

OFFICE OF TRANSITION STUDIES AND PLANNING

REPORT OF THE
INSTITUTE OF PUBLIC ADMINISTRATION

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

- > Commonwealth status for Northern Mariana Islands agreed upon between the United States and the Northern Mariana Islands on February 15, 1975.
- > Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America approved by plebescite on June 17, 1975.
- > Covenant approved by United States Congress by Joint Resolution (Public Law 92-421) approved on March 14, 1976. ✓
- > Constitution signed on December 5, 1976.
- > Constitution approved by referendum on March 6, 1977.
- > Constitution approved by the Government of the United States on October 22, 1977.
- > President of the United States on October 24, 1977 proclaims that the Constitution shall come into full force and effect on 11:00 a.m. on January 9, 1978, Northern Mariana Islands local time.

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PART I

SUMMARY OF RECOMMENDATIONS

SUMMARY OF RECOMMENDATIONS

ORGANIZATION OF THE JUDICIARY

1. Final appeals of judgments and orders of the Commonwealth trial court should be decided by the U. S. District Court for the Northern Mariana Islands.
2. An advisory commission on the judiciary should be established to begin a detailed review of the judicial rules for the Commonwealth trial court.
3. The advisory commission on the judiciary should participate in the preparation and review of a code of ethical conduct for attorneys and judges.
4. The Commonwealth trial court should consist initially of three statutory divisions: (a) a civil division, (b) a criminal division, and (c) a land division.
5. The Commonwealth trial court should propose rules, subject to legislative review, with respect to the establishment of separate parts within the statutory divisions.
6. The rules of the Commonwealth trial court should authorize the presiding judge to develop an effective calendar arrangement and system of judicial assignment.
7. The jurisdiction of any small claims part established within the civil division of the Commonwealth trial court should be limited to matters in which the value of the matter in controversy does not exceed \$500.
8. The Commonwealth trial court should consist initially of two full-time judges.
9. Statutory qualifications for judges of the Commonwealth trial court should include: (a) graduation from an accredited law school in the RASA United States; (b) admission to practice before the bar of the Trust Territory of the Pacific Islands or admission to practice before the bar of a state, territory or possession of the United States and eligibility for admission to the bar of the Trust Territory; (c) active practice for a minimum of five years as a trial-attorney or a minimum of two years of service as a judge of a court of record with jurisdiction comparable to the civil or criminal jurisdiction of the Commonwealth trial court, or a combination of legal practice, research, court administration, or law school teaching for a minimum of ten years; and (d) absence of conviction for a felony in the Commonwealth or in any area under the jurisdiction of the United States.
10. No Northern Mariana Islands residence requirement should be imposed at this time as a condition of appointment as a Commonwealth trial judge.

*Advisory Commission
Transition*

11. An intensive and early search process should be initiated to locate suitable candidates for judges of the Commonwealth trial court.

12. The governor should consider as an alternative to lengthy holdovers of current district court judges as Commonwealth trial court judges the appointment of a highly qualified attorney who would serve as a Commonwealth trial court judge for an interim period.

13. In the event the legislature authorizes one or more part-time judges, the eligibility criteria for appointment as a Commonwealth trial judge should be modified to two years of prior legal practice.

14. The governor should recruit at least one of the two proposed full-time judges of the Commonwealth trial court from among candidates possessing special qualifications to deal with land matters.

15. An annual allowance for expenses should accompany the salary of each judge, as proposed in Part III.

16. If a judge who is not a resident of the Northern Mariana Islands is appointed, he or she should be paid salary differentials proposed for exempt positions for the Commonwealth government as a whole.

17. In the event that the legislature authorizes the appointment of part-time judges, such judges should be paid an hourly rate of between \$5 and \$15 per hour.

18. Persons admitted to practice before the bar of the Trust Territory of the Pacific Islands and who have not been barred from practice by virtue of disciplinary actions or other impediments should be eligible to practice before the bar of the Northern Mariana Islands upon completion of a written statement provided by the Commonwealth trial court of intention to accept admission to the Northern Mariana Islands bar and to pay an annual registration fee not to exceed ten dollars.

19. The active members of the Northern Mariana Islands bar should organize a Northern Mariana Islands bar association, membership in which should be open to any member of the Trust Territory bar; associate membership should be available to any member of the bar of any state, territory or possession of the United States.

20. The advisory commission on the judiciary, to be established pursuant to constitution, should review in detail the existing rules governing admission and discipline of attorneys and propose appropriate rules to the Commonwealth trial court.

21. The land commission should be made an administrative unit of the land division of the Commonwealth trial court. It should act as a fact finding unit on land determination and be the land registry unit for the Commonwealth.

22. Physical space and its maintenance should be the responsibility of the public works department. The chief judge should be consulted on space and furnishings for the court.

*Leave it
up to
Chief Judge*

* 23. A single law library should be maintained for the judicial branch as part of the Commonwealth library system by the department of education. *

24. The advisory commission on the judiciary should be composed of five persons appointed by the governor with the advice and consent of the senate. No person employed by the government should be a member of the advisory commission. Of the five persons, two should be local attorneys; members should serve for staggered three year terms.

25. Members of the advisory commission on the judiciary should not be compensated for their services on the commission but should be reimbursed for actual and necessary expenses in connection with such services within budgetary appropriations.

ORGANIZATION OF THE LEGISLATURE

26. The governor and legislative leaders should meet regularly to review pending and proposed legislation and the budget and to resolve differences between the two branches.

27. As soon as elections for the first Commonwealth legislature have been held in December 1977, a pre-legislative conference should be convened of the senators and representatives-elect; or alternatively the conference should be held on or about the effective date of the constitution.] ✓

28. The Northern Mariana Islands legislature should authorize the pre-legislative conference and appropriate funds for consultants and staff, as appropriate. If not done by the effective date, the authorization should be by the Commonwealth legislature.

29. A permanent legislative conference should be established by law for the Commonwealth legislature.

30. A senate president should be elected from among the senators pursuant to article II, section 14(b) of the constitution.

31. The president should be authorized to designate any other senator for temporary duty as presiding officer.

32. For absences of the president for more than ten legislative days the senate should elect an acting president; and it should elect a new president whenever there is a vacancy in the office.

33. A speaker should be elected as the presiding officer of the house in a manner similar to the senate president. The substance of Recommendations 31 and 32 should apply to temporary duty, absences of the speaker, and vacancies in the office of speaker.

34. A permanent conference committee should be established to reconcile differences in legislation between the senate and the house of representatives, to be composed of three senators and five representatives.

35. The chairmanship of the conference committee should rotate annually between a senate and a house conference committee member.

36. Each house should elect a floor leader from among its members.

37. A permanent joint committee on rules and procedures should be created to facilitate relations between the two houses and to dispose of internal matters pertaining to the legislature as a whole, to be composed of the presiding officers, the floor leaders, and a fifth member to serve as chairman.

38. The chairmanship of the joint committee should rotate annually between a representative and a senator.

39. Six forms of action should be utilized in the legislature: bills, appropriation or revenue bills, local bills, local appropriation or revenue bills, senate resolutions or house resolutions, and concurrent resolutions.

40. The members of each legislative delegation from a single senatorial district should comprise a committee to which may be referred local bills and local appropriation or revenue bills.

41. Local bills and local appropriation bills should be introduced only by a delegation member but should be subject to challenge by any member of the respective body.

42. Action on bills referred to delegation committees should be by majority vote of the delegation as requested by article II, section 6 of the constitution.

43. Local bills and local appropriation bills after adoption should be presented to the governor for approval and should be subject to veto by him. Any motion to override a veto should be done by the full senate and house of representatives, not by the legislative delegation.

44. The subject matter of local bills and local appropriation bills should be restricted to: speed limits on local roads, noise abatement control, regulation of littering and property maintenance, appropriation of funds for local purposes, local taxes, curfews, hunting seasons, authorization to a mayor to expend local funds, and authorization to a mayor to promulgate local regulations.

45. A senator or representative should be permitted to make a point of order and object to any wording in any appropriation bill during its consideration in the senate or house, respectively, on the grounds that it violates article II, section 5(b) (second sentence) of the constitution.

46. Three substantive committees should be established for each house: committee on fiscal affairs, committee on programs, committee on government organization and law.

47. Joint hearings should be authorized by parallel substantive committees on bills, appropriation or revenue bills, concurrent resolutions, the governor's executive budget, subjects raised in gubernatorial messages, and investigatory and oversight matters within the jurisdiction of the respective committees.

48. Provision and maintenance of office buildings of the legislature should be the responsibility of the department of public works.

49. The senate and house of representatives each should appoint a clerk to prepare the journal, process bills, handle matters within the exclusive jurisdiction of the respective house, and perform related assignments.

50. A sergeant at arms should serve the senate and house jointly.

51. Internal administration of the legislature should be the responsibility of an administrative officer.

52. An office of professional services should serve both the senate and the house.

53. The principal of a nonpartisan, nonpolitical professional and administrative staff should be observed as strictly as possible, and the staff of the legislature should be within the civil service as contemplated by article III, section 16 of the constitution.

54. A resolution should be prepared for informal consideration by the senators-elect and by the representatives-elect to the Commonwealth legislature on the time and place of the first session, designation of convenors, and adoption of temporary rules; such resolution should be adopted as the first order of business on the commencement of the initial session of the senate and house respectively.

ORGANIZATION OF THE EXECUTIVE BRANCH

55. The executive assistant for Carolinian affairs and the governor's council should be located institutionally in the office of the governor.

56. The governor should have immediate staff reporting directly to him.

57. There should be an executive office of the governor to include the functions of budget-making, program and legislative formulation and review, planning, administrative supervision and management control of executive branch agencies, public information and protocol, and grants' coordination.

58. There should be created by law a professional office of chief administrative officer (CAO) who should be appointed by the governor with the advice and consent of the senate and serve at the pleasure of the governor.

59. The CAO should be in charge of day-to-day supervision of executive branch operations within gubernatorially delegated designations. He should have daily charge of the executive office of the governor within delegations made by the governor.

60. A planning-budgeting office should be created as a part of the executive office of the governor to be headed by a professionally trained planning-budgeting officer appointed by the governor with the advice and consent of the senate.

61. At the end of a three-year period a review should be made of the planning-budgeting office and its location within the executive branch of the Commonwealth government.

62. No statutory responsibilities should be assigned to the lieutenant governor for an initial period of two years. He should be a part of the office of the governor with duties and responsibilities assigned by the governor.

63. The governor should convene on a regular periodic basis the heads of executive departments and agencies and selected members of the executive office to serve as a governor's cabinet.

64. The cabinet should be created by an executive order of the governor and not by statute; its size, functions, and membership should be left to the discretion of the governor.

65. A sum of money should be appropriated to enable the representative to have one professional staff assistant in Washington, a secretary, and appropriate office facilities.

66. No additional statutory responsibilities should be assigned to the mayors and they should not be given administrative responsibilities by the governor at this time. (Cf. Recommendation 333).

67. The attorney general should be appointed by the governor with the advice and consent of the senate. He should be subject to removal by the governor after notification of reasons for such action and after an opportunity to respond to charges. Qualifications for the position of attorney general should be equivalent to those for the judge of the Commonwealth trial court.

68. There should be a small staff of assistant attorneys general and they should be licensed to practice law.

69. In addition to constitutional duties and responsibilities of the attorney general, the office of attorney general should be responsible for providing legal services for all instrumentalities of government in the Commonwealth of the Northern Mariana Islands and should have the following functional responsibilities: immigration, emigration, naturalization, alien property; publication of laws, Commonwealth Code of Laws, a code of rules, regulations and executive orders of the governor and of agencies of the Commonwealth; maintenance of the seal of the Commonwealth; registration of private business corporations and not-for-profit corporations; and certification of notaries public.

in light of recent election

attorney should also have authority to practice law

70. The office of attorney general should be the agency responsible for implementation and of an administrative procedures act and a contractual services act.

71. The office of attorney general should include a director of immigration and naturalization appointed by the governor with the advice and consent of the senate. The attorney general should recommend a candidate to the governor.

72. An office of public defender should be established and headed by an attorney.

73. A board of parole of three persons should be appointed by the governor with the advice and consent of the senate for staggered six-year terms. Of the three persons one should be an attorney and one should be a woman.

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74. A civil service commission of three members should be appointed by the governor with the advice and consent of the senate for staggered six-year terms. No member of the commission should serve for more than two full terms. No member should have been actively involved in a political party or served as a government official, either elected or appointed for a period of one year prior to appointment.

75. There should be within the civil service commission a personnel office headed by a professionally trained personnel director appointed by the commission with professional qualifications for that position established by the commission. The commission should appoint or constitute itself a search committee to locate suitable candidates for director.

76. The commission should prepare a comprehensive management personnel plan for submission to the governor and legislature encompassing proposed personnel policies of the government, including a career management service of technical, professional, managerial, administrative and supervisory personnel.

77. A board of professional licensing should be established by law to include the superintendent of education, director of public works, and director of personnel ex officio and three citizen members appointed by the governor to six-year staggered terms with the advice and consent of the senate.

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78. The board should be administratively attached to the civil service commission and the director of personnel should serve as secretary of the board and be assigned responsibility for testing required by the board.

79. The office of public auditor should be independent and headed by a certified public accountant with at least three years' significant experience in public finance.

80. The public auditor should be authorized to enter into contracts for specialized auditing or related technical services, including contracts with appropriate audit agencies of the federal government.

81. The public auditor should be consulted and should review proposed systems of accounts to be established by the department of financial administration and any other instrument of the Commonwealth government.

82. The jurisdiction of the public auditor should extend to all branches, departments, agencies and instrumentalities of the Commonwealth government without limitation whatsoever; and to government contractors.

83. The legislature should create a nonpartisan board of elections composed of five Commonwealth residents, no more than three of whom are members of the same political party, and with distribution of the members among the populated islands. One member should be the executive assistant for Carolinian affairs and two of the members should be women.

84. The members of the board of elections should not be salaried and no member should be a candidate for public office. Members other than the executive assistant for Carolinian affairs should be appointed to the board by the governor with the advice and consent of both houses of the legislature.

85. A department of community affairs should be established to administer social, community, and consumer protection services. The department should be headed by a director of community affairs appointed by the governor with the advice and consent of the senate.

86. The alcoholic beverage control function should be administered by the department of community affairs.

87. A department of economic development should be established with principal responsibility for economic growth, stimulation of private business investment, tourism, and the maritime industry. The department should be responsible for labor services and promotion of harmonious labor relations in the private sector.

88. The department of economic development should be headed by a person well qualified by reason of education and training to deal with requisite technical and economic plans, investment policies, and business firms. He should be appointed by the governor with the advice and consent of the senate.

89. The department of education should be responsible for elementary, secondary and higher education, all publicly funded scholarships, and adult, vocational, and special skills training. The department should administer provisions of law that may be enacted respecting private sector education in the Commonwealth. * It should monitor and report to appropriate authorities any instances of mistreatment of school children, including use of corporal punishment.

90. The department of education should be responsible for library services and oversee museums.

*at present
is very
expensive*

91. The board of education should be composed of five members appointed to staggered four-year terms. Members should be eligible for reappointment with vacancies filled for the balance of unexpired terms.

92. The board of education should include one resident of Tinian, one of Rota, and two of Saipan. One should be a woman, one a Carolinian, and at least two should be parents of children currently enrolled in public schools. All members should be qualified voters in the Commonwealth and not otherwise employed in the Commonwealth government as elected officials or public employees. The governor should consider appointing persons who are knowledgeable in the problems of elementary, secondary, adult, and vocational education. *Definitive of Carolinian*

93. The board of education should establish professional qualifications and institute a search process for recruitment of a superintendent of education. The superintendent should be appointed for renewable terms of three years with earlier removal for cause after notice and hearing.

94. A department of emergency services should be established to administer law enforcement, fire, corrections, juvenile rehabilitation, traffic regulation, civil defense, motor vehicle registration and inspection, security guard services for public buildings, control of stray animals, and enforcement of other governmental functions (tax collection, public and environmental health, building inspection, and related matters).

95. The governor should appoint a director of police, a director of corrections, and a fire director within the civil service. Each director should possess professional qualifications established by law. Unless otherwise designated by the governor, the police director should serve as administrative head of the department but should receive no additional salary. The three directors should serve in the governor's cabinet.

96. The department should enforce fire and building codes that may be adopted.

97. An office of criminal justice planning should be established in the department of emergency services to meet federal funding requirements of the Law Enforcement Assistance Administration.

98. A department of financial administration should be established to be headed by a director appointed by the governor with the advice and consent of the senate.

99. The enabling legislation for the department of financial administration should specify that the director possess professional qualifications including at least a master's degree in an appropriate discipline or that the director be a certified public accountant and that he have at least five years of progressively increasing experience in governmental finance or accounting or equivalent private sector experience.

100. The director should nominate a treasurer with similar qualifications to be appointed by the governor with the advice and consent of the senate. He should have professional qualifications for the position established in the enabling legislation.

101. The jurisdiction of the department of financial administration should extend to all locally raised customs, excise and federal revenue receipts, and treasury, accounting and disbursement functions. The department should be responsible for any gifts and donations to the Commonwealth and for trust and retirement funds and related receipts and special revenue accounts on behalf of public corporations. It should be responsible for proper deposit of funds, selection of banks, and disbursements. The department should be required to maintain a unified system of accounts, provide financial data, and issue a detailed financial annual report to be promptly published.

102. A department of health should be established to provide direct health and medical care, dental health, mental health, and related health services. It should set and enforce standards for public health, environmental health and protection, animal health, pure water quality, and sanitary engineering. The department should be the repository of vital statistics for the Commonwealth and have within it an office of medical examiner. Health planning units can be designed within the department to meet requisite federal grant and program requirements.

103. The department of health should be headed by a director of health with professional qualifications. The governor should institute a task force to set qualifications for the position and conduct a search for suitable candidates. The director should be appointed by the governor upon recommendation of the search committee and with the advice and consent of the senate.

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104. A board of health and environmental quality should be established by law to set standards of public and environmental health and determine sanctions within statutory limits for violations of standards which shall have the force and effect of law.

105. A department of natural resources should be established to preserve and conserve the natural resources of the islands and to assure respect for Chamorro and Carolinian heritage and traditions. It should be responsible for the management of submerged lands, marine resources, and places of historical significance. The department should be responsible for conservation of natural and marine resources, agricultural and fishing development, productive use of lands made available for agricultural homesteads, and recovery of minerals on submerged land. It should conduct land surveys.

106. The department of natural resources should be headed by a director appointed by the governor with the advice and consent of the senate. An agricultural officer should be appointed by the governor upon recommendation of the director to administer agricultural and marketing services and to oversee plant, meat and meat products inspection, and animal quarantine functions.

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107. There should be within the department of natural resources an historic preservation office. A state review board should be created by action of the department director in order to help meet federal grants support requirements.

108. There should be established a department of public works responsible for public works, road construction and maintenance; transportation, harbor facilities and docks; all utilities including water supply, sewage disposal, and power, utility services and facilities; public signs and traffic signals; provision and maintenance of public boats; supervision and maintenance of public buildings, and provision of office space for all branches, departments, agencies, and instrumentalities of the Commonwealth; acquisition, maintenance and repair of heavy equipment, other equipment, and related supply and procurement functions.

109. The department of public works should assume street sanitation, solid waste collection and disposal, and other public works functions formerly performed by the chartered municipalities. These should be integrated into the department's regular operations.

110. The governor should appoint a director of public works with the advice and consent of the senate.

INDEPENDENT AGENCIES, BOARDS AND COMMISSIONS

111. The resident commissioner should prepare a statement of qualifications for a position of executive officer of the Marianas public land corporation and cause a search committee to be formed and activated so as to assist the directors, when they take office, in their appointment of an operating head of the corporation.

112. All public benefit corporations established by law should be subject to a government corporation control act. The number of such public authorities should be limited.

113. A single public authority should be the preferred conduit for securing private financing for quasi-governmental enterprises either of a self-supporting or partially self-supporting nature. The public corporation device should not be used for ordinary government purposes.

114. The airport authority should be expanded as an airports and ports authority; future financing and development of airport or port developments that require entry into the money markets should be performed by the airport authority. The Mariana Islands housing authority reconstituted as the Marianas Housing and Village Homestead Agency should be under government controls for all public corporations. The fishing authority should be discontinued. * G

115. No board or commission should be established except by legislation or by executive order of the governor or rule or regulation of an authorized agency head. All such actions should be taken in conformance with an administrative procedures act specifying publication of the appropriate order, rule or regulation. Provision should be made for the termination of entities after they have accomplished their purposes and are no longer needed, and with periodic review of them by the governor.

OPERATIONS ON ROTA, TINIAN, AND THE ISLANDS NORTH OF SAIPAN

116. The office of resident commissioner's representative should be eliminated. No equivalent position should be created in the Commonwealth government.

117. Each resident department head on Rota and Tinian should have clear authority for operations, personnel, and expenditures within quarterly allocations of his department; he should be responsible directly to his central department head.

118. Personnel requests should be forwarded directly to the directors of departments for processing.

119. An administrative forum of resident department heads should be formed on Rota and on Tinian. It should be created by executive order of the governor.

120. A deputy chief administrative officer, in the executive office of the governor, and trained in management or a branch of it, should be assigned the job of facilitating the delivery of services on Rota, Tinian, and the islands north of Saipan. He should not have line authority.

121. All funds for operations and capital improvements on Rota and Tinian should be included in the budgets of the central departments.

MANAGEMENT CONTROL OF OPERATIONS

122. Divisions of functional responsibility among the executive agencies of the Commonwealth government should be consistent with the constitution and statutes. They should be generally promulgated through executive orders of the governor.

123. The governor should be authorized by the legislature, subject to any legislative restrictions, to enter into agreements defining areas of responsibility between executive branch departments and independent boards, commissions, and agencies.

124. Within constitutional statutory and gubernatorial delegations of responsibility, department directors or other agency heads should be authorized to make appropriate subdelegations or internal assignments of duties and responsibilities.

125. Department directors should be given wide latitude for operations, personnel and expenditures, within statutory definitions and executive-office standards. Requisite clearances and pro forma approvals should be minimized.

126. No application for a federal grant or renewal of a grant should be made by a director of a department or agency, or other agency official, without the review and concurrence of the governor or his representative.

127. The governor should assign day-by-day responsibility for grant coordination and actions to an assistant to the governor assigned to the planning-budgeting officer.

