



U.S. Department of the Interior
Office of Inspector General

AUDIT REPORT

**DISCRETIONARY AND REPROGRAMMED FUNDS,
OFFICE OF THE GOVERNOR,
COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS**

**REPORT NO. 99-I-356
MARCH 1999**



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

MAR 26 1999

The Honorable Pedro P. Tenorio
Governor
Commonwealth of the Northern Mariana Islands
Caller Box 10007
Saipan, MP 96950

Subject: Audit Report on Discretionary and Reprogrammed Funds, Office of the Governor,
Commonwealth of the Northern Mariana Islands (No. 99-I-356)

Dear Governor Tenorio:

This report presents the results of our review of the Office of the Governor's use of discretionary and reprogrammed funds of the Commonwealth of the Northern Mariana Islands. The objective of the audit was to determine whether the former Governor's use of discretionary and reprogrammed funds was proper and in accordance with applicable laws and regulations. The scope of the audit covered fiscal years 1996, 1997, and 1998 (through December 31, 1997).

We found that during the period under audit, the Office of the Governor authorized the expenditure of funds from the Governor's discretionary fund which exceeded appropriated amounts and made expenditures from the discretionary fund which were either not adequately supported or, in our opinion, did not appear to have been made for a "public purpose." In addition, we found that during fiscal years 1996 and 1997, the Office of the Governor authorized the reprogramming of funds between object classifications for appropriations that the Legislature had specifically restricted from reprogramming authority.

These deficiencies occurred because the former Governor and the former Secretary of Finance (who served as the certifying officer) charged expenditures to the discretionary fund, although the annual appropriations for the fund had been depleted. In addition, there were no written policies and procedures that clearly identified the purposes for which the discretionary fund could be used, and there was no requirement for the Governor's Office to prepare and submit periodic reports on the status of the discretionary fund to the Commonwealth Legislature for oversight purposes. Also, the Office of the Governor had not assigned responsibility for preparing and submitting the required quarterly and annual reports on reprogramming actions to the Legislature. As a result, expenditures from the discretionary fund exceeded appropriations by \$900,000 in fiscal year 1996, \$3.8 million in fiscal year 1997, and \$1.8 million in fiscal year 1998. In addition, during fiscal years 1996 and 1997, appropriated funds totaling \$432,764 were improperly reprogrammed.

To correct these conditions, we recommended that you, as the Governor of the Commonwealth of the Northern Mariana Islands, direct the Attorney General of the Commonwealth to review the overexpenditures of the former Governor's discretionary fund made during fiscal years 1996, 1997, and 1998 and the questionable reprogramming actions made during fiscal years 1996 and 1997 and, if appropriate, take action against those officials responsible for approving the expenditure of funds in excess of annual appropriations and for authorizing the improper reprogramming actions. In addition, we recommended that you develop and implement written policies and procedures which state the purposes for which the discretionary funds can be used and assign responsibility for ensuring that the required quarterly and annual reports on reprogramming actions are prepared and submitted to the Commonwealth Legislature. We also recommended that the Legislature of the Commonwealth of the Northern Mariana Islands establish a requirement for the Office of the Governor to submit periodic reports **on** the status of the discretionary funds to the Legislature.

On December 28, 1998, we discussed the preliminary draft of this report with the Special Assistant to the Governor for Finance and Budget, the Secretary of Finance, and the Special Assistant to the Secretary of Finance, all of whom expressed general agreement with the findings and recommendations.

Although you and the Legislature were requested to provide written responses to the draft report by February 26, 1999, we had not received the responses as of March 9, 1999. Therefore, since this report is being issued without the benefit of your response, all of the recommendations are considered unresolved (see Appendix 2).

The Inspector General Act, Public Law 95-452, Section 5(a)(3), as amended, requires semiannual reporting to the U.S. Congress on all audit reports issued, the monetary impact of audit findings (Appendix 1), actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been taken.

In view of the above, please provide a response, as required by Public Law 97-357, to this report by April 30, 1999. The response should be addressed to our Pacific Office, 415 Chalan San Antonio, Baltej Pavilion, Suite 306, **Tamuning**, Guam 96911. The response should provide the information requested in Appendix 2.

We appreciate the assistance of officials at the Office of the Governor in the conduct of our audit.

Sincerely,

A handwritten signature in black ink, appearing to read "Eljay B. Bowron". The signature is fluid and cursive, with the first name "Eljay" being particularly prominent.

