

1. Invitation for Bids.

- a. **Deposit.** The Contracting Officer shall determine the amount of deposit required for potential bidders to obtain the invitation for bids.
- b. **Contents.** The invitation for bids shall be prepared in accordance with section 3.2(2). In addition, the following items shall be included in the Invitation for Bids;
 - (i) **Notice to Bidders.** General information regarding project;
 - (ii) **Instruction to Bidders.** Information on the preparation of bids, bid security requirements and forms, and certifications that must be submitted with the bid;
 - (iii) **General Conditions.** Standard contract clauses governing the performance of work;
 - (iv) **Special Conditions.** Special contract clauses depending on the nature and dollar amount of the work to be performed; and
 - (v) **Technical Specifications.** Specifications governing the technical aspects of the work to be performed.

2. Bid Security

- (a) **Requirement.** Bid security shall be required for all competitive sealed bidding construction contracts where the price is estimated by the Contracting Officer to exceed \$25,000.00 or when the Contracting Officer determines it is in the interest of the Bureau. Bid security shall be on a bid bond, in cash, by certified check, cashiers check or other form acceptable to the Bureau.

- (b) **Amount.** Bid security shall be an amount equal to at least ten percent (10%) of the amount of the bid or other amount as specified in the Invitation for Bids.
- (c) **Rejection of Bids.** Failure to furnish bid security, when required by the invitation, shall result in rejection of the bid as non-responsive.

3. **Contract Performance and Payment Bonds**

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

(i) a performance bond satisfactory to the Bureau, executed by a surety company authorized to do business in the Commonwealth or otherwise secured in a manner satisfactory to the Bureau, in an amount equal to one hundred percent (100%) of the price specified in the contract; and

(ii) a payment bond satisfactory to the Bureau, executed by a surety company authorized to do business in the Commonwealth or otherwise secured in a manner satisfactory to the Bureau, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the price specified in the contract.

4. **Suits on Payment Bonds; Right to Institute.** Every person who has furnished labor or material to the contractor or its subcontractors for the work provided in the contract, in respect of which a payment bond is furnished under this section, and who has not been paid in full therefore before the expiration of a period of ninety (90) days after the day on which the last of the labor was done or performed by such person or material was furnished or supplied by such person for which such claim is made, shall have the right to sue on the payment bond for the amount, or the balance thereof, unpaid at the time of institution of such suit and to prosecute said action for the sum or sums justly due such person; provided, however, that any person having a direct contractual relationship with a subcontractor of the contractor, but not 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 (90) days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material upon which such

claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was done or performed. Such notice shall be personally served or served by mailing the same by registered or certified mail, postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or conducts its business.

5. **Suits on Payment Bonds; Where and When Brought.** Every suit instituted upon a payment bond shall be brought in a court of competent jurisdiction for the Commonwealth, but no such suit shall be commenced after the expiration of one (1) year after the day on which the last of the labor was performed or material was supplied by the person bringing suit. The obligee named in the bond need not be joined as a party in any such suit.
6. **Fiscal Responsibility.** Every contract modification, change order, or contract price adjustment under a construction contract shall be subject to prior approval by the Board; 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.

PART 10 - PROTESTS AND DISPUTES

10.1 PROTESTS TO THE MANAGING DIRECTOR

1. General

- a. Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Managing Director. The protest shall be received by the Managing Director in writing within ten (10) days after such aggrieved person who knows or should have known of the facts giving rise thereto. Managing Director shall consider all protests or objections to the award of a contract, whether submitted before or after award. The written protest shall state fully the factual and legal grounds for the protests;
- b. Other persons, including bidders, involved in or affected by the protest shall be given notice of the protest and its basis in appropriate cases. These persons shall also be advised that they may submit their views and relevant

MVB Procurement Regulations

information to the Managing Director within a specified period of time. Normally, the time specified will be one (1) week;