128. Each department director should initiate regular reviews of programs and policies pertaining to his department.

129. Responsibility for decisions respecting a delivery service (type of service to be delivered, scope or magnitude of it, consumers to be served, method of service delivery) should be assigned to directors by statute or annual appropriation act.

130. No department director should make any official public statement, in writing or orally, on a matter of substantial policy without notifying the governor or the executive office in advance.

131. The governor should dismiss senior officials of the executive branch from positions not protected by civil service when their performance represents a serious impediment to the formulation or implementation of the policies of his administration. (See also recommendations on personnel management.)

132. The following criteria should govern the relationships between a multimembered board, commission, or authority and its chief administrative officer:

1. Setting policy means establishing the conditions under which an activity takes place. Administration means the steps taken to put policies into effect.
2. Individual actions with respect to a particular piece of land, a personnel matter, or component of a program involve the discretion of the administrator, not the policymaking prerogatives of the board, although a board may retain responsibility for a specific administrative matter of singular importance or serve as an appeals mechanism.
3. The type, scope and timing of new program activities or physical construction may involve matters of policy on which a board will wish to reserve decisional authority. Such matters as construction schedules or employment of personnel usually are matters of administration, but exceptions may warrant special procedures. It may be desirable, for example, for the superintendent of education to nominate his deputy subject to the approval of the board of education. In no instance would it make sense for the board of education to appoint individual teachers who will be under the civil service.

133. Legislative requests on budgets, policy and operations should be forwarded by the legislature to the governor or his designees, not to individual agency officials, and responses should be cleared by the executive office.

134. The attorney general should be authorized by statute to require submissions to him on proposed contractual or other legal matters.

135. A governor's cabinet should be established by executive order of the governor, not by statute, and its membership, subject to the discretion of the governor, should include the heads of principal departments and agencies of the Commonwealth government.

136. A member of the governor's staff should be designated as secretary to the cabinet to prepare an agenda for cabinet meetings, prepare and distribute minutes, and coordinate followup activities.

137. The cabinet should identify common problems and assure consonance of time and effort among various agencies on principal programs of the Commonwealth government.

138. The cabinet should be utilized for special training seminars for senior government officials.

139. The governor should initiate a weekly staff meeting of the principal personnel of the executive office of the governor.

140. The governor should meet daily with the chief administrative officer, the planning-budgeting officer and the principal staff assistant to the governor.

141. Each department director and other agency head should submit to the governor a monthly statement of activities, progress, and problems, with supportive statistical data.

142. A simple form control mechanism should be devised to facilitate submission of data in comparable form, to the extent feasible, among the departments and agencies of the Commonwealth government.

143. For each principal department or agency a single individual should be assigned by the department head to prepare required submissions relevant to a management control reporting system.

144. The chief administrative officer should schedule and conduct management audits of all agencies on a division-by-division basis and monitor remediation efforts.

145. Management audits should be performed conjunctively by agencies and the chief administrative officer's office.

146. Implementation of action programs resulting from the management audits should be the responsibility of the agency head.

147. The chief administrative officer, with the governor's consent, should assume temporary responsibility for an agency or division if existing agency personnel are unable to improve production or to implement management audit recommendations.

*these are
ad officers*

148. Each department head should assign at least one person to oversee operations, supervise management audits, and implement remediation.

149. Selected management specialists should be designated as part of a corps of management specialists.

150. Management personnel in each agency should be given special management training by the chief administrative officer.

151. The chief administrative officer and possibly the planning-budgeting officer should utilize project management to resolve special problems that impede delivery of public services. Project management team members within the CAO's office would be assigned to agencies on a temporary basis.

152. The chief administrative officer should prepare guidelines on the use of network analysis and should take steps to assure that analyses are undertaken of each principal service delivery or support component of the Commonwealth executive branch.

153. Reports by the CAO's office should be reviewed with appropriate operating officials to determine precise cost-effective remedial actions.

154. The mechanics of network analysis and related techniques should be utilized in middle-management training sessions.

155. Each department and agency in the executive branch, and each independent agency, should be required by statute to prepare an operations and procedures manual and keep it up-to-date through periodic revision.

156. Guidelines for the preparation and drafting of all operations and procedures manuals for the executive branch should be coordinated through the office of the chief administrative officer.

157. The office of the chief administrative officer should provide technical assistance to departments and agencies in the preparation of operations and procedures manuals.

158. Matters that constitute rules and regulations having the force and effect of law should be published by the attorney general after issuance by appropriate authority pursuant to an administrative procedures act.

159. Operations and procedures manuals should be made available to the public upon request.

160. The governor's office should prepare and publish manuals giving procedures generally applicable to executive branch operations; and their scope, content, and format should be uniform.

161. The chief administrative officer should establish a system of records management and issue guidelines on records retention and disposition.

162. The chief administrative officer should establish priorities of records management activities and initiate cost-savings arrangements respecting forms and copies, distribution, and files.

163. As part of the records management program the chief administrative officer should review files of routine correspondence and memoranda, purchase orders, personnel action forms, and retain only active materials.
164. Appropriate precautions should be taken to preserve confidential data pertaining to individuals.
165. A schedule of records retention and disposition should be included in operations and procedures manuals for each department.
166. The planning-budgeting office in the executive office of the governor should have the principal responsibility for maintaining a data bank system. Data planned in OTSP reports might provide the base for the system.
167. One basic reference collection should be established, utilizing federal grant funds supplemented by Commonwealth appropriations.
168. The department of education should be assigned responsibility for the provision and operation of a library and reference center for the Commonwealth.
169. A reference librarian should be employed by the department of education to perform overall activities including acquisition and accession.
170. Cooperative arrangements should be initiated among the Trust Territory, Commonwealth of the Northern Mariana Islands, and Guam for shared information systems and reference collections.
171. An official Commonwealth archive should be established. It should be the repository of official government records.

TRAINING AND SKILLS DEVELOPMENT

172. A structured program for training employees in job skills should be initiated on a regular basis and made fully compatible with the personnel classification system, wage schedule, and general personnel practices of the Commonwealth.
173. The identification of skills which require upgrading should be a companion effort to the organization of the government and the formulation of personnel policies.
174. A multifaceted training program should be instituted for senior executives, middle managers, and supervisors. This would be organized by the chief administrative officer.
175. A process should be instituted immediately by the resident commissioner and OTSP jointly to identify key positions for which specialized input through technical training is critical.
176. There should be an intensive series of briefings and orientation seminars for senior officers and executives on organizational and administrative plans and on proposed social, economic, physical and capital development plans.

177. A permanent career class of middle managers should be established within the civil service to serve as a principal managerial talent bank for all agencies of the Commonwealth government. It would build government careers and provide for external movement from one branch to another.

178. Project management concepts should be included as integral parts of middle management training curricula.

179. The present training officer, assisted by a representative of the board of education, should survey basic task deficiencies common to most first-line supervisory positions. A training curriculum should be devised to be performed on-site in departments for first-line supervisors.

180. A process should be undertaken to determine motivational characteristics of public employees as part of an effort to increase worker productivity.

181. A program of incentive exercises, including small monetary rewards for special performance to be designed and instituted for all employees, complemented by instruction on performance expectations.

182. A training program for strengthening supervisory techniques should be designed with exercises in communication, employee discipline, leadership, and instruction of subordinates.

183. The training unit of the office of the chief administrative officer in cooperation with the civil service commission should consider the feasibility of utilizing competency-based testing techniques in the system of training and placement.

184. The adaptation of existing models or development of training arrangements should not be decided in final form until an inventory of skills available and skills required is completed.

185. The training unit in the office of the chief administrative officer should be the lead agency on executive level briefings, management training, and first-line supervisory communication skills training; and it should maintain the overall quality of training for the Commonwealth government.

186. The chief administrative officer should establish an interagency task force on training and performance to be comprised of representatives of the CAO, the personnel officer, planning officer, superintendent of education, and designated department heads.

187. An outside professional organization should be retained for a three-year period to provide detailed professional input in training, curricula design, trainee selection, to serve as instructors, and to oversee location of specialized off-island participant training and on-the-job experiences.

188. The Commonwealth legislature should appropriate funds for each of the first three years of the Commonwealth government to supplement earmarked training funds in the covenant. Every effort should be made to garner federal grant funds to complement these investments.

189. No federal grant application for funds involving training should be approved by the federal grants' coordinator until the training unit in the office of the chief administrative officer has reviewed the application and has had the opportunity to comment on it.

190. No off-island training activity should be authorized unless there is demonstrated evidence that such activity would be directly related to critical skills improvement and cannot be provided in the Northern Mariana Islands.

191. The consulting organization that is retained pursuant to recommendation 187 should be assigned the job of locating appropriate training sites for off-island training and should assist trainees and provide individual and periodic general evaluation of all off-island participant training. Again, off-island training should be limited to essential purposes.

PERSONNEL MANAGEMENT

already
✓ 192. The Trust Territory job classification system should be modified for use by the civil service commission/personnel office.

at
✓ 193. A principal objective of the civil service commission should be to reduce the total number of job titles in the job classification system to be adopted by the Commonwealth to no more than 200 separate job titles.

194. The civil service commission should install standards of the highest order of objectivity in hiring and promotion; it should adopt a rigorous code of behavior for itself and for the personnel office; and it should resist demands to hire persons on bases of political expediency or personal relationships.

195. In its code of behavior the civil service commission should establish rules governing the disqualifying of a civil service commissioner or employee of the personnel office on hearings or appeals in personnel matters.

196. The legislature should strengthen the criminal laws to discourage instances of favoritism or nepotism in the public service and to increase penalties for violations of such laws.

✓ 197. The annual step increase should be an automatic increase.

198. The period of advance written notice of an adverse action should be reduced from thirty calendar days to fifteen calendar days.

199. The period of time given to an employee to prepare his defense should be twenty calendar days rather than "a reasonable amount of official time."

200. A person against whom an adverse action is initiated should be suspended without pay until the matter is disposed of unless a waiver of suspension is granted by the chief administrative officer.

201. The civil service commission should replace the Trust Territory personnel board in NMI personnel appeals and rulings initially should be by the director of personnel or by a hearings officer.

202. The personnel office in cooperation with the chief administrative officers administer an incentive awards program and the civil service commission should designate an incentive awards committee.

203. The civil service commission should monitor the administration of the program, its objectivity and report on job performance and employee morale and should nullify or discontinue the program if it becomes unworkable or dysfunctional.

204. The civil service commission should institute a series of testing mechanisms to establish job applicants' capability in skills areas, to check basic functional educational levels, and to develop motivational qualities; and such testing mechanisms should be instituted in a realistic manner consistent with manpower requirements in the Northern Mariana Islands.

205. The civil service commission, at an appropriate date, should undertake a thorough review of testing modalities and their utility in assuring a quality civil service.

206. For senior management or administrative positions, educational qualifications, on the job and related experience should be emphasized, plus ratings given as a result of a structured interview, more than the results of written examinations.

207. Highly skilled testing and personnel specialists should be employed by the civil service commission in developing its program of merit system.

208. Standardized tests for selected skills areas should be purchased, particularly for those positions in which verbal or written communicative skills are critical job elements.

209. A special search process should be initiated to secure the services of highly qualified persons with requisite education, training, and experience in key management and administrative positions, including judges of the Commonwealth Trial Court, public auditor, attorney general and deputy attorneys general, chief administrative officer, deputy CAO, planning-budgeting officer, principal staff officer of the public land corporation, superintendent of education, director of financial administration, and senior management (or business and accounting) personnel in the public authorities, public works, and natural resources.

210. Professional qualifications should be established for a special search effort to be initiated for key positions in the legislature, including legislative counsel, senior research associate, and senior fiscal analyst.

211. An executive salary and benefits plan should be established, on the basis of objective study, before final recommendations are made for the salaries and expense allowances for elected officials and senior administrative officers.

✓
accomplished

212. A base salary schedule for designated exempt positions, in each instance limited to gubernatorial appointees, should be set at a maximum annual salary of \$24,000.

213. The base salary schedule for the exempt class also should be used for the salaries of the personnel director, executive director of the Public Land Corporation, and superintendent of education.

214. The governor should appoint at least one woman to a senior position in the executive office of the governor.

215. The governor should designate one of his staff as liaison for women and young people.

216. The commission should convene an annual conference of women in public service careers and should provide within budgetary appropriation counseling service, and career guidance for women and young people.

217. The civil service commission in its revision of the public employment procedures should include a special part on affirmative action.

218. The legislature should review the desirability and need for establishment of a Commonwealth human rights commission and issue a report on the subject no later than January 1979.

219. A program of governmental internships for high school seniors should be developed jointly by the board of education and the government through the civil service commission and in cooperation with the chief administrative officer.

220. A central office pool should be established under the jurisdiction of the chief administrative officer.

221. One member of the CAO's staff should be assigned to exercise supervision of all clerical-related personnel in the civic center area whether or not a part of the central pool.

222. A central correspondence filing system should be established by the chief administrative officer so that routine office files can be maintained by the central clerical pool with a common numbering system.

223. The personnel director in cooperation with the chief administrative officer should develop a plan for a corps of managerial specialists.

224. This corps should consist of entry level, junior and senior positions with opportunity for career growth and promotion and job mobility.

225. The personnel director in cooperation with the chief administrative officer should develop, with the superintendent of education, a program to identify promising high school students who have an interest and potential capability in government management careers.

226. Federal grants and technical assistance funds should be sought to facilitate development of the management specialist corps.

227. Directors should use intra-departmental senior staff meetings convened on a regular basis to deal with problems, review progress and facilitate communication.

228. At all regular and special staff meetings convened by a department head or other management official the convenor should summarize or have another person summarize what has been discussed or achieved and what follow-on activities are required.

229. To the extent feasible, managers and executives should answer their own telephones and avoid the necessity of secretaries and receptionists screening calls.

230. Managers and executives should minimize personal absences from the job except for urgent matters.

231. Each manager, department head and executive should maintain a record of how time is spent during the course of a business week and assess time inputs.

232. The chief administrative officer should undertake an inventory of office equipment and services and develop a plan and budget proposal to upgrade inventories so as to optimize management performance.

THE COMMONWEALTH BUDGET PROCESS

233. The Commonwealth government should use current dollars in its internal budgeting processes when projecting revenues and estimating expenditures or allocations to departments and programs.

234. Expenditures on Rota, Tinian and the islands north of Saipan should be projected by each agency as part of its budget as a whole and no separate budget should be made for Rota, Tinian and the islands north of Saipan.

235. The Commonwealth budget should show for information purposes the total sums appropriated for services on Rota, Tinian and the islands north of Saipan to the extent such separate identification is feasible.

236. Previous year's expenditure should be abandoned as the predominant basis for determining future allocations.

237. Salary increases for eligible employees should occur at one or two intervals in the fiscal year and the practice of giving a salary increase on the anniversary date of employment should be abandoned.

238. Salary increases should be budgeted in separate categories within the major classifications of Micronesian civil service, non-civil service, and expatriate employees.

239. The following personal service object classifications should be established: base salaries for expatriate employees in each step and grade

established, base salaries for civil service employees in each step and grade; fringe benefits for expatriate employees; fringe benefits for civil service employees; recruitment, repatriation and home leave; overtime; night-shift differentials; terminal leave; salary increments for each personal service category established above; other employees (part-time equivalent or miscellaneous).

240. Overtime, differentials and benefits should be reflected separately within each major personnel category.

241. The "budget ceiling" method for distributing allocations among activities within an agency should be abandoned.

242. Agencies should be authorized to reprogram funds in amounts that will not increase or decrease an object classification by more than 15 percent of the amount approved in the budget, without approval of the planning-budgeting office.

243. The planning-budgeting officer should be authorized to approve reprogramming of funds within an agency, with the concurrence of the chief administrative officer, in an amount that will neither increase nor decrease an object class by more than 30 percent.

244. Reprogramming of funds from one program to another should be authorized by the governor in amounts that neither increase nor decrease the amount budgeted by more than 5 percent.

245. Any cumulative reprogramming of 30 percent should require notification of the legislature.

246. Each agency should submit in its budget request a listing of all the equipment it has purchased for the previous five years.

247. Equipment purchases for the previous year should be certified for accuracy by the department of financial administration prior to final determination of equipment object classifications in the proposed budget.

248. The Commonwealth legislature should enact a comprehensive Commonwealth budget and planning procedures act that will deal with fundamental requirements for the form, content, reviews, schedules, submissions, authorizations, and restrictions on spending.

249. Administrative details and criteria for agency budget submissions should be issued as directives of the office of planning and budgeting in the executive office of the governor based upon gubernatorial initiative and approval.

250. Budget review requirements and procedures by the legislature and its committees should be jointly adopted in rules of the senate and house of representatives respectively, or by written committee procedures.

251. The annual budget and appropriation act should authorize spending at not more than 95 percent of anticipated revenues for all locally derived revenue sources.

252. The governor should be authorized to submit a supplemental budget to the legislature at the end of the first quarter of the fiscal year for the expenditure of the balance of estimated local revenues and such supplemental budget should contain evidence that the estimated funds have been or will be received.

253. The governor should prepare annually a single total expenditure plan that is a unified budget.

254. The legislature should enact a single annual appropriation act and any additional appropriation should be enacted as an amendment to the annual appropriation with a statement showing source of funds of any additional or increased appropriations.

255. The annual budget and appropriation act (approved budget) should be comprised of six sections:

1. A comprehensive statement of all estimated revenues from federal assistance funds (covenant funds), projected special federal grants, the territorial income tax, Commonwealth taxes, income estimated to be received from the Marianas Public Land Trust, income from service fees and user charges, and any other anticipated revenues.
2. Authorized expenditures organized by program, or services to be provided, and by administering branch, department, agency or instrumentality for operations and capital improvements, and revenue source for expenditures.
3. A fiscal report, plans and statement of priorities, including capital projects, and an explanation of changes from previously approved plans.
4. A revision of approval plans and projections for future years.
5. A statement and summary of past, current and projected debt.
6. Revisions of tax levies, debt to be incurred, and changes or additions in user or service charges.

256. Personal service object classifications should contain the number of positions within each category, their rankings and salary ranges; and the total number of authorized positions within each category and a recent actual count of filled positions within each category should be included.

257. Non-personal service object classifications should show the specific purposes of budgeted expenditures.

258. The Commonwealth budget should include necessary program and historical data and related information on service delivery mechanisms through which funds will be spent.

259. The budget should contain information respecting the structure of all tax rates, fees for utility and other public services, and charges for business licenses.

260. The public auditor should provide a statement of financial position reflecting beginning and end-of-year cash balances and such statement should be an appendix to the budget.

261. The full costs for each program or service should be charged to the budget for such program and the agency responsible for it.

262. User and service charges for utility and proprietary services should be fully charged to the benefiting user unless an affirmative decision is made to subsidize the delivery of a program or service; and such subsidy should be identified in the budget.

263. As a component of cost-accounting methods for the Commonwealth government costs should be separated by function in order to ascertain the full costs for each program and service.

264. Commonwealth taxes should be earmarked only in special circumstances to meet critical needs and the earmarked designation should expire no later than two years after imposition.

265. Liaison officer should be appointed and stationed in San Francisco to handle day-to-day grant coordination with Region IX officials. The appointment might be part-time initially.

266. No federal grant applications should be filed unless the program is determined to be consonant with approved plans.

267. The Commonwealth budget should identify anticipated expenditures that comprise matching funds for federal grants.

268. No federal grant application should be approved by the executive office of the governor unless it is determined that matching requirements will be met or are anticipated to be consonant with approved budgets or supplemental budgets.

269. All expenditures should be charged against a recognized, established object classification.

270. Appropriations should constitute an authorization to expend funds and a directive to do so unless discretion to withhold expending funds is statutorily provided.

271. The department head or other official with designated jurisdiction over a program or service for which funds are budgeted should be the person authorized to expend appropriated funds.

272. Unless otherwise provided by law unexpended appropriations should expire at the end of the fiscal year.

273. The legislature should establish maximum expiration dates for contract authority by category and contract amount and the governor should be given discretionary authority within statutory limits.

274. No item should be contained in the Commonwealth budget or in an appropriation act for which revenues are not identified.
275. The department of financial administration should certify revenue receipts or anticipated revenue receipts to the legislature before budget approval.
276. The federal program coordinator should verify the reasonableness of all projections of anticipated revenue from special federal grant sources.
277. The public auditor should review statements on funding sources with respect to the basis for the statement and any problem that may reduce the amount of estimated funds.
278. No expenditure, obligation or commitment of funds should be made by the director of financial administration unless funds will be available at the time payment is made.
279. Only those funds to be spent during the fiscal year for capital projects or otherwise to be obligated in order to proceed with a project should be continued in the budget from one given fiscal year to the next.
280. The Commonwealth government should adopt a modified form of zero-base budgeting.
281. The basic unit of the budget for purposes of zero-base budgeting should be termed the budget package.
282. Budget packages should be formulated in groups of common services and activities for the purpose of projecting costs for comparison and priority-ranking.
283. The planning-budgeting officer should establish criteria for determining budget packages.
284. The planning-budgeting officer and department heads should work closely in developing budget packages that are easy to compare and facilitate judgment regarding alternatives among programs and services.
285. Budget packages should be developed around services to facilitate the development of priorities.
286. Budget packages should be composed of both personal service and non-personal service expenditures.
287. Decisions on the content of budget packages should remain flexible and different combinations of services and activities should be incorporated into packages for experimental purposes.
288. Budget packages should be the programmatic responsibility of single administrative units in order to facilitate their development, including judgments made on them, and their administration.