Eljay B. Bowron
Inspector General



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

MAR 26 1999

The Honorable Paul A. Manglona
President of the Senate
Commonwealth of the Northern Mariana Islands Legislature
P.O. Box 129
Saipan, MP 96950

Subject: Audit Report on Discretionary and Reprogrammed Funds, Office of the Governor,
Commonwealth of the Northern Mariana Islands (No. 99-I-356)

Dear President Manglona:

This report presents the results of our review of the Office of the Governor's use of discretionary and reprogrammed funds of the Commonwealth of the Northern Mariana Islands. The objective of the audit was to determine whether the former Governor's use of discretionary and reprogrammed funds was proper and in accordance with applicable laws and regulations. The scope of the audit covered fiscal years 1996, 1997, and 1998 (through December 31, 1997).

We found that during the period under audit, the Office of the Governor authorized the expenditure of funds from the Governor's discretionary fund which exceeded appropriated amounts and made expenditures from the discretionary fund which were either not adequately supported or, in our opinion, did not appear to have been made for a "public purpose." In addition, we found that during fiscal years 1996 and 1997, the Office of the Governor authorized the reprogramming of funds between object classifications for appropriations that the Legislature had specifically restricted from reprogramming authority.

These deficiencies occurred because the former Governor and the former Secretary of Finance (who served as the certifying officer) charged expenditures to the discretionary fund, although the annual appropriations for the fund had been depleted. In addition, there were no written policies and procedures that clearly identified the purposes for which the discretionary fund could be used, and there was no requirement for the Governor's Office to prepare and submit periodic reports on the status of the discretionary fund to the Commonwealth Legislature for oversight purposes. Also, the Office of the Governor had not assigned responsibility for preparing and submitting the required quarterly and annual reports on reprogramming actions to the Legislature. As a result, expenditures from the discretionary fund exceeded appropriations by \$900,000 in fiscal year 1996, \$3.8 million in fiscal year 1997, and \$1.8 million in fiscal year 1998. In addition, during fiscal years 1996 and 1997, appropriated funds totaling \$432,764 were improperly reprogrammed.

To correct these conditions, we recommended that the Governor direct the Attorney General of the Commonwealth of the Northern Mariana Islands to investigate the overexpenditures of the former Governor's discretionary fund made during fiscal years 1996, 1997, and 1998 and the questionable reprogramming actions made during fiscal years 1996 and 1997 and, if appropriate, take action against those officials responsible for approving the expenditure of funds in excess of annual appropriations and for authorizing the improper reprogramming actions. In addition, we recommended that the Governor develop and implement written policies and procedures which state the purposes for which the discretionary funds can be used and assign responsibility for ensuring that the required quarterly and annual reports on reprogramming actions are prepared and submitted to the Commonwealth Legislature. We also recommended that the Legislature of the Commonwealth of the Northern Mariana Islands establish a requirement for the Office of the Governor to submit periodic reports on the status of the discretionary funds to the Legislature.

On December 28, 1998, we discussed the preliminary draft of this report with the Special Assistant to the Governor for Finance and Budget, the Secretary of Finance, and the Special Assistant to the Secretary of Finance, all of whom expressed general agreement with the findings and recommendations.

Although the Legislature and the Governor were requested to provide written responses to the draft report by February 26, 1999, we had not received the responses as of March 9, 1999. Therefore, since this report is being issued without the benefit of your response, all of the recommendations are considered unresolved (see Appendix 2).

The Inspector General Act, Public Law 95-452, Section 5(a)(3), as amended, requires semiannual reporting to the U.S. Congress on all audit reports issued, the monetary impact of audit findings (Appendix 1), actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been taken.

In view of the above, please provide a response, as required by Public Law 97-357, to this report by April 30, 1999. The response should be addressed to our Pacific Office, 415 Chalan San Antonio, Baltej Pavilion, Suite 306, Tamuning, Guam 96911. The response should provide the information requested in Appendix 2.

We appreciate the assistance of officials at the Legislature during the conduct of our audit.

Sincerely,

A handwritten signature in black ink, appearing to read "Eljay B. Bowron", written in a cursive style.

Eljay B. Bowron
Inspector General



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

MAR 26 1999

The Honorable Diego T. Benavente
Speaker, House of Representatives
Commonwealth of the Northern Mariana Islands Legislature
P.O. Box 586
Saipan, MP 96950

Subject: Audit Report on Discretionary and Reprogrammed Funds, Office of the Governor,
Commonwealth of the Northern Mariana Islands (No. 99-I-356)

Dear Mr. Speaker:

This report presents the results of our review of the Office of the Governor's use of discretionary and reprogrammed funds of the Commonwealth of the Northern Mariana Islands. The objective of the audit was to determine whether the former Governor's use of discretionary and reprogrammed funds was proper and in accordance with applicable laws and regulations. The scope of the audit covered fiscal years 1996, 1997, and 1998 (through December 31, 1997).