- c. The Managing Director shall decide the protest within fifteen (15) calendar days after all interested parties have submitted their views unless he or she certifies that the complexity of the matter requires a longer time, in which event he or she shall specify the appropriate longer time;
- d. When a protest, before or after award, has been appealed to the Appeal Committee, as provided in these procedures, and the Managing Director is requested to submit a report, the Managing 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) The Managing Director's signed statement setting forth findings, actions, and recommendations and any additional evidence or information deemed necessary in determining the validity of the protest. The statement shall be fully responsive to the allegation of the protest. If the award was made after receipt of the protest, the Managing Director's report will include the determination prescribed in subparagraph (2)(c) below.
- e. Since timely action on protests is essential, they should be handled on a priority basis. Upon receipt of notice that an appeal from the Managing Director's decision has been taken to the Appeal Committee, the Managing Director shall immediately begin compiling the information necessary for a report as provided in subsection (d) above.

2. **Protests Before Award.**

- a. When a proper protest against the making of an award is received, the award will be withheld pending disposition of the protest. The bidders whose bids might become eligible for award shall be informed of the protest. In addition, those bidders shall be requested, before expiration of the time for acceptance of their bids, to extend the time for acceptance to avoid the need for re-advertisement. In the event of failure to obtain such extensions of bids, consideration shall be given to proceeding with an award under subparagraph (b) below.
- b. When a written protest is received, award shall not be made until the matter is resolved, unless the Contracting Officer determines that:
 - (i) the materials and services to be contracted for are urgently required;
 - (ii) delivery or performance will be unduly delayed by failure to make award promptly; or
 - (iii) a prompt award will be advantageous to the Bureau.
- c. If award is made under subparagraph (b) above, the Contracting Officer shall document the file to explain the need for an immediate award. The Contracting Officer also shall give written notice to the protestor and others concerned of the decision to proceed with the award.

3. Protests After Award

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

4. Computation of Time:

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

MVB Procurement Regulations

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

10.2 APPEALS OF MANAGING DIRECTOR'S DECISION TO THE BOARD

1. **Jurisdiction; Exhaustion of Remedies.** A written appeal to the Appeal Committee from a decision by the Managing Director may be taken provided that the party taking the appeal has first submitted a written protest to the Managing Director as provided in section 10.1 of these Procedures, and the Managing Director has denied the protest or has failed to act on the protest within the time provided for in section 10.1(1)(c) above.
2. **Form of Appeal.** No particular form of pleading is required for filing an appeal to the Appeal Committee. The appeal shall, however;
 - (a) include the name and address of the appellant;
 - (b) identify the name and number of the solicitation of contract;
 - (c) contain a concise, logically arranged, and direct statement of the grounds for appeal; and
 - (d) specifically request a ruling by the Appeal Committee.
3. **Time for Filing Appeal.** An appeal from the Managing Director's decision must be received by the Appeal Committee not later than ten (10) days after the appellant receives the decision of the Managing Director, or, in the event that the Managing Director has not decided the protest within ten (10) days from the date that he should have decided the protest pursuant to section 10.1(1)(c) above. Any appeal received after these time limits shall not be considered by the Appeal Committee unless good cause is shown or unless the Appeal Committee determines that the appeal presents issues significant to procurement practices that are not outweighed by the detriment to the Bureau should the appeal be considered.
4. **Notice of Protest, Submission of Managing Director's Report and Time for Filing of Comments on Report.**
 - (a) The Appeal Committee shall notify the Managing Director in writing within one (1) day of the receipt of an appeal, requesting the Managing Director to give notice of the appeal to the contractor if award has been made or, if no award has been made, to all bidders or proposers who appear to have a substantial and reasonable prospect of receiving an award if the appeal is denied. The Managing Director shall be requested to furnish, in accordance

MVB Procurement Regulations

with Section 10.1(1)(b) of these Procedures, copies of the protest and appeal documents to such parties with instructions to communicate further directly with the Appeal Committee.