289. All budget packages should describe in full the program goals of the activities they describe.
290. Each package should specify at least one alternative approach to the objective of the package.
291. Budget packages and their justifications should be related to approved Commonwealth plans and deviations from plans should be set forth in detail.
292. Budget packages should be first projected at the level of expenditure during the current fiscal year adjusted for inflation.
293. Budget packages should be projected at minimum level of effort not to exceed 75 percent of the amount which was expended on similar activities during the previous fiscal year.
294. The budget package at the zero base (minimal level of funding) should contain a thorough explanation of the consequences of not funding the package at all and the implications of failure to fund in terms of achieving goals set forth in approved plans.
295. The zero-base review should state the degree to which the program will fall short of goals and approved plans if funded at only minimal levels.
296. Budget packages should be projected at 110 percent of current level of effort and at an unconstrained level and should contain descriptions and supply data on benefits to be derived from additional funding.
297. The ranking of budget packages should be performed at three stages: (1) at the subdepartmental level; (2) at the departmental level; (3) in the executive office of the government for all agencies and instrumentalities of the Commonwealth and made an integral part of developmental and program planning.
298. Different budget packages should be freely inter-ranked as long as the ascending ranking of like packages is preserved.
299. The Commonwealth should adopt an October first-September thirtieth fiscal year.
300. There should be a pre-budget preparatin period to be completed by January 15 of the fiscal year prior to the fiscal year for which the budget is being made.
301. The pre-budget preparation period should be coordinated by the planning-budgeting office and include the following activities: projection of covenant-level funding for the fiscal year in question; projection of territorial income tax receipts in cooperation with department of financial administration; projection of other receipts from fees and licenses in cooperation with the department of financial administration; projections of other tax receipts; preparation of an executive policy statement by the office of the governor; assembly of budget instructions for departments which include suggested levels of expenditure during the fiscal year in question.

302. A review of agency requirements for programs for which any agency is responsible, followed by submission of budget requests or expenditure projections to the central budget office, should be completed by the end of February and budget proposals by mayors and by the assistant for Carolinian affairs should be submitted by this date.

303. The planning-budgeting office should review agency requests for mathematical accuracy, consonance with approved plans and the governor's program, reasonableness and merit, and should prepare a proposed executive budget before the end of March.

304. The executive office of the governor should consider the requests of agencies, a preliminary executive budget should be prepared by the planning-budgeting office, and the governor should conduct hearings to be open to the public on agency requests during the month of April of the fiscal year prior to the beginning of the fiscal year in question.

305. The executive budget should be submitted by the governor to the legislature no later than May 15 of the fiscal year prior to the beginning of the fiscal year for which the budget is being prepared.

306. The governor personally should present the budget before a joint session of the legislature and the proposed budget should be published forthwith.

307. Legislative consideration of the executive budget should begin no later than May 15 and include a schedule for legislative deliberations, public hearings, and enactment of an appropriation act no later than July 15.

308. Professional personnel should be recruited for key positions of planning-budgeting officer, budget analyst, fiscal analyst (legislature), director of financial administration and public auditor.

309. A technical panel of outside budget and financial analyst should be made available during the early years of the Commonwealth to assist Commonwealth officials.

310. Training in middle management and specialized budgeting should be a top priority of the Commonwealth government and training sessions should begin during the pre-inaugural period, if feasible.

PLANNING AS AN INSTRUMENT OF POLICY FORMULATION

311. Grant's coordination activities at the agency level should be assigned to the person responsible for agency planning to minimize separate administrative staffs at the agency level for planning and grants coordination.

312. Modifications of federal requirements respecting special planning units and other institutional arrangements should be secured when they necessitate creation of additional governmental entities or otherwise overextend governmental capability.

313. Federally funded planning and operating units should be organized as integral parts of the Commonwealth government. Federal grants should be pursued as part of the process of improving public services and facilities within the scope of accepted plans and budget projections, not as independent actions.

314. A budgeting act should be enacted to guide the essential resource allocation process of the Commonwealth.

315. The plans presented by OTSP should be reviewed by the new governor under the basic planning budgeting act, and submitted with his modifications, if any, to the legislature. After a public hearing they should be endorsed with or without statements of reservation as official budgetary and policy guidelines.

316. A central planning budgeting unit with "A-95" review authority should be established to coordinate all Commonwealth planning efforts. The planning unit should be located in the executive office of the governor to assure close coordination among legislative programming, executive budgeting, operations, and grants' management.

317. The planning-budgeting office unit should be headed by a senior professional planner or administrator assisted by at least one development economist, one physical or land-use planner, and a budget officer.

318. Planning units should be established in each principal operating agency.

319. Planning and assessment activities within the department of education should be organized under a deputy superintendent of education, with close supervision by the superintendent and the board of education. The deputy superintendent would not be a statutory position and would be within the civil service.

320. A single planning unit should be established in the department of public works to continue and to implement OTSP recommendations on public works facilities, public utilities, roads, harbors, dock facilities, and related transportation needs.

321. The governor should establish an interagency housing planning task force under the supervision of the planning budgeting officer to coordinate activities of the Mariana Islands housing authority, the central planning unit, and the public land corporation.

322. Proposals of the MIHH or any new housing-village homestead agency for housing or urban renewal projects should be submitted to and approved by central government authorities before being authorized.

323. A health planning agency established to meet the requirements of the National Health Planning and Resources Development Act should be designed to assure full intergration of all health and environmental health planning efforts. This entity should be located within the health department and not as an independent agency.

324. The Commonwealth legislature should enact a comprehensive land-use planning act. It should assure consonance with the constitutional mandate for comprehensive planning of public lands by the Marianas Public Land Corporation.

325. A zoning law for Saipan should be enacted and basic zoning standards should be adopted for Rota and Tinian.

326. The central planning-budgeting office should be responsible for master plan activities; urban land-use plans and zoning, and developmental matters that are not the principal foci of agency planning operations: inter-island transportation, transportation on Saipan, recreational and historic sits preservation and development.

327. All capital improvement and major program plans proposed by line agencies should be reviewed by the central planning-budget office to assure conformance to basic plans and the governor's program.

328. The Marianas Public Land Cooperative should participate on a co- ^{cooperative} cor- ^{operation} poration basis in land-use planning activities for the government as a whole.

329. Each department head should be required by executive order of the governor to prepare annually a summary assessment of ongoing and needed programs.

330. The office of transition studies and planning should be integrated into the executive office of the governor.

331. Planning for Rota, Tinian and Aguigan, and the northern islands should be conducted principally by the individual central departments and the central planning unit. Resident department heads on Rota and Tinian should participate.

332. Resident department heads of public works on Rota and Tinian and the principal public works official on the northern islands should monitor capital improvement needs in their respective areas.

333. Citizen advisory planning task forces should be established for Saipan, Rota, Tinian and Aguigan, and the northern islands. The task force for Rota should replace the Rota planning commission. Each mayor should chair the respective task force.

334. A governor should appoint task force of business leaders to assure inputs of business leaders in the central planning-budgeting process.

335. An interagency planning conference should be organized under the leadership of the central planning unit comprised of representatives of all planning units including those of boards and commissions and the Marianas Public Land Corporation.

336. An annual Commonwealth planning conference should be held with governmental, business, and community participation. No additional staff is required for this conference.

SUPPLY AND PROCUREMENT

337. The chief administrative officer and the principal supply officer should revise and update supply and procurement procedures on a priority basis concomitant with establishment of the new governmental structure and management systems.

338. New or revised rules and procedures for procurement should be developed and modified during a period of experimentation.

339. A junior finance officer employed by the department of financial administration should be located in the supply office to facilitate flows and interpret financial management policies and procedures.

340. The operating units of administration on Rota, Tinian and the northern islands should have no responsibilities or prerogatives for purchasing other than those specifically delegated by the central agencies.

341. The supply office should be responsible for (1) procurement of all supplies, commodities and equipment purchased at a cost of twenty-five dollars or more; (2) maintaining records of all purchases; (3) maintaining an inventory of all equipment (office equipment, desks, typewriters, vehicles, machinery); (4) stocking, warehousing and distributing standard, commonly used supplies to agencies and providing them with a list of all such supplies; (5) enforcing all regulations with respect to procurement by verifying and certifying all vouchers prior to submission to the finance office for payment.

342. The supply office, its services and facilities should be restricted to use by the Commonwealth government.

343. The authority of the supply office and the policies established with respect to supply and procurement should extend by legislative mandate to all agencies and instrumentalities of the Commonwealth, including public authorities and quasi-independent agencies.

344. The chief administrative officer should prohibit the practice of splitting purchase orders or otherwise avoiding and escaping the restrictions imposed by supply regulations.

345. Purchases on Saipan in amounts of twenty-five dollars or less should be made with cash, either personal cash or cash withdrawals from imprest funds, and all such purchases should be reimbursed in amounts not exceeding the amount of purchase.

346. No reimbursement should be made either to an individual or to an imprest fund without written proof of purchase signed by purchaser to verify amount and receipt of purchased item.

347. A written purchase order should be required for each purchase in excess of twenty-five dollars.

348. A copy of all authorized purchase orders should be filed with the supply office, including those authorized only by an agency.

349. The head of a government department or his representative should be the authorized official for purchases under one hundred dollars.

350. The number of individuals in an agency authorized to sign a purchase order should be limited. In many cases only the agency head should be so authorized.

351. Each agency head should submit to the supply office a written list of any individuals who can authorize a purchase order and the supply office should approve the list.

352. Agencies should be permitted to purchase only those items not maintained in the supply office stock.

353. The supply office should review all purchase orders forwarded by agencies directly to vendors for the purpose of identifying agencies which do not first avail themselves of centralized stock and to identify items used frequently by a number of agencies which might be purchased in bulk. If agencies violate this requirement, their privilege of direct purchase should be withdrawn.

354. The supply officer or his representative should be the only persons authorized to sign and issue purchase orders in excess of one hundred dollars.

355. The supply officer should designate a single representative in the supply office to act in his behalf.

356. The supply office should review each purchase order it receives for more than one hundred dollars, and if the requested item is available from stock the supply office should provide the item to the agency, cancel the order with a stamp, and file the cancelled request.

357. All agencies should be charged for items supplied from stock.

358. The supply office should notify both the agency and the finance office when an item is supplied from stock and the finance office should treat the notification as an authorized charge against the agency's account.

359. All purchase orders in excess of one hundred dollars should be forwarded by the supply office to the department of financial administration for authorization.

360. The department of financial administration should forward to the vendor any purchase order in excess of one hundred dollars.

361. The department of financial administration should authorize only those purchase orders for which adequate funds are available in an appropriate account of the requesting department.

362. Adequate funds should be encumbered in the appropriate departmental account at the time the department authorizes the purchase and prior to forwarding the purchase order to the vendor.

363. An amount not to exceed two thousand five hundred dollars should be established as the amount of a purchase above which the signature of the chief administrative officer is required unless the CAO sets a different large-order ceiling.

364. Equipment should be defined as any single item purchased as a price of one hundred dollars or more with an anticipated life of two years or more.

365. The inventory of equipment should be a file which contains for each item the following information: type of equipment, date and amount of purchase, department or agency to which it is assigned, and serial number.

366. Each piece of equipment should have stamped, stencilled or otherwise indicated on it in a visible and permanent place the following identification: "Property of the Commonwealth of the Northern Mariana Islands," followed by the serial number assigned to it.

367. Each agency head should assign one individual within the agency as supply clerk or principal contact for the supply office.

368. All activities within an agency which relate to supply and procurement should be channelled through the person named by the agency head as supply clerk or principal contact, and the person so designated should monitor the supply needs of the agency and maintain an internal inventory of supplies and equipment.

369. The supply office should establish for each agency a monthly date on which the requisition list of supplies for the agency will be submitted to the supply office.

370. Supply and procurement activities should be centralized within each department, i.e., one central office should procure for all departments and agencies unless the chief administrative officer authorizes a different arrangement.

371. The Commonwealth government should institute and enforce uniform procurement procedures.

372. The government should strengthen requirements for competitive bidding by vendors in cases of large purchases, as appropriate.

373. The requirements of competitive bidding should be enacted into law as part of a Commonwealth contracts act.

374. Preference should be given to local vendors under rules to be established by the chief administrative officer.

375. The supply office should publish no later than one month after the close of the fiscal year a list of all vendors with which it has done business in excess of one thousand dollars and the total dollar amount in business.

376. The forms used by the Trust Territory government should be replaced as soon as possible.

377. The department of financial administration should not authorize payment unless presented with a signed and completed original purchase form.

378. The department of financial administration should withhold payment until satisfied that all requirements have been met.

379. No payment should be made until there is written evidence that the purchased item is in possession of the government or will be possessed upon delivery.

380. The purchase order should serve as the invoice.
- * 381. At the time goods are supplied the vendor should sign the purchase order requesting payment in the amount shown for the items described; and the vendor should forward the purchase order/invoice to the requesting department or agency.
- * 382. The requesting department should verify receipt of goods before forwarding to the department of financial administration for payment.
383. The department of financial administration should make no payment for any item for which written proof of purchase has not been supplied.
384. All signatures should be actual on all official documents and no rubber stamp or other reproduction of a signature should be accepted by any officer or government employee as justification for a purchase, an order, or a payment.
385. Any purchase accompanied by an advance payment should have noted upon it words to this effect: "Payment in full attached--warrant number [to be filled in]" followed by the signature of an authorized employee of financial administration.
386. Documentation on all purchases should provide the following categories of information: description and number of items purchased, total amount of the transaction and the unit price; name and address of the vendor, signature of the receiver and name of the receiving agency, date of transaction.
387. All signatures on documents should be accompanied by date of signature.
388. A single standard purchase form should be used for purchasing in amounts exceeding twenty-five dollars and it should serve as purchase order, seller's invoice, and voucher.
389. The standard form should have printed at the top the words "Commonwealth of the Northern Mariana Islands" and should also have printed at the top "Commonwealth Purchase Order-Invoice-Voucher."
390. The standard purchase form should have printed upon it instructions regarding the conditions under which signatures are required.
391. The form should instruct the seller on use of the form as an invoice.
392. The form should have a statement upon it which invalidates it unless specific requirements, including requirements for signatures, are met.

393. Applicable provisions of Commonwealth laws on purchase and procurement, bidding and contract purchases should be printed on the reverse side.

394. The standard purchase form should have five non-interchangeable sheets: one original to become the eventual property of the department of financial administration, one agency copy, one supply office copy, one vendor copy, and one miscellaneous extra copy.

395. All rules and procedures for procuring goods, supplies, equipment or any item or commodity necessary for operating a government agency or providing a service to the public should be described in detail in writing and provided to all departments and agencies of the Commonwealth government.

396. All official policies and rules and procedures for procurement should be made public as they are enacted.

397. The government should provide the major enterprises and individuals with whom it does business with the same written statements of policy and procedures it provides to its employees.

398. There should be one supply and procurement manual for the Commonwealth government which would contain official instruction on government policy and procedures for procurement.

399. The sequence used in policy statements and procedures should be flexible and expandable to allow for additions within the sequence.

400. The procurement manual should be adequately indexed and should have a detailed table of contents which can be frequently revised.

401. The binder of the manual should have dividers with labelled tabs to enable the user to turn immediately to each major subject.

402. The procurement manual should be organized so that the most common occurrences are most prominent.

403. A full statement of the text of statutes on supply and procurement, contracts, and so forth should be appended to the manual.

404. Instructions and procedures should be written in simple language for comprehension at the reading levels of their users.

405. The procurement manual should be written in simple sentences of easy-to-understand words and should avoid lengthy narratives.

406. The procurement manual, particularly those portions of it which provide basic instructions on procedure, should be written in Chamorro as well as English.

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FINANCIAL ADMINISTRATION

407. All revenues, including federal support under terms of the covenant, special grant monies, and locally raised revenues, including those presently authorized and expended by the chartered municipalities, should be paid into a single treasury within the department of financial administration and expended under integrated procedures which are administered and enforced by the department of financial administration.

408. The department of financial administration should be responsible for all collection, treasury, expenditure and accounting functions.

409. There should be one unit of the department of financial administration responsible for all collection and other activities associated with the receipt of revenues regardless of source.

410. The treasury, bill-payment and expenditure control authority of the department of financial administration should extend to the quasi-independent agencies, including special corporations and public authorities.

411. All revenues of quasi-independent agencies should be deposited to accounts controlled by the treasury within the department of financial administration.

412. The procedural rules applied by the department of financial administration to executive agencies, the legislature, and the judiciary for expenditure and receipt of revenue should be applied equally to the quasi-independent agencies.

413. The financial records for all departments and agencies of all revenue receipts, tax and nontax, and all expenditures should be maintained by a single administrative unit.

414. Responsibilities of the department of financial administration should include accounting for financial transactions of all instrumentalities of the Commonwealth government; customs and tax revenue collections; processing of all expenditures and payments; and the financial accountability of the Commonwealth.

415. A single individual should be designated treasurer of the Commonwealth.

416. The treasurer should be in the department of financial administration but should be removed from non-treasury departmental operations.

417. The treasurer and the chief administrative officer should be the two signatories on all Commonwealth checks and warrants.

418. Every expenditure should be supported by a demand or voucher.

419. Each demand or voucher should be authorized by someone other than the treasurer.

420. The treasurer should authorize all deposits to the bank accounts maintained by the Commonwealth.

421. Authority and responsibility for agency expenditures on Rota and Tinian should be vested in central agency directors.

422. Mayors should have no authority or responsibility with respect to expenditure of funds appropriated in agency budgets delegated to them unless formal authority has been delegated by the government.

423. The authority of the department of financial administration should be fully exercised on Rota and Tinian, i.e., it should control expenditure of all public funds on the neighboring islands.

424. The imprest funds on Rota and Tinian should be reduced.

425. All uses of imprest funds on Rota and Tinian should be approved in advance by the resident department head of the user agency and by the local finance office, subject to final approval of the department of financial administration on Saipan.

426. The department of financial administration should establish and enforce restrictions on the use of personal out-of-pocket cash for financial transactions of government agencies.

427. A single imprest fund should be maintained by the department of financial administration for all agencies of the Commonwealth government with the option of other small funds established for agencies outside the civic center.

428. All cash received on Saipan should be deposited no later than the day following receipt.

429. Government employees with responsibility for collecting revenue receipts should not be the same individuals who send out billings.

430. The treasurer should cross-check all cash turned over to him with the receipts provided by the collecting agency, record all cash deposits and deposit them immediately in a bank account of the Commonwealth.

431. Deposit slips should be cross-checked with cash receipts by the department of financial administration.

432. The department of financial administration should require that all expenditures be fully and properly documented as to user department, item or service procured, vendor, amount of purchase, account

charged, method of payment, and other data necessary for a complete account and justification of the transaction.

433. All financial transactions in the operating extensions of agencies on Rota and Tinian should be recorded with the central department on Saipan and the department of financial administration on Saipan.

434. A single representative of the finance office should be stationed on Rota and another on Tinian to implement all responsibilities of the department.

435. All Commonwealth accounts should be grouped together by funding source and no separate accounts should be established for particular islands or groups of islands.

436. The department of financial administration should be the disseminator of all expenditure data.

437. The department of financial administration should have responsibility for providing all operating agencies and instrumentalities of the Commonwealth government, including authorities and quasi-governmental organization, with periodic data on expenditures, encumbrances, commitments and the balance of available funds in all accounts which are within their spending authority.

438. The department of financial administration should provide summary data on government-wide operations to the governor, the chief administrative officer and the budget-planning officer.

439. The governor and the chief administrative officer should have ready access to all information on operational expenditures of agencies and their financial information needs should be met on a priority basis by the department of financial administration.

440. The treasurer should file each month a report to the governor and the legislature on the balance in each fund of the Commonwealth and changes which have taken place during the reporting period.

441. The treasurer's monthly report also should include a complete report on the status of any investments.

442. The director of financial administration should verify independently the cash balances in the treasurer's monthly report and certify them to the governor and the legislature.

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LEGISLATIVE PROGRAM

443. The legislature should enact a comprehensive Commonwealth government act as one of the first pieces of legislative business in the 1978 session.

444. The legislature should adopt rules respecting officers, committees, comity of relations between the senate and the house of representatives, staff, type of legislation, and related matters; it should also adopt existing rules pertaining to floor procedures.

445. The legislature should enact a law to establish a process for determining those laws that are in effect on the effective date of the constitution.

446. The legislature should enact during its first annual session a Commonwealth code of laws act; such act should require the compilation of a code of laws; and the attorney general should be the responsible official for preparation of the code and its submission no later than two years from the effective date of the act to the legislature.

447. The attorney general should review the substance of laws in force in the Commonwealth and propose revisions of such laws; there should be established a Commonwealth law revision commission to assist and advise the attorney general.

448. The legislature should enact a comprehensive Commonwealth planning/budgeting act to assure an orderly and unified process for the adoption of the annual budget and for land use, social and economic planning.

449. A public corporation control act should be enacted; it should establish standards of public accountability for public corporations pertaining to budget, financial matters, major new activities, and personnel; the act should apply to all public benefit corporations other than the Marianas Public Land Corporation and the Marianas Public Land Trust.

450. The legislature should enact a Commonwealth federal program coordination act requiring a federal grant application to be subject to the approval of the governor or his designated representative in the executive office; that persons employed by the Commonwealth utilizing federal funds in whole or in part be part of the civil service and subject to the general direction of the civil service commission and Commonwealth department heads; and that a federal grants coordinator be appointed by the governor in the office of planning/budget.

451. The governor should establish a liaison office in San Francisco to assure effective grants coordination with Region IX of the federal government.

452. The legislature should enact legislation terminating automatically the term of each member of a board, commission or authority for which there is a fixed term of office that is carried over into the new government unless the governor within a ten-day period following the effective date of the legislation reappoints the person for the balance of his or her unexpired term; each such reappointment should be subject to the advice and consent of the senate which action must be taken no later than fifteen legislative days following receipt from the governor of notice of reappointment.

453. The legislature should enact an administrative procedures act; it should include establishment, under the attorney general, of a Commonwealth Register to be the official publication document of official notices, regulations, and executive orders of the governor; the act should provide for official compilation of agency rules by the attorney general; it should establish standards for adoption of agency rules and regulations,

454. The legislature should enact a Commonwealth contract and purchases act to establish the requirements for letting contracts, advertising and bids, purchase orders, financial controls, and related matters.

455. The legislature should review the election laws that are in force and effect in the Commonwealth and should enact in 1979 appropriate amendments or revisions.

456. The legislature should enact as soon as possible after it first convenes an interim executive authority act; the act should include discretionary authority to the governor to transfer functions, to reassign personnel within the executive branch, to assign persons to serve as assistants to the governor in the executive office of the governor; it should make the office of transition studies and planning a part of the executive office; it should authorize the governor to establish interim advisory commissions and boards; it should grant the governor discretionary authority to reprogram funds within specified limits and for specified purposes; all actions taken pursuant to this legislation should be communicated to the legislature promptly; the act itself should expire no later than ninety days after its effective date unless extended for more than two successive ninety-day periods by affirmative action of the legislature.