We found that during the period under audit, the Office of the Governor authorized the expenditure of funds from the Governor's discretionary fund which exceeded appropriated amounts and made expenditures from the discretionary fund which were either not adequately supported or, in our opinion, did not appear to have been made for a "public purpose." In addition, we found that during fiscal years 1996 and 1997, the Office of the Governor authorized the reprogramming of funds between object classifications for appropriations that the Legislature had specifically restricted from reprogramming authority.

These deficiencies occurred because the former Governor and the former Secretary of Finance (who served as the certifying officer) charged expenditures to the discretionary fund, although the annual appropriations for the fund had been depleted. In addition, there were no written policies and procedures that clearly identified the purposes for which the discretionary fund could be used, and there was no requirement for the Governor's Office to prepare and submit periodic reports on the status of the discretionary fund to the Commonwealth Legislature for oversight purposes. Also, the Office of the Governor had not assigned responsibility for preparing and submitting the required quarterly and annual reports on reprogramming actions to the Legislature. As a result, expenditures from the discretionary fund exceeded appropriations by \$900,000 in fiscal year 1996, \$3.8 million in fiscal year 1997, and \$1.8 million in fiscal year 1998. In addition, during fiscal years 1996 and 1997, appropriated funds totaling \$432,764 were improperly reprogrammed.

To correct these conditions, we recommended that the Governor direct the Attorney General of the Commonwealth of the Northern Mariana Islands to investigate the overexpenditures of the former Governor's discretionary fund during fiscal years 1996, 1997, and 1998 and the questionable reprogramming actions made during fiscal years 1996 and 1997 and, if appropriate, take action against those **officials** responsible for approving the expenditure of funds in excess of annual appropriations and for authorizing the improper reprogramming actions. In addition, we recommended that the Governor develop and implement written policies and procedures which state the purposes for which the discretionary funds can be used and assign responsibility for ensuring that the required quarterly and annual reports on reprogramming actions are prepared and submitted to the Commonwealth Legislature. We also recommended that the Legislature of the Commonwealth of the Northern **Mariana** Islands establish a requirement for the Office of the Governor to submit periodic reports on the status of the discretionary funds to the Legislature.

On December 28, 1998, we discussed the preliminary draft of this report with the Special Assistant to the Governor for Finance and Budget, the Secretary of Finance, and the Special Assistant to the Secretary of Finance, all of whom expressed general agreement with the findings and recommendations.

Although the Legislature and the Governor were requested to provide written responses to the draft report by February 26, 1999, we had not received the responses as of March 9, 1999. Therefore, since this report is being issued without the benefit of your response, all of the recommendations are considered unresolved (see Appendix 2).

The Inspector General Act, Public Law 95-452, Section 5(a)(3), as amended, requires semiannual reporting to the U.S. Congress on all audit reports issued, the monetary impact of audit findings (Appendix 1), actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been taken.

In view of the above, please provide a response, as required by Public Law 97-357, to this report by April 30, 1999. The response should be addressed to our Pacific Field **Office**, 415 Chalan San Antonio, Baltej Pavilion, Suite 306, Tamuning, Guam 96911. The response should provide the information requested in Appendix 2.

We appreciate the assistance of the management and staff of the Legislature in the conduct of our audit.

Sincerely,

A handwritten signature in dark ink, appearing to read "Eljay B. Bowron", written in a cursive style.

Eljay B. Bowron
Inspector General

CONTENTS

| | Page |
|---|------|
| INTRODUCTION | 1 |
| BACKGROUND | 1 |
| OBJECTIVE AND SCOPE | 2 |
| PRIORAUDITCOVERAGE | 2 |
| FINDINGS AND RECOMMENDATIONS | 3 |
| A. EXPENDITURE CONTROL | 3 |
| B. REPROGRAMMING ACTIONS | 7 |
| OTHER MATTERS | 9 |
| APPENDICES | |
| 1. CLASSIFICATION OF MONETARY AMOUNTS | 10 |
| 2. STATUS OF AUDIT REPORT RECOMMENDATIONS | 11 |

INTRODUCTION

BACKGROUND

During each of fiscal years 1996 through 1998, the Commonwealth of the Northern Mariana Islands Legislature made annual appropriations of \$500,000 for the Governor's discretionary fund and \$100,000 for the Lieutenant Governor's discretionary fund. Historically, these appropriations have been made without any specific restrictions other than a constitutional restriction that requires each appropriation to be used for a "public purpose," which was based on the judgment of the Governor and Lieutenant Governor with respect to expenditures charged to the two funds.