- (b) The Appeal Committee shall request the Managing Director to submit a complete report on the appeal to the Appeal Committee as expeditiously as possible (generally within 25 working days) in accordance with Section 10.1(1)(d) of these Procedures and to furnish a copy of the report to the appellant and other interested parties as defined in Section 10.1(1)(b).
 - (c) Comments on the Managing Director's report shall be filed with the Appeal Committee within ten (10) days after the Appeal Committee receipt of the report, with a copy of other interested parties. Any rebuttal an appellant or interested party may care to make shall be filed with the Appeal Committee within five (5) days after receipt of the comments to which rebuttal is directed, with a copy to the appellant, and interested parties, as the case may be.
 - (d) The failure of an appellant or any interest party to comply with the time limits stated in this section may result in resolution of the appeal without consideration of the comments untimely filed.
5. **Withholding of Award.** When an appeal has been filed before award, the Contracting Officer will not make an award prior to resolution of the protest except as provided in this section. In the event the Contracting Officer determines that award is to be made during the pendency of an appeal, the Contracting Officer will notify the Appeal Committee.
6. **Furnishing of Information on Protests.** The Appeal Committee shall, upon request, make available to any interested party information bearing the substance of the appeal which has been submitted by interested parties, 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 then (10) days.
7. **Time for Submission of Additional Information.** An additional information requested by the Appeal Committee from the Appellant or interested parties shall be submitted no later than five (5) days after the receipt of such request. If it is necessary to obtain additional information from the Managing Director, the Appeal Committee will request that such information be furnished as expeditiously as possible.
8. **Conference.**

MVB Procurement Regulations

- (a) A conference on the merits of the appeal with the Appeal Committee may be held at the request of the appellant, any other interested party, or the Managing Director. Request for a conference should be made prior to the expiration of the time period allowed for filing comments on the agency report. Except in unusual circumstances, requests for a conference received after such time will not be honored. The Appeal Committee will determine whether a conference is necessary for resolution of the appeal.
 - (b) Conference normally will be held prior to expiration of the period allowed for filing comments on the agency report. All interested parties shall be invited to attend the conference. Ordinarily, only one conference will be held on an appeal.
 - (c) Any written comments to be submitted and as deemed appropriated by the Appeal Committee as a result of the conference must be received by the Appeal Committee within five (5) days of the date on which the conference was held.
9. **Time for Decision; Notice of Decision.** The Appeal Committee shall, if possible, issue a decision on the appeal within twenty-five (25) days after all information necessary for the resolution of the appeal has been received. A copy of the decision shall immediately be mailed or otherwise transmitted to the appellant, other participating parties, and the Managing Director.
10. **Request for Reconsideration.**
- (a) Reconsideration of a decision of the Appeal Committee may be requested by the appellant, any interested party who submitted comments during consideration of the protest, and the Managing Director. The request for reconsideration shall contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law made or information not previously considered.
 - (b) Request for reconsideration of a decision for the Appeal Committee shall be filed not later than ten (10) days after the decision. The term "filed" as used in this section means receipt by the Appeal Committee.
 - (c) A request for reconsideration shall be subject to these bid protest procedures consistent with the need for prompt resolution of the matter.

10.3 REMEDIES:

1. **Remedies Prior to Award.** If prior to award the Managing Director or the Appeal Committee determines that a solicitation or proposed award of a contract is in violation of law or regulation, then the solicitation or proposed award shall be:
 - (a) cancelled; or
 - (b) revised to comply with law or regulation.

2. **Remedies After an Award.** If after an award the Managing Director or the Appeal Committee determines that a solicitation or award of a contract is in violation of law or regulation, then:
 - (a) if the person awarded the contract has not acted fraudulently or in bad faith:
 - (i) the contract may be ratified and affirmed, provided it is determined that doing so is in the best interests of the Bureau, or
 - (ii) the contract may be terminated and the person awarded the contract shall be compensated for the actual expenses reasonably incurred under the contract, plus a reasonable profit, prior to termination.
 - (b) if the person awarded the contract has acted fraudulently or in bad faith:
 - (i) the contract may be declared null and void; or
 - (ii) the contract may be ratified and affirmed if such action is in the best interests of the Bureau, without prejudice to the Bureau's rights to such damages as may be appropriate.