457. The government enabling act creating the permanent infrastructure for the government should provide that agencies of government that are not intended to be permanent be designated as non-permanent agencies and that they may be discontinued by reorganization plan of the governor or that they automatically cease to exist no later than five years from the date they are created unless they are renewed by legislative action.

Not a priority

458. For those instruments of government for which a longer but still not permanent life is desired, the legislature should specifically designate the period of years that the agency should be allowed to exist before it may be discontinued by action of the governor through the organization act, automatically.

459. The legislature should enact a statute to provide for the design, approval and use of the official seal of the Commonwealth.

460. The legislature should enact a freedom of information act that assures citizen access to public records while protecting specified classes of documents; administration of the act should be assigned to the attorney general.

461. The legislature should enact a public meetings and records act to assure that most public meetings, including legislative sessions and legislative committee meetings are open to the public and that notice is given of public meetings.

462. The legislature should enact ethics legislation that establishes a code of conduct for public officials and that provides a standard of behavior for persons in positions of public trust.

463. The legislature should enact an eminent domain act. Determinations of condemnation awards and related matters affecting the acquisition of private property should be within the jurisdiction of the land division of the Commonwealth trial court.

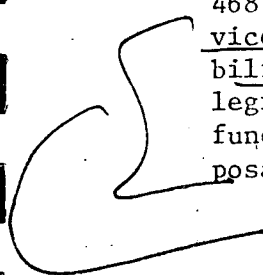
464. The legislature should enact a comprehensive historic landmark and cultural preservation act and the act should contain strong penalties for violations.

465. The legislature should enact a land-use planning and zoning act and authorize within that act subdivision control regulation.

466. The legislature should adopt appropriate building codes modified to the particularized needs of the Northern Mariana Islands.

467. The legislature should enact comprehensive legislation to preserve, protect and enhance for the benefit of the Commonwealth its natural and marine resources and the submerged lands within its jurisdiction.

468. The legislature should enact legislation to create a public services agency with authority and fiscal capacity to assume responsibility for electric power on Saipan and, with appropriate subsequent legislative approvals, assumption of responsibility for other power functions, for delivery of pure water supplies, and for sewage disposal.



469. The legislature should establish an advisory commission on utility rates and standards of service respecting telecommunications and utility functions of the department of public works; such a commission should be organized as a public services commission at the time the public services agency is established.

470. The legislature should authorize the incorporation of a Marianas development bank and a Marianas development corporation for the purpose of assuring maximum utilization of economic development loan funds and other resources, and to encourage private investment and growth in the Commonwealth.

471. As part of the law revision process, the statutes governing private business associations and partnerships, corporations and not-for-profit and membership corporations should be revised and re-enacted.

PART II

ORGANIZATION OF THE COMMONWEALTH GOVERNMENT

ORGANIZATION OF THE COMMONWEALTH GOVERNMENT

Chapter One

GOALS FOR THE GOVERNMENT SYSTEM

Part II of the report of the Institute of Public Administration proposes a structure for the government of the Commonwealth of the Northern Mariana Islands. It presents an organization strategy for the judicial, legislative and executive branches and the independent agencies within the framework of the constitution. The report is not a detailed guide to all internal parts of the government. It is complemented by parts on the administration of the Commonwealth government and a proposed legislative program, and selected drafts of legislation. *

The organization establishes a delivery system of public services in the executive branch and a decision-making system by which plans are made, programs are assessed, policies are determined, and resources are allocated.

The report proposes organization for the Commonwealth trial court. Action taken during October 1977 by the U. S. Congress authorizing a U. S. District Court for the Northern Mariana Islands renders unnecessary the establishment at this time of a Commonwealth appeals court or the vesting in the trial court of plenary jurisdiction.

The report proposes organization for the Commonwealth legislature, including committees of the senate and house of representatives, joint committees of the two houses, staffing of the legislature, and procedures for the conduct of legislative business.

The government must respond to issues of social, economic, and physical development. This report is designed to accommodate

recommendations in these areas and can be modified to reflect socio-economic and land-use development strategies that may be agreed upon by the new government. Flexibility in the formative period of the constitutional government is of paramount importance. The first administration of the Commonwealth, particularly the governor and his executive office, and the new bicameral legislature will need considerable latitude. The Commonwealth trial court must be organized in a way that is consonant with the government as a whole and can work harmoniously with the U. S. District Court for the Northern Mariana Islands.

The government organization proposed in Part II is based upon the requirements of the constitution and the covenant, problems of public service delivery, and opportunities for efficient management. The Institute of Public Administration has made specific recommendations where there is an appropriate basis for doing so at this time. We have indicated alternative courses of action. Additional consideration may be required before recommendations can be formalized or detailed.

Those responsible for creation of the new government under the covenant and the constitution must continually bear in mind the size of the Northern Mariana Islands. The tendency to create a larger government than is needed or can be afforded will be difficult to check. The Commonwealth of the Northern Mariana Islands will provide government services that on the American mainland would be performed collectively by a village, a city, a county, and a state. The new government cannot afford to deliver fully all of the services that the people of the Northern Mariana Islands may want or may be entitled to--at least not right away. Prudence and economy must be watchwords with respect to numbers of units of administration and personnel and levels of spending.

Goals of Government Organization

Ten principles guided the proposed structure of the Commonwealth government. These are:

- Consonance with covenant and federal and Commonwealth constitutions and laws. ✓
- Capacity to provide public services. ✓
- A scale of government commensurate with the size of the population. ✓
- Simplicity of organization and structure. ✓
- An independent government system. ✓
- Respect for unique qualities of the Islands. ✓
- Elimination of duplication and waste. ✓
- Clear lines of responsibility and accountability of government officials. ✓
- Effective government leadership. ✓
- Accessibility to and participation of the people in their government. ✓

1. The government system must assure consonance with requirements of the covenant, the constitution, and applicable provisions of the United States Constitution and statutes.

The covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States requires constitutional local self-government, separation of the three branches of government, and a popularly elected governor and legislature. The constitution adopted on March 6, 1977 establishes or requires the establishment of eligibility requirements and terms of service for major offices of the government, including that of governor, lieutenant governor,

representative to the United States, mayors, members of the senate and the house of representatives, attorney general, superintendent of education, public auditor, and judges. It authorizes or establishes special offices, boards, commissions, public corporations and departments. It provides for the appointment of heads of executive agencies and judges by the governor with advice and consent of the senate. It requires decentralized delivery of public services on Rota, Tinian, and islands north of Saipan. These and other provisions of the constitution help frame the focus of the IPA report.

*Must also respect public and corporation **
The new government must respect in spirit and law covenant and Commonwealth requirements. The concept of an independent civil service should not be thwarted by administrative procedures that encourage nepotism or a spoils system. The concept of co-equal and separate branch of government must be respected in defining the duties and responsibilities of the governor and in determining methods by which plans are presented and acted upon and funds are proposed and appropriated.

2. The government must have authority to provide necessary public services.

Capacity to act is critical. The Commonwealth government must have the necessary institutional resources to provide services. It must have capacity to administer needed new or expanded services, whether financed with federal funds or local revenues. This means legal capacity, funds, and personnel. The delivery system must be sufficient to provide protective and human services and to encourage private investment and economic development. Governmental capacity must be disciplined to encourage the private sector to provide those services which it can provide efficiently and economically.

3. The government system must be of a size and scale commensurate with the population of the islands.

The population of the Northern Mariana Islands is 15,000. Because it is a single government for most purposes, the Commonwealth government requires a structure which is relatively large for this population base. Nevertheless, the number of governmental units should reflect a scale of operations proportionate to the number of people served, retaining flexibility as the population grows and economic activities expand.

4. The government system must reflect simplicity of organization and structure.

Every effort must be made to keep the system of government simple. The Trust Territory government is not a good model--it has become too bureaucratized for the scale and diversity of its operations. The internal structure should emphasize clear lines of delegation, specialization, and accountability.

5. The government system must be integrated.

The constitution eliminated the chartered municipalities, which were established in the 1950's by the Navy and Interior Departments as subdistrict governments and the beginnings of self-government. The constitution presents an opportunity for a single, unified government providing integrated services. Each public official must perform his duties and responsibilities as a part of the whole government and not as an independent agent. This is true of legislators and mayors as well as the governor. Even where the constitution provides for separation of branches and independence of key units, such as the civil service commission and the public auditor, responsible officials must continually be alert to the respective duties and responsibilities and lines of communication of all other officials and units.

6. The government system must reflect the unique quality of the Northern Mariana Islands and their peoples.

The political traditions, long history of colonial administration and insular geography impose special demands on the Commonwealth government. The two major population groups, Chamorros and Carolinians, have strong family traditions and religious ties. The governmental system must respect the rights of the individual, the rights of the two ethnic population groups, and the rights as well of all others who reside, visit, or do business in the Northern Mariana Islands. This requires continual awareness of the needs of residents of each of the populated islands and of each group of citizens, including women, young people, and the elderly.

7. The government system must eliminate waste.

Problems of duplication of services and of waste continually arise. A certain amount of competition among government units is healthy, but needless duplication should be minimized, and the best way to start is with the basic structure of the government. One approach is to share staff and support services. Modern management techniques can be adapted, including planning mechanisms, central management controls on Saipan and the neighbor islands, and policy formulation processes. The legislature should be a model of efficient operation as well as a watchdog of administrative procedures of the executive branch.

8. The government system must establish lines of responsibility for policy formulation and program implementation.

An accepted principle of administration is well-defined delegation of responsibility and full accountability. In the past there has been confusion respecting the roles of Trust Territory

officials, the district administration, the heads of central departments, the district administrator's or resident commissioner's representatives on Rota and Tinian, and the duties and responsibilities of the chartered municipalities.

9. The government must encourage strong leadership roles.

The constitution vests significant leadership in the governor. He will have extensive appointive power for heads of executive staff and line agencies, judges, and members of boards and commissions. It is also clear that the legislature does not run the daily operations of boards but it has substantial oversight of how the government is run. Different qualities of leadership are to be applied in the separate branches and at different levels of operation.

10. The government system must provide accessibility of the people to decision makers, and their full participation in the government.

The constitution provides for representation of the people in the executive branch. The governor, lieutenant governor, and representative to the United States are popularly elected. The constitution creates a governor's council composed, inter alia, of the elected mayors of the several islands. Constitutional duties of the mayors include recommending items for the proposed executive budget and reviewing the quality of services delivered to their constituents. The constitution also creates the office of executive assistant for Carolinian affairs to serve the interest of the Carolinian minority in the executive branch. The legislature is a representative body comprised of elected senators and representatives.

The constitutional safeguards of recall, referendum, initiative and election are part of the system of citizen participation. A democratic system of government must afford opportunity for all groups to

participate in planning, appropriation of funds, making of laws, and location and timing of public improvements. To effectuate opportunities for citizen participation representative planning units, task forces and related instruments can be exploited. None substitute for the political process. There should be intimate and continual contact between the governor and the people of all the islands.

Issues in Government Organization

Neither local nor state government models in the American mainland system are fully applicable to the Northern Mariana Islands. The size of the population to be served by the Commonwealth government is distinctly that of a small town or county, but the range and extent of public services require more complex structural arrangements.

Officials who are not accountable to the people through the political system resist change and innovation. American models of government have endeavored to achieve this balance through the city/county manager system under which an elected county or municipal council appoints a professional manager to conduct day-to-day government operations. In addition, certain public service functions have been traditionally structured in cities and states for insulation from political control, typically planning, school administration, and transportation. The means for insulating these functions have included elected boards, multi-membered policy-making bodies with established terms, and public corporations. The result has been to reduce the influence that popularly elected chief executives or legislators might otherwise wield.

Strong executive control by a chief executive, i.e., governor, frequently conflicts with responsibility and power delegated to heads of agencies or to autonomous boards and commissions. When

centralized mechanisms for planning and oversight are limited, greater responsibility for budget formulation and policy-making vests in line agencies. In these cases direct links between line agencies and the legislative body are more likely.

The principal staff and line functions of the executive branch are grouped into agencies and boards. By "staff" is meant functions that support delivery of public services, formulate policy or oversee operations. By "line" is meant the functions that directly provide services to the people. Education, health, and public utilities are line functions; legal services within the office of the attorney general, personnel, and budget-making are staff functions. Traditional public administration models distinguished sharply between staff and line; contemporary ones recognize areas of overlap. In the case of the structure of the executive branch of the Commonwealth, this issue has been manifest in the placement of the planning and development function. One approach is to emphasize planning and development as a function of line agencies. An alternative is to emphasize comprehensive planning through a central planning or development instrument.

The constitution specifies appointment by the governor of the attorney general, the public auditor, board of education, and civil service commission. These are parts of the executive branch but gubernatorial control is less than it is over most line and staff agencies and offices. The Mariana Public Land Corporation also is independent. One issue is how cooperation can be promoted among agencies, particularly between executive branch and independent agencies. A second issue is how to establish appropriate relationships among the three branches of government.

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Public authorities (that is, public benefit corporations) have been used for the financing and delivery of such public services as housing, airports and fishing industry. They vary enormously in

American experience in form, membership, fiscal capacity, taxing authority, ability to incur debt, and structure. The fiscal and managerial advantages of public authorities may be offset by questions of basic control of public services and fragmentation of service delivery. Degrees of autonomy from the governor and legislature should be plainly stated and desired controls should be instituted and respected.

The constitution requires the decentralized delivery of public services on Rota, Tinian, and the islands north of Saipan. This recognizes the individuality of the islands of the Commonwealth and unique local conditions. Fundamental gaps in communication and control, particularly in the office of the resident commissioner's representatives, must be overcome. Demands for local control compete with goals of uniform and efficient public services throughout the Northern Mariana Islands. The constitutional provisions, adroitly specified to achieve a reasonable balance among these several values, require further decisions that will spark heated debate and conflict.

Training of persons in the public service of the Commonwealth is an indispensable ingredient if the new government is to survive. The Trust Territory and district governments have made extensive use of expatriates in executive positions. Certain key executive and technical positions should be recruited off-island until more persons of Northern Mariana descent have completed graduate and professional training and have acquired sufficient expertise. Problems of recruitment (never an easy task in seeking quality professional personnel) must be confronted, as well as the design of appropriate salary and benefit packages.

The government must have as an integral part of its structure a management system which provides, on a continuing basis,

expertise to and control of agency administrators. This capability should reside in the executive office of the governor, easily accessible to central departments and to operations on the separate islands. The governor's office should be looked upon as a source of policy leadership and as a resource for effective performance.

Many other hard issues must be confronted and resolved pertaining to: ^{OK} ~~person~~ executive salary levels, training of public employees at all levels from executive management through first-line supervision, development and rigorous enforcement of codes of conduct, establishment of a nonpartisan civil service, comprehensive integrated budget-making, financial administration and controls, methods for citizen participation, and respect for and protection of human rights.

3195-01

CONSTITUTION OF THE NORTHERN MARIANA ISLANDS

4534

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

On February 15, 1975, the Marianas Political Status Commission, the duly appointed representative of the people of the Northern Mariana Islands, and the Personal Representative of the President of the United States signed a Covenant, the purpose of which is to provide for the eventual establishment of a Commonwealth of the Northern Mariana Islands in political union with the United States of America. This Covenant was subsequently approved by the Mariana Islands District Legislature and by the people of the Northern Mariana Islands voting in a plebiscite. The Covenant was approved by the Congress of the United States by joint resolution approved March 24, 1976 (Public Law 94-241; 90 Stat. 263).

In accordance with the provisions of Article II of the Covenant, the people of the Northern Mariana Islands have formulated and approved a Constitution which was submitted to me on behalf of the Government of the United States on April 21, 1977, for approval on the basis of its consistency with the Covenant and those provisions of the Constitution, treaties and laws of the United States to be applicable to the Northern Mariana Islands. Pursuant to the provisions of Section 202 of the Covenant, the Constitution of the Northern Mariana Islands will be deemed to have been approved by the Government of the United States six months after the date of submission to the President unless sooner approved or disapproved.

The six-month period of Section 202 of the Covenant having expired on October 22, 1977, I am pleased to announce that the Constitution of the Northern Mariana Islands is hereby deemed approved.

I am satisfied that the Constitution of the Northern Mariana Islands complies with the requirements of Article II of the Covenant. I have also received advice from the Senate Committee on Energy and Natural Resources and the Subcommittee on National Parks and Insular Affairs of the House Committee on Interior and Insular Affairs that the Constitution complies with those requirements.

Sections 1003(b) and 1004(b) of the Covenant provide that the Constitution of the Northern Mariana Islands and the provisions specified in Section 1003(b) of the Covenant shall become effective on a date proclaimed by the President which will be not more than 180 days after the Covenant and the Constitution of the Northern Mariana Islands have both been approved.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim as follows:

Section 1. The Constitution of the Northern Mariana Islands shall come into full force and effect at eleven o'clock on the morning of January 9, 1978, Northern Mariana Islands local time.

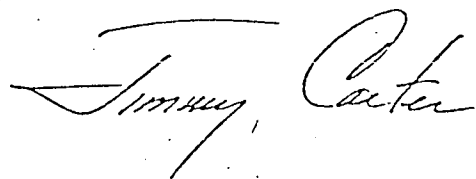
Sec. 2. Sections 102, 103, 204, 304, Article IV, Sections 501, 502, 505, 601-605, 607, Article VII, Sections 802-805, 901 and 902 of the Covenant shall come into full force and effect on the date and at the time specified in Section 1 of this Proclamation.

Sec. 3. The authority of the President under Section 1004 of the Covenant to suspend the application of any provision of law to or in the Northern Mariana Islands until the termination of the Trusteeship Agreement is hereby reserved.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of October, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.

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ORGANIZATION OF THE COMMONWEALTH GOVERNMENT

Chapter Two

ORGANIZATION OF THE JUDICIARY

Constitutional Provisions

Article IV of the constitution vests the judicial power of the Commonwealth in a judiciary of the Northern Mariana Islands. The legislature is to establish a Commonwealth trial court with jurisdiction

. . . over civil actions except those in which the value of the matter in controversy exceeds five thousand dollars. The court also has original jurisdiction over criminal actions except those in which the defendant, if convicted, may be fined an amount that exceeds five thousand dollars or imprisoned for a term that exceeds five years. For at least five years after the establishment of the court, actions involving land shall be considered by a special division of the court.

The jurisdiction of the Commonwealth trial court includes ex parte and in rem matters, other than matters that are under the exclusive jurisdiction of the United States District Court for the Northern Mariana Islands (see article IV of the covenant and article IV of the constitution). After five years the legislature may vest additional jurisdiction in the Commonwealth trial court and may establish an appeals court; it may take both actions at an earlier date if the U. S. District Court for the Northern Mariana Islands has not been made available under article IV of the covenant.*

The constitution provides, "At least one full-time judge of the court shall be assigned to Rota and at least one full-time judge of the court shall be assigned to Tinian." Judges are to be appointed by the governor with senate advice and consent for initial six-year terms (terms may be extended by law to twelve years after a judge has served

* Authorization for the district court was taken by the U.S. Congress in Public Law 95-157 approved by the President on November 8, 1977

one term). Judges must be at least thirty years of age, citizens or nationals of the United States, "and possess other qualifications provided by law."

Existing Court Structure

Types of courts; jurisdiction

The High Court of the Trust Territory, comprised of three judges who are attorneys, has a trial division and an appellate division.* A single High Court judge presides at sessions of the trial division. There also is a system of district courts with criminal jurisdiction involving cases in which the maximum term of imprisonment is five years or a fine not to exceed \$2,000 and civil jurisdiction involving matters that do not exceed \$1,000, and no jurisdiction over admiralty, maritime, or land matters. There is a full-time judge of the district court in Saipan. Tinian has a part-time community court judge.** Rota has a part-time district court judge. The district and community court judges are non-lawyers. Under section 4 of the schedule on transitional matters of the constitution, the district court on the effective date of the constitution becomes the Commonwealth trial court and the district court judges become judges of the trial court serving at the pleasure of the governor until he makes his appointments to the Commonwealth trial court under article IV, section 4. Cases pending before the district court "shall become matters pending before the Commonwealth trial court. Civil and criminal matters pending before the High Court of the Trust Territory of the Pacific Islands on the effective date of the constitution that involve

* 5 Trust Territory Code (TTC) secs. 52 and 53. The trial division jurisdiction includes probate, admiralty, and maritime matters and adjudication of title to land or any interest in land.

** Under 5 TTC sec. 101 a system of community courts was established with jurisdiction over civil cases in which the value of the property involved does not exceed one hundred dollars, but no admiralty, maritime, or land matters, and criminal jurisdiction in which the punishment may not exceed a fine of one hundred dollars or imprisonment for six months, or both. 5 TTC sec. 151. Cf. Rules of Civil Procedure, Rule 22 on small claims.

matters within the jurisdiction of the Commonwealth trial court [or] (original reads 'of') the United States District Court for the Northern Mariana Islands shall remain within the jurisdiction of the High Court until finally decided." (Schedule on transition matters, section 4.)*

Case load**

In the Marianas trial division of the High Court a total of 502 cases were filed during 1976; 87 were criminal cases, 377 were civil actions, and 38 were juvenile cases. As shown in Table I, these cases represented 52 percent of the total number filed in the trial division for all districts. The average number filed monthly in the trial division for the Marianas district was 15.5 criminal cases, 61.6 civil cases, and 3.5 juvenile cases for a case load of 80.75.

For the Marianas district court, the total number of cases filed in 1976 was 1,570 divided among traffic, misdemeanors and felonies on the criminal side; regular and small claims cases on the civil side; and juvenile cases (see Table II). The data do not depict separately the cases tried on Rota and Tinian.*** Of the total cases filed in the Marianas district court, 83 percent were criminal cases; 74.9 percent were traffic cases. The average monthly case load for all

* The High Court, headquartered in Saipan, is expected to move to Ponape. One judge will remain in Saipan to handle the balance of the calendar, consonant with the transitional schedule provision cited in the text.

** A reasonable measure of expected work load for a court system is the number of cases filed. When compared to number of cases disposed of and number of cases pending at the end of the reporting period, a basic quantitative rule of thumb is provided. Certain cases may involve extraordinary input by judges, clerks, and attorneys, but as rough measures of volume-of-business the data presented serve as creditable indicators for determining judicial manpower requirements.

*** The judicial statistics reports contain data on the community courts, criminal and civil, but show a zero entry throughout for the Marianas.