Organizationally, the Office of the Governor comprises the Governor's and the Lieutenant Governor's offices and other entities, including the Office of Management and Budget, the Office of Personnel Management, and the Emergency Management Office. In addition, the Secretary of the Department of Finance is responsible for certifying the availability of funds prior to approving any disbursement of funds. Further, the Special Assistant for the Office of Management and Budget¹ is responsible for monitoring the Executive Branch's budget, including any reprogramming actions.

The expenditure of discretionary funds, as well as other annual appropriations, is governed by Title 1, Section 7401 ("Expenditure of Appropriated Funds"), of the Commonwealth Code, which limits expenditures to the amount of funds appropriated. Further, Title 1, Section 7402(a)(1) ("Reprogramming Authority"), of the Commonwealth Code states that "no obligation or contract for the expenditure of Commonwealth funds shall be made for any purposes other than public purposes for which the funds are appropriated." In addition to the restrictions set forth in Section 7402(a)(1), each annual appropriation law may contain reprogramming restrictions that apply to a specific fiscal year. Finally, Section 7402(e) requires the Governor to report all reprogramming actions to the Legislature within 30 days after the end of each quarter and within 60 days after the end of each fiscal year.

Title 1, Section 7701(a) ("Criminal Offenses"), of the Commonwealth Code states, "No officer or employee of the Commonwealth shall willfully and knowingly make or authorize any expenditure from or create or authorize any obligation or allotment under any appropriation or fund in excess of the amount available therein." In addition, Section 7701(b) states:

No officer or employee of the Commonwealth shall willfully and knowingly involve the Commonwealth or any agency in any contract or other obligation for the payment of money for any purpose, or make or authorize any payment out of the Commonwealth Treasury, in advance of, or in the absence of,

¹The Special Assistant is the most senior-level **official** of the Commonwealth's **Office** of Management and Budget.

appropriations made for such purposes, unless such contract or obligation is authorized by law or joint resolution.

Further, Section 7702 ("Penalties for Violations") states, "Every person who willfully and knowingly violates any provision of 1 CMC [Commonwealth Code] § 7701 is guilty of a crime, and upon conviction thereof shall be fined not more than \$2,000 or imprisoned not more than two years, or both."

OBJECTIVE AND SCOPE

The objective of the audit was to determine whether the former Governor's use of discretionary and reprogrammed funds was proper and in accordance with applicable laws and regulations. To accomplish our objective, we interviewed officials at the Legislature, the Governor's Office, the Office of Management and Budget, the Department of Finance, the Department of Lands and Natural Resources, and the Office of the Public Auditor. In addition, we reviewed applicable financial and administrative records maintained at the Office of Management and Budget and the Department of Finance. Our review covered fiscal years 1996, 1997, and 1998 (through December 31, 1997).

The audit was made, as applicable, in accordance with the "Government Auditing Standards," issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances.

As part of the audit, we evaluated accounting and management controls over appropriations, reprogramming actions, and expenditures. We found major internal control weaknesses in all of these areas, which are discussed in the Findings and Recommendations section of this report. Our recommendations, if implemented, should improve the internal controls in these areas.

PRIOR AUDIT COVERAGE

During the past 5 years, neither the General Accounting Office nor the Office of Inspector General has issued any audit reports pertaining to the Office of the Governor's discretionary and reprogrammed funds. However, in December 1998, the Office of the Public Auditor, Commonwealth of the Northern Mariana Islands, issued the audit report "Audit of Misuse of Funds by the Former Secretary of Finance - Fiscal Years 1995, 1996, and 1997," which included a review of the Office of the Governor's discretionary fund. The report stated that the former Secretary of Finance did not use public funds of \$100,249 appropriately in that duplicate payments were made for travel expenses (\$30,000) and expenses for questionable purchases were reimbursed. In addition, at the time of our review, the Office of the Public Auditor was performing an audit of the professional services contracts of the Commonwealth's Executive Branch from October 1995 to May 1998, which will also include a review of the Office of the Governor's discretionary fund.