3. **Finality of Findings of Fact by the Appeal Committee.** A determination of an issue of fact by the Appeal Committee under these Procedures shall be final and conclusive unless arbitrary, capricious, fraudulent, or clearly erroneous.

10.4 EFFECTIVE DATE

All protests as to the manner of bidding, the failure to properly award a bid, the failure of Bureau to contract with a business after bidding, or the cancellation of bids which may or may not be the subject of lawsuit but have not reached final judgment as of the effective date of these regulations shall be

heard in accordance with this Part upon the request of the actual or prospective bidder, offeror, or contractor who is aggrieved.

10.5 DISPUTES

1. Any dispute between the Bureau and a contractor relating to the performance, interpretation of a compensation due under a contract, which is the subject of these regulations, must be filed in writing with the Managing Director within ten (10) calendar days after knowledge of the facts surrounding the dispute.
2. When a claim by or against a contractor cannot be satisfied or settled by mutual agreement and a decision on the dispute is necessary, the Managing Director shall review the facts pertinent to the dispute, secure necessary legal assistance and prepare a written description that shall include:
 - (a) description of the dispute;
 - (b) reference to pertinent contract terms;
 - (c) statement of the factual areas of disagreement or agreement; and
 - (d) statement of the decision as to the factual areas of disagreement and conclusion of the dispute with any supporting rationale.
3. **Appeals.** The Appeal Committee shall review and render a decision on an appeal from an adverse decision timely taken by a contractor. The Appeal Committee may require a hearing or that information be submitted on the record, in his discretion. The Appeal Committee may affirm, reverse or modify the decision or remand it for further consideration.
4. **Duty to Continue Performance.** A contractor that has a dispute pending before the Managing Director or an appeal before the Appeal Committee must continue to perform according to the terms of the contract and failure to so continue shall be deemed to be a material breach of the contract unless he obtains a waiver of this provision by the Appeal Committee.

PART 11 - ETHICS IN CONTRACTING

11.1 DEFINITION OF TERMS

1. **"Confidential Information"** means any information which is available to an employee only because of the employee's status as an employee of the Bureau and is not a matter of public knowledge or available to the public on request.
2. **"Conspicuously"** means written in such special or distinctive form, print or manner that a reasonable person against whom it is to operate ought to have noticed it.
3. **"Direct or Indirect Participation"** means involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standards, rendering of advice, investigation, auditing or in any other advisory capacity.
4. **"Financial Interest"** means:
 - (a) ownership of any interest or involvement in any relationship from which or as a result of which, a person within the past year has received or is presently or in the future entitled to receive compensation; or
 - (b) holding a position in a business such as an officer, director, trustee, partner, employee or the like or holding any position of management.
5. **"Gratuity"** means a payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or proposed, unless consideration of substantially equal or greater value is received.
6. **"Immediate Family"** means spouse, children, parents, brothers, and sisters.

11.2 POLICY

The employees of the Bureau shall discharge their duties impartially so as to:

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

11.3 GENERAL STANDARDS

MVB Procurement Regulations

1. **Board Members and Employees.** Any attempt to realize personal gain by conduct inconsistent with the proper discharge of the Board members or employee's duties is a breach of a public trust. In order to fulfill this ethical standard, Board members and employees must meet the requirements of these regulations.
2. **Contractors.** Any effort to influence any Bureau Board member or employee to breach the standards of ethical conduct set forth in these regulations is also a breach of ethical standards

11.4 NO FINANCIAL INTERESTS

1. All Board members and employees shall disclose to the Board any financial interest, direct or indirect, in any company which has submitted a proposal or bid being considered for award by the Board.
2. No Board member shall vote for the award of any contract in which the member has an ownership interest in the company to which the contract may be awarded.
3. No employee of the Bureau shall participate in the negotiations for sale, purchase, contract, transaction entered into by the Bureau if the employee may receive a direct benefit therefrom.

11.5 GRATUITIES AND KICKBACKS

1. **Gratuities.** It shall be a breach of ethical standards for any person to offer, give or agree to give any Board member or employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefor.