Table I

TRIAL DIVISION OF THE HIGH COURT
CASES FILED IN 1976

	Criminal		Civil		Juvenile		Total	
	Number	Per- cent	Number	Per- cent	Number	Per- cent	Number	Per- cent
Marianas	87	47	377	51	38	88	502	52
Other Districts Covered <u>a/</u>	99	53	363	49	5	12	467	48
Total	186	100	740 <u>b/</u>	100	43	100	969	100

a. Marshalls, Palau, Ponape, Truk, Yap.

b. Judicial statistics reports would show a total of 737; error in addition is contained in monthly report for November.

Table II

MARIANAS DISTRICT COURT
CASES FILED IN 1976

	Total	Number	Per- cent
CRIMINAL	1,297		
Traffic		1,176	91
Misdemeanors		102	8
Felonies		19	1
CIVIL	230		
Regular		174	76
Small claims		56	24
JUVENILE	<u>43</u>		
	1,570		

district court cases was 130.8, which figure drops to 32.8 if traffic cases are excluded.* The average daily case load was 6.5; the average excluding traffic cases was 1.6.

In 1976 the total number of cases filed in the trial division of the High Court and Marianas district court was 2,072, or an average of 172.7 cases a month or 8.6 cases a day. While the data do not provide firm guidance on the likely case load of the Commonwealth trial court, they indicate the relative size of the court calendars, subject of course to wholly new types of cases that may arise, such as those pertaining to the Commonwealth constitution.**

United States District Court

Article IV of the covenant states that the United States will establish a court of record to be known as the District Court of the Northern Mariana Islands. Under section 402(a) it will have the jurisdiction of a district court of the United States ". . . except that in all causes arising under the Constitution, treaties or laws of the United States it will have jurisdiction regardless of the sum or value of the matter in controversy." It will have original jurisdiction in all other causes in the Northern Mariana Islands over which jurisdiction is not vested by the NMI constitution or laws in a Commonwealth court. In such causes the district court is considered a court of the Northern Mariana Islands ". . . for the purposes of determining the requirements of indictment by grand jury or trial by jury." Sec. 402(c)

* The monthly judiciary statistical reports from the chambers of the Chief Justice include four sets of data: cases pending first day of the month, cases filed during the month, cases disposed of during the month, and cases pending last day of month. For comparative purposes, the total number of cases filed in the Marianas trial division of the High Court during 1976 was 502; the total number of cases disposed of during the same period was 436.

** Constitutional issues that are federal in nature would fall within the jurisdiction of the U. S. District Court.

states that the U. S. District Court shall have appellate jurisdiction as provided by the NMI constitution or laws. Further, "when it sits as an appellate court, the district court will consist of three judges, at least one of whom will be a judge of a court of record of the Northern Mariana Islands.* As noted, the U. S. District Court has been authorized by Public Law 95-157, the text of which follows.

* The Analysis to the Constitution of the Commonwealth of the Northern Mariana Islands, December 6, 1976, hereinafter referred to as Analysis, notes (p. 96), "It is intended that only judges who are currently assigned to divisions of the Trial Court that are courts of record be permitted to sit as members of an appellate panel. . . a judge . . . who conducts the trial of a case, whether in the Commonwealth Trial Court or Federal District Court, be disqualified from participating in a decision on any appeal of the case. It is intended that whenever a judge from the Commonwealth Trial Court is needed to sit as a member of an appellate panel of the District Court, the District Court will notify the Commonwealth Trial Court and the Commonwealth Trial Court will appoint a judge for that purpose. This function may be delegated to the chief judge of the Commonwealth Trial Court."

Public Law 95-157
95th Congress

An Act

To create the District Court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America.

Nov. 8, 1977
[S. 2149]

Whereas section 401 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, approved by section 1 of the joint resolution of March 24, 1976 (Public Law 94-241; 90 Stat. 263), provides that the United States will establish a District Court for the Northern Mariana Islands: Now, therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby established for and within the Northern Mariana Islands a court of record to be known as the District Court for the Northern Mariana Islands. The Northern Mariana Islands shall constitute a part of the same judicial circuit of the United States as Guam. Terms of court shall be held on Saipan and at such other places and at such times as the court may designate by rule or order.

Northern Mariana Islands. District Court, establishment. 48 USC 1694.

(b) (1) The President shall, by and with the advice and consent of the Senate, appoint a judge for the District Court for the Northern Mariana Islands who shall hold office for the term of eight years and until his successor is chosen and qualified, unless sooner removed by the President for cause. The judge shall receive a salary payable by the United States which shall be at the rate prescribed for judges of the United States district courts.

District Court Judge, appointment and term. Salary.

(2) The Chief Judge of the Ninth Judicial Circuit of the United States may assign justices of the High Court of the Trust Territory of the Pacific Islands or judges of courts of record of the Northern Mariana Islands who are licensed attorneys in good standing or a circuit or district judge of the ninth circuit, including a judge of the District Court of Guam who is appointed by the President, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit to serve temporarily as a judge in the District Court for the Northern Mariana Islands whenever such an assignment is necessary for the proper dispatch of the business of the court. Such judges shall have all the powers of a judge of the District Court for the Northern Mariana Islands, including the power to appoint any person to a statutory position, or to designate a depository of funds or a newspaper for publication of legal notices.

Judges, temporary assignment.

(3) The President shall appoint, by and with the advice and consent of the Senate, a United States attorney and United States marshal for the Northern Mariana Islands to whose offices the provisions of chapters 35 and 37 of title 28, respectively, United States Code, shall apply.

United States attorney and marshal. 28 USC 541, 561.

(4) If the President appoints a judge for the District Court for the Northern Mariana Islands or a United States attorney or a United States marshal for the Northern Mariana Islands who at that time is serving in the same capacity in another district, the appointment shall, without prejudice to a subsequent appointment, be for the unexpired term of such judge or officer.

28 USC 631,
751.

48 USC 481 note.

28 USC app.

Jurisdiction.
48 USC 1694a.
USC prec. title 1.

Appellate
jurisdiction.
48 USC 1694b.

Relationship
between district
and local courts.
48 USC 1694c.

(c) The provisions of chapters 43 and 49 of title 28, United States Code, and the rules heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the United States pursuant to titles 11, 18, 28, United States Code, shall apply to the District Court for the Northern Mariana Islands and appeals therefrom where appropriate, except as otherwise provided in articles IV and V of the covenant provided by the Act of March 24, 1976 (90 Stat. 263). The terms "attorney for the government" and "United States attorney" as used in the Federal Rules of Criminal Procedure (rule 54(e)) shall, when applicable to cases arising under the laws of the Northern Mariana Islands, include the attorney general of the Northern Mariana Islands or any other person or persons as may be authorized by the laws of the Northern Marianas to act therein.

SEC. 2. (a) The District Court for the Northern Mariana Islands shall have the jurisdiction of a district court of the United States, except that in all causes arising under the Constitution, treaties, or laws of the United States, it shall have jurisdiction regardless of the sum or value of the matter in controversy.

(b) The district court shall have original jurisdiction in all causes in the Northern Mariana Islands not described in subsection (a) jurisdiction over which is not vested by the Constitution or laws of the Northern Mariana Islands in a court or courts of the Northern Mariana Islands. In causes brought in the district court solely on the basis of this subsection, the district court shall be considered a court of the Northern Mariana Islands for the purposes of determining the requirements of indictment by grand jury or trial by jury.

SEC. 3. The district court shall have such appellate jurisdiction as the Constitution and laws of the Northern Mariana Islands provide. Appeals to the district court shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The judge appointed for the court by the President shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division at any session shall be designated by the presiding judge from among the judges assigned to the court from time to time pursuant to subsection 1(b) (2): *Provided, however,* That only one of them shall be a judge of a court of record of the Northern Mariana Islands. The concurrence of two judges shall be necessary to any decision by the district court on the merits of an appeal but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure.

SEC. 4. (a) The relations between the courts established by the Constitution or laws of the United States and the courts of the Northern Mariana Islands with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus, and other matters or proceedings shall be governed by the laws of the United States pertaining to the relations between the courts of the United States and the courts of the several States in such matters and proceedings, except as otherwise provided in article IV of the covenant: *Provided,* That for the first fifteen years following the establishment of an appellate court of the Northern Mariana Islands the United States court of appeals for the judicial circuit which includes the Northern Mariana Islands shall have jurisdiction of appeals from all final decisions of the highest court of the Northern Mariana Islands from which a deci-

sion could be had in all cases involving the Constitution, treaties, or laws of the United States, or any authority exercised thereunder, unless these cases are reviewable in the District Court for the Northern Mariana Islands pursuant to section 3 of this Act. USC prec. title 1.

(b) Those portions of title 28 of the United States Code which apply to Guam or the District Court of Guam shall be applicable to the Northern Mariana Islands or the District Court for the Northern Mariana Islands, respectively, except as otherwise provided in article IV of the covenant. The district court established by this Act shall be a district court as that term is used in section 3006A of title 18, United States Code.

Sec. 5. This Act shall come into force upon its approval or at the time proclaimed by the President for the Constitution of the Northern Mariana Islands to become effective, whichever is the later date. Effective date. 48 USC 1694d.

Sec. 6. There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act. Appropriation authorization. 48 USC 1694e.

Approved November 8, 1977.

LEGISLATIVE HISTORY:

SENATE REPORT No. 95-475 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 123 (1977):
Oct. 13, considered and passed Senate.
Oct. 25, considered and passed House.



Issues Pertaining to the Judiciary

Timing of decisions on issues

It was the intention both of the covenant and the constitution to establish the judiciary of the Commonwealth by phases. The Northern Mariana Islands judiciary for the first five years would have limited trial jurisdiction and no appellate jurisdiction. After five years the jurisdiction might be expanded.* Under the language of the constitution

* The legislature is authorized by article IV, section 2 to vest additional civil and criminal jurisdiction in the Commonwealth trial court after the constitution has been in effect for at least five years; and section 3 of article IV authorizes the legislature to establish a Commonwealth appeals court after the five-year period. Article IV provides for immediate, broadened jurisdiction of the Commonwealth judiciary in the event that the U. S. District Court for the Northern Mariana Islands is not available under section 402(b) of article IV of the covenant. Cf. Public Law 95-157, 91 Stat. 1265, approved November 8, 1977.

it is unnecessary at this time to develop a specific plan for the more expanded judiciary. Further, article IV, section 2 of the constitution requires actions involving land to be considered by a special division of the Commonwealth trial court for a period of at least five years after the establishment of the court. It is unnecessary to speculate on the viability of retaining the land division at the end of that period.

The U. S. District Court will be available early in 1978; it is unnecessary, therefore, to propose an organizational plan or to draft legislation for the Commonwealth appeals court or for broadened original jurisdiction for the Commonwealth trial court.

Article IV, section 4 establishes a six-year term of office for judges but provides, as noted above, that the legislature may increase the term to not more than twelve years for judges who have served at least one term. We have deferred consideration of the twelve-year term options.

Section 402(c) of the covenant provides that "The [U. S.] District Court will have such appellate jurisdiction as the Constitution or laws of the Northern Mariana islands may provide. . ." The language of article IV of the constitution by implication vests jurisdiction over appeals from judgments and orders of the Commonwealth trial court in the U. S. District Court: section 3 authorizes the legislature to establish a Commonwealth appeals court after the constitution has been in effect for at least five years ". . . or at an earlier date if no United States District Court for the Northern Mariana Islands is available . . . to hear these appeals." While this language may be sufficient, it may be useful to make explicit the appellate jurisdiction of the District Court over judgments and orders of the Commonwealth trial court. Recommendation 1: We recommend that the legislation establishing the Commonwealth trial court

specify that all final appeals of judgments and orders of that court be decided by the U. S. District Court for the Northern Mariana Islands. This requirement does not bar motions for re-hearing or similar actions internal to the Commonwealth trial court and appropriate to the structure of the court. These matters can be specified in the rules of civil and criminal procedure of the court.

Issues to be decided

Among issues that must be determined as the constitution takes effect are the following:

- The structure, divisions, terms and parts of the Commonwealth trial court;
- The number of judges, their qualifications, salaries, and recruitment;
- The use of part-time judges;
- Provision of courts on Rota and Tinian;
- Logistical support for the court system, including buildings, law library, and court administration;
- The land division;
- Juvenile proceedings;
- Rules of the court (procedure, admission to the bar, ethics);
- Substantive revision of criminal laws; the size of juries; ~~X~~
- Related administration of justice matters: parole and probation, corrections policy, and juvenile facilities.

We address the bulk but not all of these issues, several of which should be dealt with administratively. The subject of juries should be carefully considered but is not dealt with in this report.]

Article IV, section 8 of the constitution establishes a procedure for adoption of rules of the court. These will be proposed by the judiciary and submitted to the legislature, and become effective sixty days after submission ". . . unless disapproved by a majority of the members of either house of the legislature." The constitution specifies that the rules of the High Court of the Trust Territory apply in the Commonwealth courts until the rules of the court are established.* Section 6 of article IV requires the legislature to establish an advisory commission on the judiciary whose members include lawyers and representatives of the public. While the commission has a constitutional rule with respect to the discipline of judges, it may be appropriate to authorize it to review the rules of civil and criminal procedure and juvenile proceedings and to make recommendations with respect to changes from those that presently govern the High Court.

It is also appropriate that the present members of the bar and possibly others begin prompt consideration of issues raised in this report pertaining to the judiciary and detailed procedural matters, including comity of relations between the Commonwealth trial court and the U. S. District Court for the Northern Mariana Islands, and codes of ethics. Recommendation 2: We recommend that the advisory commission be established promptly and that it undertake,

* Section 2 of the schedule on transitional matters continues in force laws that were in effect on the day preceding the effective date of the constitution, ". . . that are consistent with the Constitution and the Covenant . . . until they expire or are amended or repealed." See, E.G., titles 5, 6, 7, 8, 9, 10, 12, 13, 15 and 17 of the Trust Territory code.

inter alia, a detailed review of the judicial rules. Recommendation 3:
We recommend that the advisory commission participate in the prepara-
tion and review of a code of ethical conduct for attorneys and judges.
The IPA legislative program proposes codes of conduct for legislators
and elected and senior officers of the executive branch. These may
be appropriate bases for rules of judicial ethics.

Organization of the Commonwealth Trial Court

Four factors have guided the structuring of the Commonwealth
trial court: constitutional requirements, court administration costs,
projected case loads, and areas of specialization.

The constitution establishes a civil and a criminal juris-
diction for the Commonwealth trial court. It requires establishment of
a special division of the court for land actions.* In addition, arti-
cle I, section 4(j) provides, "Persons who are under eighteen years of
age shall be protected in criminal judicial proceedings. . ." Aside
from the requirement for a land division, the constitution does not
specifically mandate separate divisions or parts for the civil and
criminal jurisdiction of the Commonwealth trial court or for proceed-
ings involving juveniles.

Basically, the internal structure of the court should be kept
simple. We favor separate civil and criminal divisions to reflect these
factors: (1) economies of scale, continuity of proceedings, and orderly
schedules for the judges and attorneys who regularly do business with
the Commonwealth trial court; (2) specialization; and (3) the possible

* The Analysis (at p. 92) notes that "the court may provide for sepa-
rate trial of the land and non-land issues presented by a single cause
of action and may order that non-land issues that otherwise would not
be within the jurisdiction of the Commonwealth Trial Court could be
removed to the United States District Court for the Northern Mariana
Islands."

infringement of the right to a speedy trial in criminal prosecutions (article I, section 4(d)) if civil and criminal cases were placed on an omnibus calendar. That is, a combined civil and criminal division might delay criminal proceedings. Further, in the event that the legislature, pursuant to article I, section 8 of the constitution authorizes jury trials in criminal but not civil cases or vice versa, a combined civil and criminal division could cause confusion in the paneling and selection of jurors and administration of jury systems.

Assuming separate civil, criminal, and law divisions, should additional divisions be proposed? Separate divisions might be proposed for specialized civil actions: equity proceedings, in rem actions, domestic relations and probate. On the criminal side, the constitutional requirement on juvenile proceedings suggests the feasibility of a special juvenile division, perhaps an omnibus domestic relations or family division.*

Larger jurisdictions have gone to considerable lengths in establishing separate judicial units of their court system. The Analysis to the constitution at page 91 speculates that tribunals might include municipal courts, juvenile courts and specialized courts to hear particular categories of matters such as those involving immigration, naturalization, citizenship or quesetions of Northern Mariana descent. At page 95 the Analysis notes that article IV, section 3 ". . . permits the creation of other divisions of the Commonwealth trial court,

* The language of article I, section 4(j) does not mandate a separate division. The legislature ". . . may elect to spell out the procedures whereby this constitutional provision can be implemented, such as a comprehensive juvenile delinquency law. This section does not prevent the legislature from directing that certain offenders who are under the age of eighteen may be tried as adults in specified circumstances. In addition to any legislation, it is intended that the courts may interpret this provision on a case-by-case basis and give it meaningful content over time." Analysis, p. 20.

such as those for small claims, divorce and child support matters, misdemeanors or traffic violations. These divisions need not be courts of record.*

It is our judgment that the Commonwealth trial court structure be kept as simple as possible, with maximum flexibility to deal with situations and case loads as they develop. This suggests that some aspects of the structure of the court be done by legislation, some by rule, and some left to the discretion of the presiding judge. In the beginning, a simple statutory base makes the most sense. Recommendation 4: We recommend that the Commonwealth trial court initially consist of three statutory divisions: (1) a civil division, (2) a criminal division, and (3) a land division.

A review of the case load of the High Court trial division and the district court demonstrates a prima facie basis for specialized units within the basic statutory structure of three divisions, particularly traffic and juvenile matters. The court itself, once established, can best determine what separate calendars or parts are needed. Tentatively we suggest separate parts within the appropriate divisions, for traffic offenses, misdemeanors and lesser felonies, felonies, small claims, civil suits generally, probate, and equity matters.

Recommendation 5: We recommend that the Commonwealth trial court propose rules, subject to legislative review, with respect to establishment of separate parts within the statutory divisions. Recommendation 6: We recommend that the rules afford the presiding judge authority to develop an effective calendar arrangement and system of

* We have deferred in this report specific recommendations as to which courts should be courts of record and which ones should be courts not of record.

judicial assignments.* Recommendation 7: We recommend that the initial jurisdiction of a small claims part be limited to matters in which the value of the matter in controversy does not exceed \$500. Adjustments in that amount upwards or downwards can be made on the basis of experience.

Judges

Number of full-time judges

Organization of the Commonwealth trial court into three divisions, each with one or more parts, does not require one or more judges exclusively for each division or part. Sections 4, 5, 6 and 7 of article IV of the constitution, which deal with appointment, qualifications, compensation, sanctions, and limitations on activities of judges, do not mandate the appointment of a particular number of judges. Section 7 prohibits full-time judges from holding another compensated government position or engaging in the practice of law. This implies that there may be part-time judges** --an assumption that is reflected in the Analysis, quoted infra. Section 2 of article IV of the constitution does establish, however, a minimum number of full-time judges for the Commonwealth trial court: "At least one full-time judge of the court shall be assigned to Rota and at least one full-time judge of the court shall be assigned to Tinian." The analysis to the section states:

* A juvenile part presumably would be under the criminal division perhaps with the name "juvenile court." As noted, it may be desirable to incorporate the juvenile court into a broader family court.

** Part-time judges should meet the qualifications for judges in article IV, section 4 of the constitution, a topic discussed below.

The rules promulgated pursuant to Section 8 of this article could require the temporary transfer of judges sitting in Rota or Tinian or on the land division to other judicial duties as warranted by their work loads. This would permit the legislature to provide for only two full-time judges at the outset and to handle the case load in Saipan with those full-time judges, to the extent they were not occupied in Rota or Tinian, and with supplementary part-time judges. The requirement that a full-time judge sit in Rota and Tinian does not mean that the judge has to spend full time in Rota and Tinian. This provision permits the court to establish regular sessions, such as one week per month or one week every two months, in which a full-time judge will sit in Rota and Tinian. These judges could then spend the remainder of their available time hearing cases in Saipan.*

Constitutional requirements, the fact that all trials in the Northern Mariana Islands have been handled by one full-time judge of the High Court trial division and one full-time district court judge and part-time judges on Rota and Tinian, and the case load data displayed earlier provide a basis for estimating the number of judges that may be required initially for the Commonwealth trial court. The fact that there will be available a U. S. District Court dealing with federal constitutional issues and major civil and criminal disputes relieves the Commonwealth of the expenses of what otherwise might be a heavy investment in judicial personnel.**

The report of the committee that drafted article IV of the constitution was cognizant of the cost element:

. . . the committee is concerned about reducing the cost to be borne by the Commonwealth taxpayers. A fully developed local judiciary would be expensive to support, given the limited population in the Commonwealth. By

* Analysis, op. cit., p. 94.

** The case load for the High Court trial division included certain actions and prosecutions that would be within the jurisdiction of the U. S. District Court.

permitting the United States District Court for the Northern Mariana Islands to conduct some trials and all appeals involving local matters at the ousset, the Constitution would produce substantial monetary savings for the Marianas people. Since the federal government will fund the District Court, the committee concluded that this opportunity to conserve the limited resources available to the Commonwealth should not be bypassed.*

Recommendation 8: We recommend that the Commonwealth trial court consist initially of two full-time judges. Two full-time judges would handle all matters within the jurisdiction of the Commonwealth trial court in Saipan, Rota and Tinian, including special duties on the U. S. District Court. Logistical arrangements can be devised with respect to the division of time spent by the full-time judge for Tinian and the full-time judge for Rota between time spent on Rota and Tinian and on Saipan to assure consideration of cases in all three locations. One arrangement would be for each judge to spend one day a week on the respective island and the balance of the week in Saipan.** The schedule could be adjusted so that there is always one judge present in Saipan.

Judges not only preside at trials; they also write opinions and orders, review written materials and petitions, and handle administrative matters. We are cognizant of these responsibilities but see no basis for predicting that two full-time, hard-working judges cannot do all these things while assuring a high-quality performance of the Commonwealth judiciary. A leading study of court management noted:

* Report to the Convention of the Committee on Governmental Institutions, Committee Recommendation No. 2: The Judicial Branch of Government, October 27, 1976, p. 4.