FINDINGS AND RECOMMENDATIONS

A. EXPENDITURE CONTROL

During fiscal years 1996, 1997, and 1998 (through December 31, 1997), the Office of the Governor authorized the expenditure of funds from the Governor's discretionary fund that exceeded the amounts appropriated and made expenditures from the Governor's discretionary fund that were either not adequately supported or, in our opinion, did not appear to have been made for a "public purpose." These deficiencies occurred because the former Governor and the former Secretary of Finance (who served as the certifying officer) made expenditures after the discretionary funds provided by the annual appropriations had been depleted. In addition, there were no written policies and procedures that clearly identified the purposes for which the discretionary fund could be used, and there was no requirement for the Governor's Office to prepare and submit periodic reports on the status of the discretionary fund to the Commonwealth Legislature for oversight purposes. As a result, the discretionary expenditures exceeded appropriations by \$900,000 in fiscal year 1996, \$3.8 million in fiscal year 1997, and \$1.8 million in fiscal year 1998 (through December 31, 1997).

Appropriations and Expenditures

Based on our review of accounting records maintained by the Commonwealth's Department of Finance, we determined that for fiscal years 1996, 1997, and 1998 (through December 31, 1997), expenditures made from the Lieutenant Governor's discretionary fund did not exceed the appropriated amounts in any of the 3 fiscal years reviewed. However, expenditures made from the Governor's discretionary fund exceeded appropriated amounts in all 3 fiscal years, as shown in Table 1.

Table 1. Discretionary Fund Appropriations and Expenditures

| | | <u>Appropriated*</u> | <u>Exoended</u> | <u>Balance</u> |
|-----------------------------------|-----------|---------------------------|---------------------------|-----------------------------|
| <u>Lieutenant Governor's Fund</u> | | | | |
| Fiscal Year: | 1996 | \$95,683 | \$33,914 | \$61,769 |
| | 1997 | 193,489 | 186,931 | 6,558 |
| | 1998 | <u>100,000</u> | <u>11,376</u> | <u>88,624</u> |
| | Subtotals | <u>\$389,172</u> | <u>\$232,221</u> | <u>\$156,951</u> |
| <u>Governor's Fund</u> | | | | |
| Fiscal Year: | 1996 | \$589,593 | \$1,485,673 | (\$896,080) |
| | 1997 | 616,289 | 4,440,402 | (3,824,113) |
| | 1998 | <u>498,000</u> | <u>2,254,817**</u> | <u>(1,756,817)</u> |
| | Subtotals | <u>\$1,703,882</u> | <u>\$8,180,892</u> | <u>(\$6,477,010)</u> |
| Totals | | <u>\$2,093,054</u> | <u>\$8,413,113</u> | <u>(\$6,320,059)</u> |

*Although the amounts initially appropriated each year were \$500,000 for the Governor's discretionary fund and \$100,000 for the Lieutenant Governor's discretionary fund, both fund amounts were subsequently adjusted as a result of reprogramming actions

**This amount includes encumbrances of 5220,399 that were outstanding as of December 31, 1997.

Unsupported Expenditures

Of the expenditures of \$8.4 million made from the Governor's and the Lieutenant Governor's discretionary funds during fiscal years 1996, 1997, and 1998 (through December 31, 1997), we selected and reviewed a sample of 285 expenditure transactions, totaling \$5 million, to determine whether the funds were used in accordance with applicable laws and regulations. Based on our review of these transactions, we determined that the expenditures made from the former Lieutenant Governor's discretionary fund generally appeared to have been proper. However, we found that the former Governor authorized the expenditure of funds from the discretionary fund for (1) professional services, operating expenditures, and land purchases, which we believe should have been funded either through separate appropriations or from operating accounts, and (2) purposes that were not adequately supported or, in our opinion, did not appear to have been made for a "public purpose."

Professional Services. We found that beginning in fiscal year 1995, the former Governor initiated a major lobbying effort to stop legislation pending in the U.S. Congress that, if passed, would have taken away the Commonwealth's control over its immigration policies and required the Commonwealth to comply with United States minimum wage laws. To assist in this lobbying effort, the former Governor retained the services of at least three consultants. Based on our review of accounting records maintained by the Department of Finance, we found that the payments made from the discretionary fund to the three consultants totaled \$225,829 in fiscal year 1996, \$1523,272 in fiscal year 1997, and \$833,511 in fiscal year 1998 (through December 31, 1997). In our opinion, because of the substantial amount of funds involved, a request should have been submitted to the Legislature to obtain separate appropriations for this lobbying effort.