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

11.6 PROHIBITION AGAINST CONTINGENT FEES

1. **Contingent Fees.** It shall be a breach of ethical standards for a person to be retained or to retain a person to solicit or secure Bureau contracts upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.
2. **Representation of Contractor.** Every person, before being awarded a Bureau contract, shall represent, in writing that such person has not retained anyone in violation of this section. Failure to do so constitutes a breach of ethical standards.

11.7 CONTRACT CLAUSES

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

11.8 RESTRICTIONS ON EMPLOYMENT OF PRESENT AND FORMER BOARD MEMBERS OR EMPLOYEES

1. **Present Board Members or Employees.** It shall be a breach of ethical standards for any Board Member or employee to participate in the decision to award a contract to a person and be the employee or agent of that person seeking to contract with the Bureau.
2. **Restrictions on Former Board Members or Employees in Matters Connected with their Former Duties.**

It shall be a breach of ethical standards for any former Board member or employee knowingly to act as a principal or as an agent for anyone other than the Bureau, in connection with any:

- (i) judicial or other proceeding, application, request for a ruling or other determination.
- (ii) contract;
- (iii) claim; or
- (iv) charge or controversy

in which the Board member or employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation or otherwise while a Board member or employee, where the Bureau is a party or has a direct or substantial interest.

11.9 USE OF CONFIDENTIAL INFORMATION

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

11.10 COLLUSION BY BIDDERS

Collusion or secret agreements between bidders for the purpose of securing an advantage to the bidders against the Bureau in the awarding of contracts is prohibited. The Board may declare the contract void if it finds sufficient evidence after a contract has been let that the contract was obtained by a bidder or bidders by reason of collusive or secret agreement among the bidders to the disadvantage of the Bureau.

11.11 AUTHORITY TO DEBAR OR SUSPEND

- 1 **Bureau.** After reasonable notice to the person involved and reasonable opportunity for the person to be heard under Part 10 of these Regulations the Managing Director after consultation with the Board and the Attorney, shall have authority to debar a person for cause from consideration for award of contracts. The debarment shall not be for a period of more than three (3) years. The Managing Director, after consultation with the Board and the Attorney, shall have authority to suspend a person from consideration for award of contracts if there is cause for suspension. The suspension shall not be for a period exceeding three (3) months.

2. **Causes for Debarment or Suspension.** The causes for debarment or suspension include the following:
 - (a) conviction for commission of a criminal offense in an incident to obtain or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

 - (b) conviction under Commonwealth or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, violation of the Consumer Protection Act (4 CMC §5101 *et seq.*), violation of any unfair business practices as prescribed by 4 CMC §5202, or any other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects its responsibility as a government contractor;

 - (c) violation of contract provisions, as set forth below, of a character which is regarded by the Managing 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; or

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

 - (d) any other cause that the Managing Director determines to be so serious and compelling as to affect responsibility as Bureau contractor, including debarment by any other governmental entity; and

- (e) for violation of any of the ethical standards set forth in Section 11.
- 3. **Decision.** The Managing Director shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken.
- 4. **Notice of Decision.** A copy of the decision shall be mailed or otherwise furnished immediately to the debarred or suspended person.

11.12 CIVIL AND ADMINISTRATIVE REMEDIES

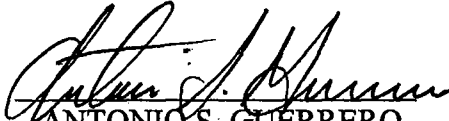
In addition to existing remedies provided by law, any person who violates any of the provisions of these regulations may be subject to one or more of the following:

- 1. **Board members and employees.** A Board member or an employee who violates the provisions of these rules and regulations is subject to adverse action as may be appropriate in his or her particular circumstances.

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

- 2. **Contractors.** A contractor who violates a provision of these rules and regulations shall be subject to a written warning or reprimand, the termination of the contract or suspension from being a contractor or subcontractor under a Bureau contract in addition to other penalties prescribed by law.
- 3. All proceedings under this section must be in accordance with due process requirements.

Certified by:


ANTONIO S. GUERRERO
Chairman, Board of Directors

Date: April 2, 1996

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