** Cf. Analysis, op. cit., p. 94 quoted supra.

The absence of statutory specialization does not prohibit specialization by assignment. A court can still assign certain judges to criminal, other judges to civil, and still other judges to equity work. Case specialization by assignment provides a mechanism for matching needs, interests, and competencies . . . specialization by assignment provides a control mechanism for monitoring results.*

It may be desirable to consider the appointment of a part-time judge to deal with traffic violations and possibly small claims. One alternative not presented as a formal recommendation would be to appoint the present district court judge in Saipan as a Commonwealth trial judge on a full-time basis to handle small claims, traffic violations, and other lesser offenses. The use of referees may be a third alternative.

Qualifications

Article IV, section 4 of the constitution provides, "A judge shall be at least thirty years of age, a citizen or national of the United States, and possess other qualifications provided by law" (emphasis added). The analysis states, "Although the language of this section does not explicitly require that Commonwealth judges be attorneys, it is intended that all judges have legal training. This section affords the legislature the flexibility to define precisely what legal training will be required.**

The report of the Committee on Government Institutions of the Constitutional Convention stated:

. . . The committee's proposed language does not require that Commonwealth judges be lawyers. The committee expects

* Ernest C. Friesen, Edward C. Gallas and Nesta M. Gallas, Managing the Courts: Indianapolis, Bobbs-Merrill, 1971, p. 178.

** Analysis, op. cit., p. 97.

that all judges will most probably be attorneys. The committee believes, however, that the flexibility to define the precise scope of legal training necessary should be given the legislature. That body could then determine whether graduation from an accredited law school, admission to a bar in the United States or either, would be necessary to satisfy the legal training requirement. The committee intends that a Marianas resident who has been graduated from any law school will be deemed to have received training at an accredited institution.*

The High Court judges are attorneys. The judges of the U. S. District Court for the Northern Mariana Islands will be attorneys. Section (b)(2) of the federal act establishing the U. S. District Court for the Northern Mariana Islands authorized temporary assignment, inter alia, of ". . . judges of courts of record of the Northern Mariana Islands who are licensed attorneys in good standing . . ." The present judge of the district court in Saipan and the two part-time judges in Rota and Tinian are not attorneys. Indeed, non-lawyers serve as judges of district and community courts in other parts of the Trust Territory. The American judicial system recognizes non-lawyers as judges, including justices of the peace and traffic court judges. There are facilities for training non-lawyers who serve in judicial positions.

A requirement that judges be attorneys would constitute a fundamental recognition that even for minor criminal or civil cases the skills of the trained lawyer are prerequisite to effective administration of justice. This is true despite the constrained initial jurisdiction of the Commonwealth judiciary. The fact that the dollar value of a controversy between two citizens may be small does not lessen the importance of a quality adjudication of the dispute. Further, federal constitutional issues may be posed if a person is tried in a criminal proceeding before a lay judge.

* Report, op. cit., p. 11

We have concluded that the legislature in establishing the judiciary of the Northern Mariana Islands should adopt a high standard of professional quality in the selection of judges. Recommendation 9: We recommend that Commonwealth judges be attorneys and that the following statutory qualifications be required in the nomination and appointment by the governor of the judges of the Commonwealth trial court:

1. Graduation from an accredited law school in the United States or a commonwealth or territory of the United States. It may be argued that restricting graduation to an American law school is counter-productive in view of available law training facilities in New Guinea and elsewhere. Given the close ties of political union and the inter-related judicial referrals, it is our judgment that the Northern Mariana Islands judicial system should reflect American jurisprudence as closely as possible; graduates of American law schools would have better command of American constitutional, federal procedures, and common law practices and principles, even though it may be expedient in some instances not to limit law school training to American law schools. We do not propose that only graduates of American law schools be eligible for admission to the Northern Marianas bar.] * *See push w/ Pass + Certio*

2. Admission to practice before the bar of the Trust Territory of the Pacific Islands or admission to practice before the bar of a state, territory or possession of the United States and eligibility for admission to the bar of the Trust Territory. There may be instances in some states in which a sitting judge who also is an attorney and admitted to practice is not a graduate of a law school, although that situation is diminishing in American practice.* Should there be a statutory requirement that a judge of the Commonwealth trial court be

* Reading for the law was a practice in the nineteenth century, but is rare today.

admitted to practice before the Trust Territory bar? Should eligibility for appointment as a Commonwealth trial court judge include prior admission to the Trust Territory (or eventually the NMI) bar? Prior admission might be stated as one year or more, virtually precluding the appointment of an attorney who had no prior Trust Territory legal practice. That is not a residence requirement but would have much the same effect. The number of persons presently admitted to practice in the Trust Territory is small, probably under 200. A smaller number are practicing attorneys in the Northern Mariana Islands. The constitution itself does not mandate this criterion as a qualification for judicial service. If the goal in recruitment of judges for the fledgling court is quality, then such a criterion would be inappropriate. Recruitment should favor local residents if the quality of appointments to the bench is not diminished. We have concluded that admission to the bar of a state, territory or possession of the United States and eligibility for admission to the local bar is the more reasonable means of meeting the desired standard for the bench.

3. Active practice for a minimum of five years as a trial attorney or a minimum of two years of service as a judge of a court of record with jurisdiction at least comparable to either the civil or criminal jurisdiction of the Commonwealth trial court or a combination of legal practice, research, court administration, or law school teaching for a minimum of ten years. Familiarity with trial practice on either side of the bench is a preferred basis for appointment. In those instances, however, where a lawyer has a fine record of law school teaching, service in a legislative or a research body, or extensive court administration experience, he may be a suitable candidate.

4. No person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States may be eligible

for service as a judge of the Commonwealth trial court. This language conforms to the criterion established for the qualifications of the governor and lieutenant governor under article III, sections 2 and 3 of the constitution.

We recognize the desirability of selecting for judicial service persons of Northern Mariana descent. The report of the Committee on Government Institutions of the Constitutional Convention noted:

The legislature's decision would, the committee believes, turn on the Commonwealth's initial experience with its courts and on the presence within the Northern Mariana Islands of persons qualified to be judges. Although the committee is generally sympathetic with residency requirements for legislative and high executive officials, it does not want to impose any such requirements for the judicial branch during the first years of the new Commonwealth. Leaving the matter to legislative discretion will enhance the Commonwealth's ability to secure the best qualified judges and preserve the opportunity to impose such restrictions in the future if they appear desirable.*

The number of attorneys who are also residents of the Northern Mariana Islands is quite small. If one were to impose as a statutory requirement that the candidate be a person of Northern Mariana descent, the number of potential candidates would be constrained even further. A residence requirement imposed at the present time would constrain the recruitment of highly qualified persons for service as Commonwealth trial judges. Recommendation 10: We recommend that no Northern Mariana Islands residence requirement be imposed as a condition of appointment as Commonwealth trial judge.

It is important that the governor have before him a creditable number of highly qualified persons at the time he makes his

* Report, op. cit., pp. 10 and 11.

appointments. Otherwise, it is likely to be months or even a year before recruitment could be completed by the new governor. No commitment can be made to any person to serve on the new court prior to the actual installation of the new government and the necessary implementing legislation, but a good start can be made in locating candidates. Recommendation 11: We recommend that an intensive search be initiated to locate suitable candidates for judges of the Commonwealth trial court.^{*}

Even if an early search process is undertaken, it may be difficult for the new governor to nominate persons for full terms early in his administration. The constitutional provision on the hold-over of current district court judges assures short-term continuity of judicial proceedings pro tempore. Recommendation 12: We recommend that the new governor consider as an alternative securing of a highly qualified attorney who would be willing to serve for an interim period.^{**}

Part-time judges

We believe that two full-time judges would be sufficient to handle all matters that are likely to come before the Commonwealth trial court during its initial period. The legislature may choose to authorize one or more part-time judges in addition to the full-time judges. In such event, some modification of the proposed statutory qualifications may be appropriate. Recommendation 13: We recommend that the eligibility criteria for appointment as a Commonwealth trial

* As part of an early search process, IPA has secured expressions of interest from potential candidates.

** All appointments are for six-year terms. The interim judge might wish to announce, at the time of his nomination, his intention to resign prior to the end of the full term.

judge be modified with respect to any part-time judges that may be authorized to two years of prior legal practice. This would permit appointment to such positions of younger attorneys who are residents of the Northern Mariana Islands once such a person reaches thirty years of age, but it would not waive the critical requirement of law school training and admission to the bar. Note that we are not recommending the immediate establishment of part-time judgeships.

Expertise in land matters

One part of the jurisdiction of the Commonwealth trial court is land matters, a highly specialized area. Recommendation 14: We recommend that the governor recruit at least one of the two proposed full-time judges from among candidates possessing special qualifications to deal with land matters.

Compensation of judges

Article IV, section 5 of the constitution specifies that judges' compensation be provided by law and not decreased during a term of office. Compensation may include salary and allowance for expenses. Article III, section 10 of the constitution contemplates the creation of an advisory commission established by law to make recommendations concerning the compensation of Commonwealth executive, legislative and judicial officers. The recommendations of an advisory commission are a prerequisite for salary changes for members of the legislature (article II, section 10) and the governor and lieutenant governor (article III, section 5). The legislature could provide that no changes in the salary of judges be made except upon the recommendation of such an advisory commission, but that is not required by the constitution. Further, as noted in the Analysis (p. 98), the legislature may make changes in judicial salaries,

"contrary to any recommendation of the commission." Since the initial annual salaries of senators, representatives, the governor and the lieutenant governor are all established in the constitution, the advisory commission may not be established for several years, that is, until the expiration of the initial set of terms of these elected officials.

The judges of the High Court of the Trust Territory are American citizens compensated at a rate that reflects the existing wage structure for nonlocal hire. The full-time judge (local hire) of the Marianas district court sitting in Saipan is paid \$9,000 annually. The part-time judge on Rota receives \$3.54 per hour; the part-time judge on Tinian receives \$1.47 per hour.

In determining an appropriate salary scale for the judges of the Commonwealth trial court, factors to be weighted include the following:

- ° Comity among salary scales for the governor, lieutenant governor, judges, agency heads of the executive branch, and presiding officers of the senate and house.

- ° A salary scale sufficient to recruit qualified persons meeting constitutional and statutory criteria for judges of the Commonwealth trial court.

- ° Comparability of earnings of attorneys practicing in the Northern Mariana Islands, the Trust Territory, and Guam. Comparability includes lawyers in private practice, judges of other courts, including the Trust Territory High Court, the U. S. District Court for the Northern Mariana Islands, the attorney general of the Northern Mariana

Islands and the Trust Territory, and attorneys employed by Micronesian Legal Services Corporation and the office of the public defender.

The drafters of the constitution chose to leave to legislative discretion the compensation question rather than attempt to fix an amount in the constitution, although they chose to do so with respect to senators, representatives, the governor, and the lieutenant governor.* One immediate issue is the use of the constitutionally mandated \$20,000 annual salary of the governor as a yardstick for judicial salaries. It would be unwise to employ the yardstick if that has the effect of precluding recruitment of highly qualified attorneys as full-time Commonwealth trial court judges. Given the fact that judges may be recruited initially from the states, an annual compensation (salary and benefits) limited to that of the governor's salary is inappropriate.**

Recommendation 15: We recommend that an allowance for expenses accompany the annual salary of each judge.***

Recommendation 16: We recommend that in the event a judge is appointed who is not a resident of the Northern Mariana Islands, he or she be paid salary differentials and allowances proposed for exempt positions for the Commonwealth government as a whole. This matter is further discussed in Part III.

* Article II, section 10 of the constitution states that members of the legislature shall receive an annual salary of \$8,000 and reasonable allowances for expenses provided by law. The governor, as noted, is to be paid \$20,000 annually and the lieutenant governor \$18,000.

** Associate Judge Robert A. Hefner of the Trust Territory High Court proposed a budget of \$40,000 for the judges of the Commonwealth trial court. Letter from Judge Hefner to William B. Nabors, Esq., legislative counsel, dated February 16, 1977. Judge Hefner does not utilize the \$40,000 figure as a salary level and he may have intended that this include housing and other allowances.

*** Expenses related to transportation to Rota and Tinian, and the cost of running the court system, should not be handled as salary or expense allowances.

Recommendation 17: We recommend that in the event the legislature authorizes part-time judges, they should be paid an hourly rate of between \$5 - \$10 per hour.*

Admission to the Bar

Persons who practice before the district court or the trial division of the High Court are members of the bar of the Trust Territory of the Pacific Islands. At present there is no separate Northern Mariana Islands bar. Persons can be admitted to the Trust Territory bar on the basis of admission in another jurisdiction or upon successful completion of the multistate bar examination. The Commonwealth trial court will have the constitutional capacity to establish the rules for the court, including rules pertaining to bar admission, subject to legislative review pursuant to article IV, section 8 of the constitution. Until such rules are established the existing rules of the High Court continue to apply.

The following recommendations are made with respect to practice before the Commonwealth trial court:

Recommendation 18: We recommend that persons who have been admitted to practice before the bar of the Trust Territory of the Pacific Islands and who have not been barred from practice by virtue of disciplinary actions or other impediment be eligible to practice before the bar of the Northern Mariana Islands; and that they be required to indicate in writing on a form to be provided by the Commonwealth trial court their intention to accept admission to the Northern

* The incumbent district court judges immediately become judges of the Commonwealth trial court, serving at the pleasure of the governor until he makes his appointments under the provision of article IV. Present salary levels should continue during this period.

Mariana Islands bar and pay an annual registration fee not to exceed ten dollars.

Recommendation 19: We recommend that the active members of the Northern Mariana Islands bar organize a Northern Mariana Islands bar association, open to any member of the Trust Territory bar; and that associate membership be available to any member of the bar of any state, territory or possession of the United States. This should be a professional organization designed to facilitate the lawyers' contribution to the improvement of the law and participation in civic and community affairs.

Recommendation 20: We recommend that the advisory commission on the judiciary be established pursuant to the constitution to review in detail the existing rules governing admission and discipline of attorneys and propose rules to the Commonwealth trial court.

Land Division

The constitution mandates a separate land division. The Analysis notes that "the special division has its own calendar so that land matters do not compete with other civil matters for priority in being heard."^{*}

Adjudication of land cases has involved not only the court system but also the Land Commission. Many facets of land claims are administrative, including processing of liens, recording of deeds, etc. The constitution does not require that the Land Commission be abolished.

^{*} Analysis, op. cit., p. 95.

It may be desirable to continue it for those matters which are principally administrative or to make the Land Commission a unit of the land division of the Commonwealth trial court. Recommendation 21: We recommend that the Land Commission be made an administrative unit of the land division of the Commonwealth trial court and that such unit act as a fact finding unit on land determination matters and be the land registry unit for the Commonwealth.

Court Administration

Given the relative size of the Northern Mariana Islands judiciary, an elaborate court management system is not required. Good management and administration are essential particularly in assignments of judges and their use of time. Within the proposed structure of statutory divisions, and the potential of special parts created by judicial rule, considerable flexibility on assignments should be given the chief judge, as recommended above, to assure orderly case load management and use of court calendars to optimize operational efficiency and assignments of judges and court personnel.

Recommendation 22: We recommend that physical space and maintenance of that space be the responsibility of the public works department, and that the chief judge be consulted on space and furnishings for the court. Recommendation 23: We recommend that a single law library be established for the judicial branch to be organized as part of the Commonwealth library system by the department of education. It may be feasible for a law library to be established as part of the logistical support for the U. S. District Court for the Northern Mariana Islands. It would be desirable to begin promptly the process of building a combined law library for the courts, the attorney general, and others. This subject is being treated separately

as part of an omnibus consideration of libraries for the Northern Mariana Islands.

While it may be necessary to have an assistant clerk of court permanently located on Rota and Tinian, strong consideration should be given to a single clerk of court and possibly one assistant clerk of court who would accompany the judges when they are in session on Rota and Tinian. It may be possible to have the assistant clerk of court spend most of his time on the two islands so that there is a representative of the judicial system during periods when the court is not in session. Total administrative costs for the Northern Mariana Islands judiciary probably can be lower than the \$199,000 recommended by Judge Hefner.* It may be desirable, however, to reserve funds for specialized consultation on technical court management. The rules of the court should determine who may serve process in the Northern Mariana Islands.

Advisory Commission on the Judiciary

Article IV, section 6 of the constitution requires the legislature to establish ". . . an advisory commission on the judiciary whose members include lawyers and representatives of the public. Upon recommendation of the advisory commission the governor may remove, suspend or otherwise sanction a judge for illegal or improper conduct."

* In Judge Hefner's letter to Mr. Nabors, cited earlier, he outlined a budget with the total annual amount of \$199,000 exclusive of costs for space and maintenance of court rooms, courts officer, office space for judges, court reporters and secretaries. Of the total figure, \$120,000 was earmarked for compensation of the three proposed judges. The balance was divided among personnel (\$56,000), libraries (\$5,000), supplies (\$4,500), travel (\$1,000) and miscellaneous (appeal costs, court-appointed counsel, free transcripts: \$2,000). Total estimated costs for the court, exclusive of compensation for judges, were set at \$79,000 annually. This amount assumes three separate courts on Rota, Tinian and Saipan respectively. Three court reporters/secretaries are proposed as well as three assistant clerks of court, three janitors, and three libraries.

In addition to these constitutional duties, the advisory commission should review and propose rules of the court, help draft a code of judicial conduct and ethics, propose qualifications for admission to the bar, and advise the government on matters pertaining to the effective operation of the judiciary.

Recommendation 24: We recommend that the advisory commission on the judiciary be composed of five persons appointed by the governor with the advice and consent of the senate; that no person employed by the government be a member of the advisory commission; that of the five persons at least two be local attorneys; and that members serve for staggered three-year terms. The governor should consult with the judges of the Commonwealth trial court and the U. S. District Court for the Northern Mariana Islands on their suggestions for nominees to the advisory commission. Recommendation 25: We recommend that members of the advisory commission receive no compensation for their services on the commission but may be reimbursed for actual and necessary expenses in connection with such service within budgetary appropriations.

ORGANIZATION OF THE COMMONWEALTH GOVERNMENT

Chapter Three

ORGANIZATION OF THE LEGISLATURE

Scope of Legislative Responsibilities

The Northern Marianas Commonwealth legislature is responsible under the constitution for "all rightful subjects of legislation", a term intended ". . .to give the legislature the broadest possible grant of legislative authority."* The legislature's agenda will encompass matters formerly dealt with by the Congress of Micronesia, the Northern Mariana Islands legislature, the municipal councils, the high commissioner, the former district administrator, the resident commissioner, and federal officials.

° Legislative delegations from each senatorial district will have unique powers to enact local laws for their respective island or group of islands. The legislature will define the local laws that may be adopted by the legislative delegations from the respective senatorial districts and the local regulations which may be promulgated by the mayors.

° The legislature will be required to adopt an annual budget. New revenue measures may be required.

° The legislature in 1978 must establish the departments and agencies of the executive branch.

* Analysis, op.cit., p. 27.

- The legislature will organize its own bodies and committees, determine its professional and other staffing needs, adopt internal rules and a code of conduct, and determine methods for harmonious relations between the two houses.

- The legislature will establish the judiciary.

- The legislature will determine the structure of the civil service commission, board of education, and a parole board.

- The legislature will act on plans for development and use of resources of the Commonwealth.

- The legislature will oversee executive actions through its power to legislate and appropriate, to investigate and hold public hearings, and to confirm gubernatorial appointments.

In accomplishing this agenda the legislature must be responsive to community sensitivities while maintaining an overall Commonwealth perspective. A critical part of law-making and appropriating is to set and adhere to priorities. The legislature should review carefully the requested appropriations from the other branches. It should resist appeals for funds that will overrun Commonwealth resources. Funds available for governmental activities and programs are limited; excesses cannot be allowed. It should question the governor, his principal aides and department heads on the executive budget. It should demand of the governor and expect to receive hard data on performance and accomplishments, as well as candid display of problems and proposed solutions. The investigative authority of the senate and house should be incisively and fairly used to root out inefficiency and neglect. Civil servants should be expected to work hard or be dismissed.

The scope of legislative oversight should include all Commonwealth government matters, including programs funded through special federal grants. Despite the compassion of members, the legislature should not appropriate funds for typhoon relief of districts of the Trust Territory or of Guam. Its appropriations authority is public trust and the beneficiaries are the people of the Northern Mariana Islands. Ceremonial expenses should be minimized.

The legislature must be prudent in appropriations for all public purposes, including its own operations.* Members of the legislature under the constitution are entitled to "reasonable allowances for expenses." They should be just that, reasonable, not excessive. They should cover actual and necessary costs that members incur in connection with their services as senators or representatives. Travel to the mainland or to other places should be restricted and authorized only for good reasons. The tendency to send "emissaries" and "ambassadors" to Washington must be restrained. Official cars and personal secretaries should be minimized. Typing and clerical pools should be shared. Pages and messengers should be minimized, if not eliminated. Staff members should serve both houses wherever possible. The legislature must recruit well-qualified and hard-working professional and support staff.

The legislature should not embark at this juncture on the construction of a capitol building. The Commonwealth will inherit facilities of the Congress of Micronesia when the seat of Trust Territory government moves from Saipan; until that date the legislature, as well as the other branches of the government, can use existing

* The costs of operating the legislature have been increasing. In fiscal year 1972, total expenditures were \$105,587; by fiscal 1976 the total more than doubled to \$246,823. The budget for fiscal year 1977 is \$530,200.

buildings. The present structure can be adapted for use by the bicameral body and appropriately furnished and equipped at modest cost.

The Job of Legislator

The duties and responsibilities of each senator and representative are similar to those of a member of a state legislature. The legislator's role and his perception of it have been extensively analyzed. Briefly, the job can be divided along these lines:

- ° Study and action on legislation pending before the legislature;
- ° Specialization through membership in legislative committees;
- ° Service to individual constituents on matters affecting their well-being;
- ° Representation on the delegation committees of senatorial districts or islands in the setting of local politics and the allocation of local funds;
- ° Oversight of executive branch performance.

Legislating is a political activity. It has tended in the past to emphasize localized, and relatively small issues, such as a road improvement project on Rota, or an additional teacher for Garapan. The legislature should concentrate on the growth and well-being of the economy of the Northern Mariana Islands. Much of the agricultural and fishing industries developed during the German and Japanese administrations is gone. Tourism, regarded as the most promising business in the Northern Mariana Islands in terms of attracting outside capital and income, is dominated by foreign interests. These issues are representative of the scope and complexity of the agenda which should receive the full attention of the legislature. Likewise issues with regard to the conservation, use of natural and marine resources,

the scope and quality of education of young people from elementary grades through post-secondary levels are more important than allocations for improvements in one school facility or awarding a college scholarship to a single young person.