Operating Expenditures. We identified expenditures totaling \$584,955 during fiscal years 1996, 1997, and 1998 (through December 31, 1997) that, in our opinion, were operational in nature in that they related to the day-to-day operations of the Commonwealth government and therefore should have been charged to the operational accounts of the government. The expenditures were made for purposes such as leased vehicles, equipment rental and purchase, janitorial and maintenance services, repairs and renovation of government facilities, and printing and photocopying. Specific examples of operating expenditures identified included lease payments for six pickup trucks and two passenger cars (\$8,892), cleaning services for the Governor's office (\$36,800), materials to construct a fence (\$1,552) gas and oil charges for a member of the Legislature (\$4,146), and printing charges for a government directory (\$50,000). These expenditures were similar to expenditures made from regular operating accounts of the Commonwealth government.

Land Purchases. During fiscal year 1996, the former Governor used the discretionary fund to settle two land claims totaling \$91,934. As of March 29, 1996, the Division of Public Lands, Department of Lands and Natural Resources, had 142 certified "right of way" land claimants covering 45,509 square meters of land obtained by the Commonwealth for road construction and other public access rights of way, with the oldest claim having a certification date of November 30, 1988. According to the Director of the

Division of Public Lands, the large number of unpaid claims was directly related to the lack of available funds to pay all of the land claimants. Using the claim certification date on the Division of Public Lands listing of claimants to rank the claims, we determined that the two land claims paid from the discretionary fund held the 62nd (\$10,260, certified April 22, 1993) and 129th (\$8 1,674, certified October 27, 1995) priority positions on the list of 142 claimants. In our opinion, the claims that were certified earlier should have had a higher priority and should have been paid prior to the two claims which were paid from the Governor's discretionary fund.

Other Expenditures

We found that during fiscal years 1996, 1997, and 1998 (through December 31, 1997), the former Governor authorized the expenditure of \$87,402 of discretionary funds for purposes that were either inadequately supported or did not appear to have been made for "public purposes." The expenditure transactions consisted of unsupported or inadequately supported travel advances (\$42,500) and charges for meals, liquor, tobacco products, and entertainment (\$35,814); canopy rentals for church and private functions (\$5,439); and a notebook computer that could not be accounted for (\$3,649).

Regarding the cause for the overexpenditure of appropriated funds from the Governor's discretionary fund, the former Secretary of Finance said that he continued to certify the availability of funds after the appropriated funds had been depleted because "the account had been historically overspent." The former Secretary also stated that, at the time, he was more concerned with reducing the overall deficit of the government than with stopping the discretionary fund appropriations from being overspent. The former Executive Assistant to the Governor said that the former Governor told him that he (the former Governor) was "ultimately" responsible for the discretionary fund and that he therefore should not be questioned regarding this issue.

In our opinion, because of the potential risk for the improper use of the discretionary funds, the Commonwealth Legislature should more actively monitor the use of the discretionary funds. In addition, the Legislature, when enacting future appropriations for the discretionary funds, may want to consider placing restrictions on the allowable uses of the funds, defining what constitutes a "public purpose," and requiring the Office of the Governor to submit reports on the use of the fund to the Legislature for monitoring purposes.

Recommendations

We recommend that the Governor of the Commonwealth of the Northern Mariana Islands:

1. Direct the Attorney General of the Commonwealth of the Northern Mariana Islands to review the overexpenditures of the former Governor's discretionary fund made during fiscal years 1996, 1997, and 1998 and to take actions as appropriate.

2. Develop and implement written policies and procedures that clearly define the purposes for which the discretionary fund can be used.

We recommend that the Legislature of the Commonwealth of the Northern Mariana Islands:

3. Establish a requirement for the Office of the Governor to submit periodic reports on the status of the discretionary fund to the Legislature for monitoring purposes.

Commonwealth of the Northern Mariana Islands Response and Office of Inspector General Reply

The Governor, the President of the Senate, and the Speaker of the House of Representatives were requested to provide their written responses to the draft report by February 26, 1999. However, as of March 9, 1999, responses had not been provided. Accordingly, the three recommendations are unresolved (see Appendix 3).

B. REPROGRAMMING ACTIONS

During fiscal years 1996 and 1997, the Office of the Governor's Office of Management and Budget authorized the reprogramming of funds totaling \$432,764 between object classifications for appropriations that the Legislature had specifically restricted from reprogramming authority. The reprogramming of funds appropriated by the Commonwealth Legislature is governed by Title 1, Section 7402 (a)(1) ("Reprogramming Authority"), of the Commonwealth Code and by specific restrictions contained within each annual appropriation law. However, the former Special Assistant of the Office of Management and Budget said that he approved the reprogramming of funds based on verbal instructions from the former Governor. In addition, we found that the Legislature was not aware that the improper reprogramming actions were occurring because the Office of the Governor was not submitting the required quarterly and annual reports on reprogramming actions to the Legislature. As a result, appropriated funds of \$432,764 were not available for the purposes intended by the Legislature.

Unauthorized Reprogramming

Under Title 1, Section 7402, of the Commonwealth Code, the authority to reprogram appropriated funds is limited to only those instances when it will serve a public purpose. In addition, the section prohibits the use of reprogramming actions to create an appropriation where one does not exist and requires the Governor's Office to report all reprogramming actions to the Commonwealth Legislature on a quarterly and annual basis. Finally, the appropriation laws for fiscal years 1996 and 1997 (Commonwealth Public Laws 9-66 and 10-41, respectively) prohibited the reprogramming of funds between specific object classes, such as office equipment, office furniture, office rent, building improvements, training, and vehicle purchases.

Based on our review of all 185 reprogramming actions, totaling \$3.3 million, that were made during fiscal years 1996 and 1997, we found that 49 actions, totaling \$432,764, were improperly reprogrammed either from or into object classes which were specifically restricted by appropriation laws. For example, on April 30, 1996, the former Special Assistant authorized the reprogramming of funds totaling \$92,000 from the Department of Public Health and Environmental Services accounts for wages and salaries (\$69,828), personnel insurance (\$3,680), and retirement contributions (\$18,492) to purchase vehicles for the Commonwealth's Emergency Management Office. Although these expenditures may have been for legitimate public purposes, the reprogramming of these funds to the Emergency Management Office was not approved by the Legislature.

The former Special Assistant for the Commonwealth Office of Management and Budget, who had approved the 49 reprogramming actions, said that he approved these actions because the former Governor instructed him to do so based on advice provided to the former Governor by his legal counsel. The Special Assistant said that he was not provided any documents from the former Governor's legal counsel to support the former Governor's statement.

We also found that the Office of the Governor had not assigned responsibility for preparing and submitting the quarterly and annual reports on reprogramming actions which were required by the Commonwealth Code. The House of Representatives Vice Chairman of the Committee on Ways and Means said that the required quarterly and annual reports on reprogramming actions were not submitted by the Office of the Governor to the Legislature and that the Legislature did not have full-time technical staff available to assist in legislative matters, such as ensuring that the Office of the Governor complied with the reporting requirements. At the time of our review, the Vice Chairman said that the Legislature was hiring a certified public accountant and an economist to perform these functions.

Recommendations

We recommend that the Governor of the Commonwealth of the Northern Mariana Islands:

1. Require the Attorney General of the Commonwealth of the Northern Mariana Islands to review the questionable reprogramming actions taken during fiscal years 1996 and 1997 and take actions as appropriate.
2. Assign responsibility for preparing and submitting the required quarterly and annual reports on reprogramming actions to the Commonwealth Legislature.

Commonwealth of the Northern Mariana Islands Response and Office of Inspector General Reply

The Governor was requested to provide a written response to the draft report by February 26, 1999. However, as of March 9, 1999, a response had not been provided. Accordingly, the two recommendations are unresolved (see Appendix 3).

OTHER MATTERS

During the audit, we also noted that the former Governor authorized, without a legislative appropriation, a loan from the Commonwealth's General Fund to the **Tinian** Casino Gaming Control Commission' to provide funds for the operations of the Commission during fiscal year 1997. Commission **Resolution No. 97-01** states that the Gaming Commission approved a Memorandum of Agreement between the former Governor and the Gaming Commission's Chairman which was purportedly executed on December 4, 1996.³ The Resolution stated that the agreement provided for the **Office** of the Governor to "advance" funds to the Gaming Commission for its operations during fiscal year 1997. Consequently, during the period of December 6, 1996, through November 12, 1997, the Department of **Finance** advanced a total of \$3.4 million from the Commonwealth's General Fund to the Gaming Commission.

Title I, Section 7709 ("Construction of Appropriation Acts"), of the Commonwealth Code states, "No Public Law shall be construed to make an appropriation out of the Commonwealth General Fund, Treasury, or to authorize the execution of a contract involving the payment of money in excess of appropriations made by law, or to authorize any borrowing by the Commonwealth or any agency, unless the law shall in specific terms declare an appropriation to be made, or that a contract may be executed, or that borrowing is authorized." We believe that the loan to the Gaming Commission may not have been in accordance with **the** provisions of Section 7709.