A substantial part of the initial legislative agenda will be actions on the governmental, social and economic, and physical and land use plans that will be presented by the Office of Transition Studies and Planning. The proposals provide professional advice on how the economy can be directed toward achieving a healthy balance between public and private sector activities and how to improve the well-being of the residents. The questions they raise must be confronted.

Based on past experience, the principal legislative agenda is likely to come from the governor. The governor has the constitutional duty to formulate the budget and present it to the legislature which should consider it against local and Commonwealth-wide needs, using OTSP and other plans as guidelines in determining priorities. Legislative leaders and members will initiate bills and have the important task of changing the budget submitted by the governor or amending bills. The legislature should deal with the financial plan for the Commonwealth government through an integrated budgetary-appropriation process. The legislature alone does not determine how revenues are to be spent, and locally raised revenue cannot be considered separately from the funds available through federal assistance programs.

The concept of separation of powers places continual restraint on all three branches of government. The legislature should avoid intruding into those executive functions vested by the constitution in the governor. Legislative and investigatory authority of the senate and house should not be an excuse for running the executive branch. The legislature should not dictate executive branch

appointments beyond its power to advise and consent in specified gubernatorial appointments. It can hold hearings and issue reports that may criticize a department, but it should not tell a department head how to operate his department.

Cooperation Between Legislative and Executive Branches

Mechanisms of cooperation and review of legislative business between the legislative and executive branches of the government are needed, but they should not interfere with the separation requirement. Legislation to create a forum is not needed, and an informal, flexible arrangement is preferable. Recommendation 26: We recommend that the legislative leaders and the governor meet regularly to review pending and proposed legislation and the budget and to resolve differences between the two branches.

Legislative Conference

Recommendation 27: We recommend that as soon as elections for the first Commonwealth legislature have been held in December 1977, a pre-legislative conference be convened of senators and representatives-elect of the Northern Mariana Islands; or, alternatively, that the conference be held on or about the effective date of the constitution. During the two months between election date and convening of the first Commonwealth legislature, draft rules should be designed by the conference, for early consideration and action when the legislature convenes. The precedent for such an approach was the pre-convention committee for the constitutional convention. That same time period can be utilized to establish legislative priorities, drawing on plans of OTSP. Recommendation 28: We further recommend that the Northern Mariana Islands legislature in cooperation with the resident commissioner authorize the pre-legislative conference and appropriate funds for consultants and staff as appropriate; or if

that is not done by the effective date of the constitution, that the authorization be by the Commonwealth legislature. Professional support can be provided by the Office of Transition Studies and Planning and its consultants.

The conference format also can be used on a permanent basis to initiate a regular service of briefing for legislators on substantive policies and plans. Recommendation 29: We recommend that a permanent legislative conference be established by law for the Commonwealth legislature. Given the increase in duties and responsibilities, senators and representatives should be well-informed on all facets of government and the economy of the Northern Mariana Islands. The conference can facilitate information exchange for the benefit of members and members-elect. Participants would include governmental administrators, federal officials, private businessmen, outside experts, and others. Seminars, special discussions, lectures, even college level training have become an important component of the legislative process in several of the states. New York State's legislature, for example, has created the Legislative Institute within one of the universities. It provides professional briefings on such matters as energy and environmental problems. New members of the U. S. Congress are oriented to their job through professionally organized seminars by the Library of Congress' Congressional Research Service.

Proposed Rules

Part V of the IPA report contains draft rules for the legislature. They address critical areas of constitutional responsibilities and bicameralism. These rules can be adopted in part by each house under article II, section 14(b) of the constitution, or the two houses may adopt joint rules by concurrent resolution in legislature. For

some matters it may be preferable to proceed by way of legislation. (See the discussion on this subject in Part IV.)*

Summary of Proposed Rules

These draft rules are items for consideration by the conference. They are summarized here as recommendations on organization of the legislature. See Part V for text of rules.

President of the senate

Recommendation 30: We recommend that a senate president be elected from among the senators pursuant to article II, section 14(b) of the constitution. There is no necessity to create a permanent position of vice president or temporary president. For a body of nine members with capacity to fill temporary or permanent vacancies, a single presiding officer will suffice. Recommendation 31: We recommend that the president be authorized to designate any other senator for temporary duty as presiding officer. Recommendation 32: We recommend that for absences of the president of more than ten legislative days, the senate would elect an acting president, and it would also elect a new president whenever there is a vacancy in the office.

Speaker of the house of representatives

Recommendation 33: We recommend that a speaker be elected as presiding officer of the house in a manner similar to the senate president. There is no urgent need for a vice or deputy speaker.

* Rules of the Northern Mariana Islands legislature and rules of the Congress of Micronesia appear suitable for the bulk of procedural and parliamentary matters, including consideration of bills, conduct of hearings, and floor debates.

Conference committee

7 members

Recommendation 34: We recommend that a permanent conference committee be established to reconcile differences in legislation between the senate and house to be composed of three senators and five representatives. When a different version of the same bill is passed, the house of origin will be given the option of concurring in the amendments of the other body. Likewise, if the house of origin adopts further changes, then the other body is given the option of concurring in these changes. If no identical bill emerges from this process, the bill would be referred to the conference committee. The senate and house members on the committee would vote as a bloc, that is, the senate members would cast one vote and the house members would cast one vote. (The senate members and house members would caucus separately to decide by themselves how their vote would be cast.) If the conference committee is successful in agreeing upon the wording of the bill, the matter is reported to the senate and house for final action. Of course, only a bill adopted by both houses in identical form can be presented to the governor. Recommendation 35: We recommend that the chairmanship of the conference committee rotate annually between a senate and house conference committee member.

Floor leaders

Recommendation 36: We recommend that each house elect a floor leader from among its members. The leader would serve as "traffic manager" of legislation and would make most routine motions, to consider a bill, to recess, etc. The legislature may choose to use the term "majority leader" particularly if it wishes to authorize "minority leaders." The proposed rule does not prohibit the designation informally by the political parties of floor representatives; similar actions may be taken by the legislative delegations in the senate and by the Saipan delegation in the house.

Joint committee on rules and procedures

5 members

Recommendation 37: We recommend that a permanent joint committee on rules and procedures be created to facilitate relations between the two houses and to dispose of internal matters pertaining to the legislature as a whole, to be composed of the presiding officers, the floor leaders, and a fifth member to serve as chairman. A feasible alternative may be to utilize the chairmen of the substantive committees to serve as the joint committee, but the small size of the two bodies suggests this is unnecessary. It also may be desirable to consider separate senate and house rules committees, but the joint committee approach may be the more useful means of achieving efficiency of operations and comity of relations between the two bodies. Recommendation 38: We recommend that the chairmanship of the joint committee rotate annually between a representative and a senator.

Forms of actions

Article II, section 5 and 6 of the constitution involves several types of legislation--bills, appropriation and revenue bills, and local laws. An orderly way to introduce and consider bills, as well as other actions by the legislature or the senate and house individually is needed. Recommendation 39: We recommend that six forms of actions be utilized in the legislature:

- a. bills,
- b. appropriation or revenue bills,
- c. local bills,
- d. local appropriation or revenue bills,
- e. senate resolutions or house resolutions, and
- f. concurrent resolutions.

The information that must be contained in each type of action is specified in the proposed rule. The first four items require

action by the governor. Items (a) and (b) refer to ordinary legislation and might be combined.* However, since appropriation and revenue bills may be introduced only in the house of representatives, separate categories may be desirable. Separation is rationalized further by the constitutional mandate that "Appropriation bills should be limited to the subject of appropriations." (Article II, section 5(b).) Items (c) and (d) deal with matters proposed by the legislative delegations of a single senatorial district under the provisions of article II, section 6. In addition, a method is proposed for processing such bills, and although items (c) and (d) might be combined, separate classifications may be helpful. Item (f) deals with matters internal to the legislature, such as joint rules, an expression of policy by the two houses, a memorial, and proposed constitutional amendments.** Both houses must agree on the identical wording of a concurrent resolution. Gubernatorial action is not involved. Attempts, however, to circumvent the governor's veto power under article II, section 7 of the constitution by use of resolutions or concurrent resolutions would be unconstitutional, of no force and effect, and could be challenged in a court of appropriate jurisdiction.

Enactment of local bills and local appropriations or revenue bills

This rule proposes a procedure by which the legislative delegation from a single senatorial district would exercise local law making authority under article II, section 6 of the constitution within the definition of local matters to be adopted by the legislature.

* We have not differentiated "public" or general bills from "private" bills which in the United States Congress, grant special relief to an individual or, rarely, to a private corporation. There is no prima facie need for a special category of private bills.

** Article XVIII, section 3 of the constitution provides that amendments to the constitution be initiated by the legislature ". . . may not be vetoed by the governor."

Recommendation 40: We recommend that the members of each legislative delegation comprise a committee to which may be referred local bills and local appropriation or revenue bills. Recommendation 41: We recommend that local bills and local appropriation bills be introduced only by a delegation member subject to challenge by any member of the respective body. The full senate or house would decide whether the bill is within the category of local matters to be adopted by a legislative delegation. If answered in the negative, the bill would be treated as an ordinary bill, appropriation or revenue bill.*

Recommendation 42: We recommend that action on bills referred to a delegation committee, be by majority vote of the delegation as required by article II, section 6 of the constitution. Upon adoption it would be signed by the presiding officer of the house of origin and forwarded to the governor. Recommendation 43: We recommend that local bills and local appropriation bills after adoption be presented to the governor for approval and be subject to veto, and motion to override a veto be done by the full senate and house, not by the legislative delegation.** In addition to these responsibilities, the legislative delegation committees from Rota and Tinian and Aguiguan also would act on appointments by the heads of executive branch departments of resident department heads. This is consistent with article III, Section 17(b) of the constitution.

* "If laws passed by different levels of government should conflict, it is intended that laws passed by initiative take precedence over laws passed by the legislature, which take precedence over laws passed by delegations within the legislature, which take precedence over regulations enacted by mayors or ordinances enacted by other agencies of local governments under article VI." Analysis, op. cit., p. 45.

** "This override provision applies to bills enacted by the legislature and to bills enacted by the members of the legislature from one senatorial district." Analysis, op. cit., pp. 47-48.

Local laws

This proposed rule involves delicate and complex issues involving distribution of governmental and legislative power. It attempts to define the subject matter of local laws that may be enacted by the legislative delegations or may form the basis for mayoral regulation. Recommendation 44: We recommend that the subject matter of local bills and local appropriation bills be restricted to the following:

- speed limits on local roads,
- noise abatement control,
- regulation of littering and property maintenance,
- appropriation of funds for local purposes,
- local taxes,
- curfews,
- hunting seasons,
- authorization to a mayor to expend local funds,
- authorization to a mayor to promulgate local regulations.

Legislation on appropriation bills

Prohibits riders

The intention of article II, section 5(b) (second sentence) of the constitution is to prohibit legislation in appropriation acts, commonly termed "riders." This rule suggests a way for such matters to be challenged internally and is important since the legislative determination is final and cannot be reviewed in a court. Recommendation 45: We recommend that a senator or representative be permitted to make a point of order and object to any wording in any appropriation bill during its consideration in the senate or house respectively on the grounds that it violates article II, section 5(b) (second sentence) of the constitution.

Committees of the senate and house of representatives

These proposed rules would create parallel substantive committees of the senate and house to consider bills, appropriation or revenue bills, resolutions, and concurrent resolutions. The parallel approach is proposed to facilitate joint hearings by the house and senate (see below) and to keep the overall organization of the two bodies as simple as possible. Recommendation 46: We recommend that three substantive committees be established for each house: committee on fiscal affairs, committee on programs, committee on government organization and law. The jurisdiction of each committee is specified. In the house, the Rota and Tinian representatives necessarily would serve on all three committees; otherwise, they would be unrepresented on at least two committees if single committee assignments per member were mandated throughout. (Single committee assignments is proposed for senators and for representatives from Saipan and the islands north of Saipan.)

Joint committee meetings

Recommendation 47: We recommend that joint hearings be authorized by parallel substantive committees on bills, appropriation or revenue bills, concurrent resolutions, the governor's executive budget, subjects raised in gubernatorial messages, and investigatory and oversight matters within the jurisdiction of the respective committees. Joint hearings would be authorized by concurrent resolution on a regular or ad hoc basis.

Space and furnishings for the legislature

This proposed rule minimizes "housekeeping" responsibilities of the legislature. Recommendation 48: We recommend that provision and maintenance of office buildings be the responsibility of the department of public works. The budget and appropriation acts should

detail the special facilities, furnishing, and equipment of the legislature. Responsibility for provision and upkeep should rest in the department of public works and when appropriate other executive branch agencies. The legislature should maintain property or purchase supplies independently of the other branches of government.

The legislature, its members and staff, should have access to good library and reference materials. However, it would not be economical to develop a legislative library in isolation from other reference and research centers on Saipan. For the next several years, the legislature and others in the Commonwealth government have ready access to the Trust Territory Education Library and the Library of Congress of Micronesia, and the High Court law library. Recommendations are presented in Part IV for a comprehensive library, research, and documentation system for the Commonwealth as a whole.

Done

X

out

Staff of the legislature

must also consider usability study etc.

This rule proposes a staffing pattern for the legislature. Some staff such as police and security guards would be assigned on an as-needed basis by other agencies. Processing of personnel and payroll forms would be done by the executive government departments. The legislature would not maintain internal fiscal capability. Public works would provide janitors and, if necessary, drivers.

Recommendation 49: We recommend that the senate and house each appoint a clerk to prepare the journal, bills, handle matters within the exclusive province of the respective house, and perform related assignments. Recommendation 50: We recommend that a sergeant-at-arms serve the senate and house jointly. One sergeant-at-arms can do the tasks for both the senate and house. In case of serious problems of order or locating of absent members, the police department can provide temporary assistance. (It may be feasible to eliminate the position entirely.)

Recommendation 51: We recommend that internal administration of the legislature be the responsibility of an administrative officer. The clerk of the house and the clerk of the senate would be separate from the jurisdiction of the administrative officer as a matter of respect to the prerogatives of each house. Most of the records retention, typing, bills reproduction and distribution functions of the two houses can be centralized under the administrative officer. He would organize and supervise a typing and clerical pool. Separate secretaries for the presiding officers or committees should be disallowed. Pages should be prohibited, although some clerical assistance in circulating copies of bills would be performed under the central typing and clerical pool.

Recommendation 52: We recommend that there be an office of professional services to serve both the senate and house of representatives. Full-time attorneys, a senior research associate, and a senior fiscal analyst are proposed as the basic professional staff. A small appropriation for interns also is proposed, to complement the professional staff. Over time, additional professional experts, and perhaps the retention of outside consultants may be required.

Recommendation 53: We recommend that the principle of a nonpartisan, nonpolitical professional and administrative staff be observed as strictly as possible, and that staff of the legislature be within the civil service as contemplated by article III, section 16 of the constitution. The civil service commission would establish job descriptions, recruit candidates and oversee their performance. The legislature itself should select senior staff members, such as the senate and house clerk and the legislative counsel.

Convening of The Senate and House of Representatives

Who will convene the Commonwealth legislature first and how?

Under article II, section 13 of the constitution the legislature meets on the second Monday of January in the year following a regular general election in which new members were elected. Under article VIII, section 4, all members of the legislature elected at the previous general election take office on this day. Section 12 of the schedule on transitional matters requires the first elected public officials to take office on the date the constitution takes effect. That date under the President's proclamation is July 9, 1978.

None of this poses any substantial problem for the initial convening of the legislature, but there are procedural questions that should be confronted: (1) Who shall determine the location, time and place of the initial session of the senate and house of representatives? (2) Who presides in each body? (3) What rules govern procedures of each body?

Since the Commonwealth legislature is an entirely new body the speaker and other officers of the Northern Mariana Islands legislature will have no constitutional authority. The schedule on transitional matters does not continue in force the Northern Mariana Islands legislature or its officers. Further there is the technical question of whether the rules governing the procedures of the Northern Mariana Islands legislature continue in force pursuant to section 2 of the schedule. We have indicated the urgent necessity for early agreement to be reached on structure of the two houses, choosing of officers, committees, and rules. Even where there is substantial agreement prior to January 9, 1978, all such actions must be ratified after the two houses convene. The immediate question is how to start the ball rolling?

Three alternatives may be offered with respect to assuring a dignified initial convening of the two houses in a manner consistent with the spirit and wording of the constitution.

1. The Northern Mariana Islands legislature meeting in a special session before the effective date of the constitution adopts a joint resolution designating the interim convenor of each house of the new legislature, setting the time and place of the first meeting and specifying that unless otherwise determined by the senate and house, the rules of procedure that were in force at the time immediately preceding the expiration of the Northern Mariana Islands legislature apply temporarily to the Commonwealth legislature.

2. A simple resolution is adopted by the new senate and the new house of representatives separately (or a concurrent resolution is adopted by both bodies) which is informally agreed upon by the members-elect before they take the oath of office and is ratified directly the two bodies meet. Under this arrangement the wording of the resolution specifies a time and place of meeting, the convenor and the use of present rules pro tempore. The resolution itself is honored informally until the members-elect formally adopt it as the first order of business.

3. Do nothing in advance and leave to the common sense of the senators-elect and representatives-elect the technicalities of locating themselves and choosing persons, presumably the new members, to convene the session and adopt temporary rules.

We believe the second alternative is most appropriate.

Of the three arrangements, the first is the most orderly since it will produce a document with all of the legitimacy of a legislative body that continues to function until the very moment before the constitution takes effect. Moreover, it will allow sufficient time for planning the logistics of the new legislature. Such action might be considered, however, to be ultra vires of the powers of the Northern Mariana Islands legislature. While this is a remote risk

and is unlikely to be raised in any judicial proceeding, it slightly clouds the arrangement. Further, a question might be raised whether the outgoing legislature in taking such action would be seeking to impose procedures on the wholly new constitutional body. The responsibility of the Northern Mariana Islands Legislature to enact an election law governing the initial election can be distinguished from the proposed arrangement because that function was specifically assigned by section 10 of the schedule on transition matters.

If as a result of these considerations the first alternative is rejected, either of the two alternatives, which are really variations on a single theme, can be utilized. We prefer the second of the three alternatives. In any event, the procedural logistics should be settled in advance. Recommendation 54: We recommend that a resolution be prepared for informal consideration by the senators-elect and by the representatives-elect to the Commonwealth legislature on the time and place of the first session, designation of convenors, and adoption of temporary rules; and that such resolution be adopted as the first order of business on the commencement of the initial session of the senate and house respectively. Adoption of a simple resolution by each house rather than a concurrent resolution by the two houses is preferred. In the latter instance each house might adopt slightly different wording which could require reconciliation between the two houses, causing delay.

In our judgment the least objectionable course of action on the designation of a convener for the senate and house would be for agreement to be reached that a senator-elect and a representative-elect respectively act as temporary presiding officer until permanent presiding officers are chosen. This arrangement adds legitimacy to the proceedings and does not necessitate the intervention of persons whose authority expires on the effective date of the constitution, as in the case of the speaker of the Northern Mariana Islands legislature or the resident commissioner, or some person not having official standing in the new government.

No problem is posed respecting the taking of the oath of office on the part of a senator or representative. Under section 12 of the schedule on transitional matters, the oath of office ". . . shall be administered by a judge designated by the Commonwealth trial court." This would permit a judicial officer who is not a judge of the Commonwealth trial court to be designated to administer the oath, such as a federal judge or justice.* Under section 4 of the schedule the judges of the Marianas district court serve as judges of the Commonwealth trial court until until the governor appoints judges under article IV, section 4 of the constitution.

* Note that the Analysis to that section does not support this view: "A judge of the Commonwealth trial court designated by that court administers the oath of office." (p. 214). Under article II, section 14(a): "Each house of the legislature shall be the final judge of the election qualifications of its members. . . ." This is unlikely to prevent the swearing in of the members-elect even though there may be a challenge that ultimately will be determined by the respective house under this authority. If a challenge is made, the swearing in of a member-elect whose credentials or fitness to serve is challenged can be deferred, following precedent used in the U. S. House of Representatives.

ORGANIZATION OF THE COMMONWEALTH GOVERNMENT

Chapter Four

ORGANIZATION OF THE EXECUTIVE BRANCH

Creating a New Organization

The executive branch of the Commonwealth of the Northern Mariana Islands must be a new organization. Changes are required in the number and assignment of functions to departments. New offices of governor, governor's council, Marianas public land commission, Marianas public land trust, representative to the United States, and public auditor must be created. The legislature and governor have considerable discretion in creating new administrative systems for budget, planning, operations, personnel and delivery of public services (article III, sections 14 and 15) to meet the needs of the Commonwealth.

Inexperience with different models of government organization and process, familiarity with existing arrangements, job security, and the configuration of the physical plant of public offices are forces which favor the status quo. The population (15,000) and the scope and quality of public services suggest, however, that the existing system is overbureaucratized. Boards and commissions are often paper instruments without a meaningful mission. The present system operates at a higher than necessary cost. It is difficult to pinpoint responsibility or to set priorities. Leadership is fragmented; job motivation is low and there are institutional impediments to quality control of services and communication. The Commonwealth government will be even larger and more expensive than the present one, a consequence of the transfer of functions to the Commonwealth. Each unit of service delivery and administration must operate at maximum efficiency and effectiveness, qualities that cannot be applied uniformly to the present system.

Very inconsistent

In the organization of the executive branch, key managerial and and programmatic objectives include effective leadership and control, economic development, improved social services, and conservation of natural resources; citizen participation and cost effectiveness. Some services presently provided by the government, particularly the central repair shop of the public works department, should be reviewed for possible transfer to the private sector if the capability is there. Contract arrangements with private business may be feasible for specified functions now performed by government. The governmental apparatus must encourage private enterprise and initiatives and, hopefully, the cooperation and support of business in building the managerial and service delivery systems of the government.

Central staff agencies should facilitate line operations, not impede them. We propose in Part III of the IPA report that a senior staff member of the executive office of the governor--a deputy chief administrative officer--have direct contact with operating personnel for the purpose of facilitating services on Rota, Tinian and the islands north of Saipan.