At the completion of our fieldwork, the Commonwealth's Office of the Public Auditor was performing an audit of the Gaming Commission's financial activities, including the loan made by the former Governor to the Gaming Commission. During testimony before the Commonwealth Legislature, the Public Auditor stated, "There is a question of the MOA's [Memorandum of Agreement] legality in the absence of an appropriation authorizing the advance of money from the General Fund to the **Tinian** Casino Gaming Commission." Accordingly, we believe that the Governor, upon issuance of the **Office** of the Public Auditor's report on the Gaming Commission, should act on the report's recommendations as appropriate and, if necessary, require the Attorney General of the Commonwealth of the Northern **Mariana** Islands to review the circumstances regarding the loan and to take actions as appropriate.

²The **Tinian** Casino Gaming Control Commission was established by the **Tinian** Casino Gaming Control Act of 1989 to regulate casino gambling on **the** island of **Tinian**.

³Although the Resolution made reference to a December 4, 1996, Memorandum of Agreement between the former Governor and the Commission **Chairman**, Commonwealth officials were unable to provide us a copy of the agreement during **the** audit.

CLASSIFICATION OF MONETARY AMOUNTS

| <u>Finding Areas</u> | <u>Funds To Be Put To Better Use*</u> |
|--------------------------|---|
| A. Expenditure Control | \$6,477,010 |
| B. Reprogramming Actions | <u>432,764</u> |
| Totals | <u>\$6,909,774</u> |

*Amounts represent local funds

STATUS OF AUDIT REPORT RECOMMENDATIONS

| Finding/Recommendation Reference | status | Action Required |
|-------------------------------------|-------------|---|
| A.1 | Unresolved. | Provide a response to the recommendation indicating concurrence or nonconcurrence. If concurrence is indicated, provide an action plan that identifies the target date and the title of the official responsible for directing the Commonwealth's Attorney General to review the overexpenditures of the former Governor's discretionary fund. If nonconcurrence is indicated, provide the reasons for the nonconcurrence. |
| A.2 | Unresolved. | Provide a response to the recommendation indicating concurrence or nonconcurrence. If concurrence is indicated, provide an action plan that identifies the target date and the title of the official responsible for developing and implementing written policies and procedures which clearly define the purposes for which the discretionary fund can be used. If nonconcurrence is indicated, provide the reasons for the nonconcurrence. |
| A.3 | Unresolved. | Provide a response to the recommendation indicating concurrence or nonconcurrence. If concurrence is indicated, provide an action plan that identifies the target date and the title of the official responsible for establishing a requirement for the Office of the Governor to submit periodic reports on the status of the discretionary fund to the Legislature for monitoring purposes. If nonconcurrence is indicated, provide the reasons for the nonconcurrence. |

| Finding/Recommendation Reference | Status | Action Required |
|-------------------------------------|-------------|---|
| B.1 | Unresolved. | Provide a response to the recommendation indicating concurrence or nonconcurrence. If concurrence is indicated, provide an action plan that identifies the target date and the title of the official responsible for requiring the Commonwealth's Attorney General to review the questionable reprogramming actions taken during fiscal years 1996 and 1997. If nonconcurrence is indicated, provide the reasons for the nonconcurrence. |
| B.2 | Unresolved. | Provide a response to the recommendation indicating concurrence or nonconcurrence. If concurrence is indicated, provide an action plan that identifies the target date and the title of the official responsible for preparing and submitting the required reports on reprogramming actions to the Legislature. If nonconcurrence is indicated, provide the reasons for the nonconcurrence. |

**ILLEGAL OR WASTEFUL ACTIVITIES
SHOULD BE REPORTED TO
THE OFFICE OF INSPECTOR GENERAL**

Internet/E-Mail Address

www.oig.doi.gov

Within the Continental United States

U.S. Department of the Interior
Office of Inspector General
1849 C Street, N.W.
Mail Stop 5341
Washington, D.C. 20240

Our **24-hour**
Telephone HOTLINE
1-800-424-5081 or
(202) 208-5300

TDD for hearing impaired
(202) 208-2420 or
1-800-354-0996

Outside the Continental United States

Caribbean Region

U.S. Department of the Interior
Office of Inspector General
Eastern Division • Investigations
4040 Fairfax Drive
Suite 303
Arlington, Virginia 22203

(703) 235-9221

*North **Pacific Region***

U.S. Department of the Interior
Office of Inspector General
North Pacific Region
415 Chalan San Antonio
Baltej Pavilion, Suite 306
Tamuning, Guam 96911

(671) 6476060

Toll Free Numbers:

1-800-424-5081

TDD 1-800-354-09%

FTS/Commercial Numbers:

(202) 208-5300

TDD (202) 208-2420

HOTLINE

1849 C Street, N.W.

Mail stop 5341

Washington, D.C. 20240