Broader citizen involvement in the government must be integral to the government structure. This problem is particularly difficult to resolve because there are few established nongovernmental public sector institutions, a deficiency that also must be confronted. Arrangements for citizen participation should preserve distinctions between advice, consultation, and policy-making on the one hand and operational responsibility on the other.

The problem of substandard public employee and agency performance must be confronted immediately. Inadequate supervision and failure to dismiss ineffective workers too often have been accepted as endemic

and immutable qualities of the government. The leadership of the district government and the transitional government failed to establish and enforce excellence as a standard of public service or to get rid of ineffectual employees. The organization should facilitate innovative management techniques such as program budgeting, zero-base budgeting, project management, and systematic management auditing and remediation.

Present Arrangements

The transition government, and particularly the executive branch, largely is a replica of its predecessor, the district government of the Trust Territory. The principal agencies and officers of the district government in name, title and functional responsibilities were modeled after those of the parent Trust Territory government. The organization promulgated by the resident commissioner in 1976 did not significantly change the district government structure. A description of the transition government appears in Appendix A.

There are seven agencies shown as departments. They are the departments of education, health services, public affairs, resources and development, public works, office of the attorney general, and general administration. The last-named agency provides support services of fiscal management, personnel, supply and procurement and includes a new division of revenues which assumed collection functions previously carried out by the Trust Territory. (Payrolls for the 1,200 employees of the NMI government are processed by the Trust Territory government.) The former district administrator has been replaced by a resident commissioner. Reporting to him are an executive officer (who recently was district administrator), a special assistant, and officers for planning and program and budget. The resident commissioner has limited staff and has been handicapped in the transition to Commonwealth self-government.

We have identified more than 30 separate boards and commissions which do not appear on the September 1976 chart. (See Appendix B.) Some are integral components of executive branch agencies with useful missions, such as the board of education. Others are loosely constituted forums with poorly defined purposes and no easily discernible bases. The process by which special units have been established and members named has been casual with insufficient attention to goals' advancement or implementation.

The chartered municipalities, which are abolished under the constitution, are island-wide nondistrict governments for Saipan, Rota and Tinian. They are separate from the central government and have local public units, responsibilities, and authority to collect fees for licenses. Each municipality has a locally elected mayor and municipal council.

Proposed Executive Branch

We propose that the government of the Northern Mariana Islands, other than the judiciary and legislature, be organized on four levels:

- The office of the governor
- The staff agencies
- The line or operating agencies
- The independent agencies.

The government should be unified in defined relationships under the constitution or statutes, supplemented by authorized executive orders of the governor, or by formally promulgated agency regulations. Except where mandated by the constitution, generally there is little virtue in encouraging totally independent agencies. Proliferation of independent agencies inevitably deflates the authority of the legislature and governor and impedes accountability. Their use should be weighed

*Problems w/ I.D.
1. deflates authority
2. impedes accountability*

*miss - reduced
in power
1. coordination
2. Support services
 i. legal
 ii. financial
 iii. public info*

carefully and used only when the benefits clearly overcome these constraints. The IPA legislative program proposes a public corporation control act to establish parameters for all specially created commissions and public benefit corporations. In the absence of a compelling reason for doing so, we avoid the corporate device, as in the case of the fishing authority. In other cases, principally the Mariana Islands Housing Authority, a corporate instrument is retained but controls over its programs, policies, and allocations should be tightened to assure accountability and consonance of purpose between the authority and other agencies involved in planning, urban development, and public works. (It is proposed that this agency be superseded by one with a larger jurisdiction, a Marianas Housing and Village Homestead Agency, which would avoid proliferation of still further agencies.) Central staff agencies should be used for support activities, such as legal services, financial administration, and public information to reduce the cost of government and encourage accountability

The balance of this chapter outlines a proposed organization of the executive branch, including alternatives. Appendix C is a profile of each proposed department and agency, its constitutional or statutory base, powers, functions, internal requirements, financing, and staff. Part III of the IPA report on administration and management of the government details aspects of organization. Appendix D is a memorandum separately prepared on public utilities functions.

The Governor

The offices of governor and lieutenant governor are created in the constitution (article III, sections 1 and 3). The constitution also establishes two non-elected offices that should be located in the office of the governor. These are the executive assistant for Carolinian affairs (article III, section 18) and the governor's council (article VI, section 5). The executive assistant has constitutionally

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determined and therefore independent duties and responsibilities; he can be effective as part of the governor's office. This is consistent with the constitution. The governor's council, comprised of the four mayors, the governor, and the executive assistant for Carolinian affairs, is intended as an instrument for improving community services. Locating the governor's council institutionally within the governor's office will foster communication and implementation of agreed-upon courses of action without lessening its constitutional stature. Recommendation 55. We recommend that the executive assistant for Carolinian affairs and the governor's council be located institutionally in the office of the governor.

Is there control missing?

The governor will require an immediate staff consisting of a private secretary and one executive assistant to the governor immediately responsible and loyal to him on a confidential basis. These will be personal appointments, not subject to senate advice and consent or to the jurisdiction of the civil service commission. Recommendation 56. We recommend that the governor have an immediate staff reporting directly to him. We make no recommendation concerning the necessity for or desirability of assigning domestic staff to the governor or the provision of an executive mansion. (Housing and domestics have been provided to the resident commissioner.)

Key instruments of policy and control should be located under the governor for formulation of the executive budget, drafting and reviewing programmatic legislation, review, coordination of plans for social, economic and physical development and land use, review and control of service delivery operations, public information, and grants coordination. We have considered and rejected locating specified functions, including planning, outside of the office of the governor. There is some danger in locating these functions close to an elected chief executive, lest they become mired in

politics. We are persuaded, however, that an effective leadership role requires a cohesive instrument of policy formulation and control. This can be accomplished without sacrificing the professional role and objectivity of key planning and management personnel. Recommendation 57: We recommend that there be an executive office of the governor to include the functions of budget-making, planning, grants coordination, program and legislative formulation and review, administrative supervision and management control of executive branch agencies, and public information and protocol.

Chief administrative officer

A key instrument of effective service delivery will be a professionally trained manager responsible to the governor and charged with oversight of day-to-day operations. The governor will be heavily committed to policy and budgetary formulations; day-to-day oversight of executive branch agencies may overwhelm his capability to perform critical policy functions. There is widespread experience in the United States in dividing top executive functions at the substate level between the elected political executive and professional manager. Corporate experience in the private and management sectors have evolved dual positions of president (chief executive officer) and chairman of the board, or similar arrangements. A proposed manager would have no duties and responsibilities not vested in the governor; nor would he be permitted to assume powers that can be exercised constitutionally only by the governor, such as approval of legislation and appointments. He would be an aide to the governor, not a constitutional officer.

Recommendation 58: We recommend that there be created by law a professional office of chief administrative officer (CAO), appointed by the governor with advice and consent of the senate and serving at the pleasure of the governor. Recommendation 59: We further recommend that the CAO be in charge of day-to-day supervision of executive branch

1. Day + Day supervision
2. Change of Executive office

-116-

operations within gubernatorially delegated designations, and that he have daily charge of the executive office of the governor within delegations made directly by the governor.

Planning-budgeting office

A vital planning-budgeting office is proposed as part of the executive office of the governor. An alternative arrangement could be a planning office as a separate staff unit of the central government. We have opted for placing the principal planner in the executive office institutionally responsible for policy, budgeting and federal program coordination. This arrangement will enhance the capability of the governor in formulating plans and priorities. Recommendation 60: We recommend that a planning-budgeting office be created by law as a part of the executive office of the governor to be headed by a professionally trained planning-budget officer, appointed by the governor with the advice and consent of the senate. Recommendation 61: We further recommend that at the end of a three-year period a review be made of the planning-budgeting office and its location within the executive branch.

Details on the functions of the chief administrative officer are contained in Part III of the IPA report.

Public interest

For a community that has no daily newspaper and limited radio and television coverage from the private sector, a public information activity is essential but also, potentially, can be manipulated to serve a propaganda purpose. We see this potential danger as minimal given the history and traditions of the Northern Mariana Islands and the small size of its population. A source of accurate

3 year
trial run

*Differ from other assignments
Civil Service*



information on current public activities is essential and can be performed by one assistant to the governor who also serves as protocol officer of the Commonwealth and performs other duties. He should have professional qualifications and be within the civil service.

Σ

It is unnecessary to specify all of the internal infrastructure of the governor's office. Flexibility should be given to the governor to organize his office. Thus, he might designate one official to coordinate executive office responsibilities. The recommendations for statutory offices for administration (CAO) and planning-budgeting (PBO) reflect the special importance of these functions. The governor might wish to assign other staff members, such as an assistant to the governor for legislative program, to one or the other of these statutory offices. The entire executive office functions should be highly integrated and act as oversight and control mechanisms through which the governor deploys his leadership role.

The Lieutenant Governor

*Reasons for no
or
1. differ politically
2. different talents*

The constitution establishes the elected office of lieutenant governor but does not assign him constitutional duties and responsibilities other than succession. Under Article III, section 3 of the constitution he is to ". . . perform those duties specified in this article and those assigned by the governor or provided by law." The lieutenant governor and the governor, although elected on the same ballot may differ politically. Further, one cannot predict the managerial or other talents of the lieutenant governor. They will vary for each incumbent. During the initial years of the Commonwealth, statutory responsibilities to the lieutenant governor should be minimized, leaving assignments to the governor, rather than to statute. Recommendation 62: We recommend that no statutory responsibilities be assigned to the lieutenant governor for an initial period of two years and that he be a part of the office of the governor with duties and responsibilities



assigned by the governor. There are many significant tasks that may be highly appropriate. Our view is that it would be a mistake to determine too early a precise agenda of statutory duties and responsibilities.

The Governor's Cabinet

The constitution does not mandate a cabinet. The effectiveness of a cabinet system in coordinating service delivery and formulating policies depends on the capabilities and personalities of the governor's leadership and ability. It would be a mistake to mandate by law a cabinet structure, despite perceived values of a cabinet to exchange information, communicate policy, and assure continuity of action among agencies. Recommendation 63: We recommend that the governor convene on a regular periodic basis through a governor's cabinet the heads of executive departments and agencies and selected members of the executive office. Recommendation 64: We recommend that the cabinet be created by executive order of the governor and not by statute; and that its size, functions, and membership be left to the discretion of the governor. Further recommendations on the functioning of the cabinet are contained in Part I.

Representative to the United States

Article V of the constitution leaves to the discretion of the legislature certain matters pertaining to duties of the representative to the United States and the period of residence and domicile required of candidates for that position. The constitutional duty to represent the Commonwealth in the United States makes it inappropriate to locate the function by statute in the office of the governor. (By contrast the lieutenant governor is proposed as a part of the office of governor based on the constitutional provision that permits the governor to assign responsibilities to the lieutenant governor and the further provision that governor and lieutenant governor be elected on the same

ballot.) Nevertheless; good communication between Saipan and Washington is essential. Article V, section 4 of the constitution requires that the representative submit an annual report to the governor and legislature; clearly, frequent communication with the governor and legislature should be encouraged. He should also work closely with any Region IX liaison officer established in San Francisco.

Article V. Section 5 authorizes the legislature to establish the annual salary and expense allowance of the representative. The cost of living in Washington is high and the elected representative to be effective will require professional assistance. Recommendation 65: We recommend that a sum of money be appropriated to enable the representative to have one professional staff assistant in Washington, a secretary and appropriate office facilities. Because logistically it is likely for such assistant and secretary to be located in Washington, their employment should be by contract and not subject to the civil service commission's jurisdiction. If a resident of the Northern Mariana Islands is appointed to either such position, of course they should be within the civil service.

Office of the Mayor

Article VI of the constitution establishes the office of mayor for Rota, Tinian and Aguigan, Saipan and the islands north of Saipan and prescribes the duties and responsibilities of the mayor. We have proposed separately that the mayor not be delegated major administrative responsibilities. The constitutionally-specified responsibilities are substantial. No substantive legislation is proposed with respect to article VI, section 3(b) or article II, section 17(a) of the constitution. We have proposed that the governor's council be a part of the office of the governor. A small appropriation should be made for necessary expenses pursuant to article VI, section 4. A salary should be established for the mayor and for the expenses of the mayors' offices. (See Part III for further discussion of this matter.) Recommendation 66: We recommend that no statutory responsibilities be assigned at

X
question
is it not w/in IUS
T/PO
naturalization

this time to the mayors and that they not be given administrative responsibilities by the governor.

Staff Agencies

Traditional models distinguish between line agencies that deliver direct services such as health and public safety to the public, and staff agencies that support line activities or act as a control. No highly structured distinction between line and staff function must be drawn.

Office of attorney general

The attorney general is a constitutional officer (constitution, article III, section 11), responsible for providing legal advice to the governor and executive departments, representing the Commonwealth in all legal matters, and prosecuting violations of Commonwealth law. In addition to these constitutional responsibilities, the office of attorney general should be assigned related functions. This would avoid establishing additional departments, such as an office of secretary of state. The attorney general should retain the seal of the Commonwealth, register business corporations, certify notaries public, and oversee parole, immigration and emigration, and naturalization. (D)

It is customary in American mainland experience for large departments and for special public authorities and commissions to have their own legal counsel, even where there is an attorney general for the state or local government. In the Northern Mariana Islands special authorities retain outside legal counsel. To achieve economies of scale and effective control, we propose that legal services be provided by the attorney general for all branches, departments, agencies, and instrumentalities of government in the Northern Mariana Islands.

* NATURALIZATION
ALIEN PROPERTY

The present NMI attorney general until recently has a single assistant who is not an attorney. In light of the heavy responsibility of this office in the initial years of the Commonwealth--review of contracts and legislation, preparation of regulations, developing a Commonwealth code of laws, and additional functions proposed above to be assigned to the attorney general--at least three assistant attorneys general plus a small secretarial staff will be required.*

The attorney general should be a highly qualified lawyer meeting standards proposed for judge of the Commonwealth trial court. Further, the attorney general initially should serve at the pleasure of the governor although we note the alternative of establishing by statute a term of office for the attorney general. Recommendation 67: We recommend that the attorney general be appointed by the governor with the advice and consent of the senate; that he may be removed by the governor after notification of reasons for such action and after an opportunity to respond to charges; and that the qualifications for the position of attorney general be equivalent to those for judge of the Commonwealth trial court. Recommendation 68: We recommend that there be a staff of assistant attorneys general and that they be attorneys. Recommendation 69: We recommend that in addition to constitutional duties and responsibilities of the attorney general that office be responsible for providing legal services for all instrumentalities: immigration, emigration, naturalization, alien property; publication of laws; a Commonwealth code of laws, a code of rules, regulations and executive orders of the governor and of agencies of the Commonwealth; maintenance of the seal of the Commonwealth; parole; registration of private business corporations and not-for-profit corporations; and certification of notaries public. Recommendation 70: We recommend that the office of attorney general be

* We strongly favor the use of central typing pools but a legal secretary may be required for the attorney general's office.

* The AG as head of the office - what authority does he have if any over Director Immigration if Advice + consent

the lead agency with respect to implementation of an administrative procedures act and a contractual services act.

The constitution, article II, section 15, requires the enactment of a "comprehensive code of conduct for its [legislative] members that includes a definition of proper conduct for members with conflicts of interest and a definition of the proper scope of debate in the legislature"; article III, section 6 requires a "code of conduct for the governor, lieutenant governor and heads of executive departments that includes a requirement of disclosure of financial or personal interest sufficient to prevent conflicts of interest in the performance of official duties"; and article IV, section 8 authorizes the judiciary to propose rules governing, inter alia, "judicial ethics." It would be highly desirable for codes' standards to apply to all elected officials, and that there be reasonable concurrence among the codes. A statute should be enacted governing conduct of all public employees and those who deal with the Commonwealth in a contractual way.

1. Ethics Officer
2. Bd of Ethics

Codes of ethics involve: the statute or rule that sets the standard of conduct; procedures that reduce or prevent conflict-laden situations; and enforcement machinery, including sanctions. The Commonwealth should employ an ethics officer to provide advice on conflict or code violation situations. An alternative arrangement is the establishment by law of a board of ethics. We favor the first alternative as least costly, although a combination of a board plus an ethics officer may be feasible.

The functions of immigration and naturalization are proposed to be located in the office of attorney general; the scope of this activity justifies a separate unit of administration identified by statute and headed by a gubernatorial employee. Recommendation 71: We recommend that the office of attorney general include a director of immigration and naturalization appointed by the governor with the advice and consent of the senate.

It is proposed infra that police and fire functions, currently under the office of attorney general, be separately established and not be a part of the office of attorney general (see below, department of emergency services).

Public defender*

The office of public defender until recently has been a part of the Trust Territory government providing legal services primarily to indigent citizens accused of crimes or involved in civil suits. (The federally-funded Micronesian Legal Services Corporation is not a part of the Trust Territory or NMI governments; rather, it is a public law firm handling civil matters for persons who normally cannot avail themselves of private legal counsel.) The public defender provides an important governmental activity with positive impact on efforts to upgrade quality of police, correctional and rehabilitation services as well as its principal mission.

Should the public defender be a separate agency of the government? For administrative purposes the office could be made a part of the office of attorney general, a unit of the judiciary, or the department of community affairs, to cite three alternatives. The office of attorney general prosecutes the criminal cases against the clients of the public defender, and it defends actions by the public defender against the government. The Commonwealth trial court judges hear cases presented by the public defender. Locating the public defender within the attorney general's office or the judiciary poses potential conflicts, although there is a precedent for the latter. A further alternative is to locate the public defender in the department of community affairs. The nature of the professional responsibilities

* This is a line not a staff function but is included here for convenience.

** why sit gen
+ comm*

of the former are significantly different from the functions of community affairs (see below). We conclude that the office of public defender should be a separate agency. Recommendation 72: We recommend that there be an office of public defender as a separate agency in the executive branch and that it be headed by an attorney. Professional qualifications should be established for the position of public defender, equal to those imposed for Commonwealth trial court judges and attorney general.

Board of parole

Article III, section 9(c) of the constitution refers to a board of parole to be established by law, which the governor is required to consult prior to exercising his clemency power. A three-member board should be sufficient. At least one member should be an attorney. To reduce the number of independent agencies, the board should be located administratively in the office of attorney general. This arrangement should facilitate necessary secretarial and logistical support for the board without separate staff and help cohere important parts of the criminal justice system. The attorney general should provide requisite data to the board to enable it to make sound judgments, and the board should have full access to police, probation and corrections records. Recommendation 73: We recommend that a board of parole of three persons be appointed by the governor with advice and consent of the senate for staggered six-year terms, and that of the three persons appointed one be an attorney and one a woman.

*3 members
1. Atty
2. 2 women*

*Six years
why?*

Civil service commission

Article III, section 16 of the constitution establishes a "non-partisan and independent civil service commission. . ." The objective is a merit system for personnel employed by the Commonwealth

government with appointment and promotion based on objective criteria and not political preference. This will not be an easy task to accomplish, technically or politically. A merit system should enhance career and job mobility, greater productivity of workers at every level, and removal of ineffectual workers. There is an enormous training agenda to increase worker capabilities. Under the constitution the civil service commission's jurisdiction extends to positions ". . . other than those filled by election or by appointment of the governor in the departments and agencies of the executive branch and in the administrative staffs of the legislative and judicial branches." The wording of the constitution should be respected in spirit and law; only elected officials and senior gubernatorial appointees should not be under civil service. A creditable personnel office can be created within the civil service commission to conduct the daily personnel functions of the government within policy set by the commission. The latter would serve as an appeals board on determinations of administrative authority of the personnel office.

The requisites for an effective training program separately discussed in Part III. propose locating training in the office of the chief administrative officer, not in the personnel office. Our recommendation is based on the need to link training and supervision. The civil service commission is independent of the governor, posing the difficult question of the authority of executive officers over personnel. The civil service commission and its instrument (a proposed personnel office) are responsible for job classification, recruitment and appointment, merit systems of advancement, discipline, and labor relations. The governor as chief executive officer of the government is responsible for service delivery. His principal appointed officials will be unable to perform their jobs effectively without requisite ability to manage their respective agencies and employees. The civil service system is

designed to assure equity and merit in personnel management but we see no compelling reason to assign to the civil service commission jurisdiction over all aspects of personnel management, in this instance training. Accordingly, we propose to assign responsibility to the civil service commission/personnel office the functions enumerated above and to assign to the governor and by delegation from him to the chief administrative officer and agency heads management responsibility, including training. Some training activities, including those funded by CETA, may be appropriately assigned to the personnel office.

A three-member and unpaid civil service commission is proposed. A highly qualified professional personnel officer should be appointed by the civil service commission. He should have graduate education in public personnel administration or related fields and extensive experience in personnel administration either in government or the private sector. A personnel officer capable only of processing personnel action forms and handling the recruitment, classification, appointment, and promotion would be insufficient. He must be a leader who can build personnel management.

Recommendation 74: We recommend that a civil service commission of three members be appointed by the governor with the advice and consent of the senate for staggered six-year terms; that no member of the commission serve more than two full terms; and that no member be actively involved in a political party or have served as a government official, either elected or appointed, for a period of one year prior to appointment. Recommendation 75: We recommend that there be within the civil service commission a personnel office headed by a professionally trained personnel director appointed by the commission; that professional qualifications for the position be established by the commission; and that the commission constitute itself a search committee or appoint a search committee to locate suitable candidates for

personnel officer. Recommendation 76: We recommend that the civil service commission prepare a comprehensive management personnel plan for submission to the governor and legislature encompassing proposed personnel policies of the government, including a career management service of technical, professional, management, administrative and supervisory personnel.

Board of professional licensing

As part of its regulatory function, the Commonwealth will institute or adopt systems of licensing or credentialing of various professional and trade groups. Much of this already occurs through provisions of the Trust Territory code. Additional licensing or accreditation may be required.

The system of credentialing is in a fluid state; professional groups such as allied health professionals are broadening credential methods; state legislatures are adding licensing or registration requirements in professional and trade areas. Section 6 of the schedule on transitional matters continues licenses that were in effect on the effective date of the constitution ". . . until provided otherwise by law except that no license possessed by a land surveyor, ship officer, health professional, or practicing trial assistant may be amended or revoked except for incompetence or unethical conduct." Institutions of the Commonwealth should include a unit for administering licensing programs. Institutional alternatives, which are not initially exclusive, include acceptance or establishment and enforcement of credential requirements by a professional group, assigning the licensing functions to the department of education, or dividing it among departments, such as the department of public works with respect to licensing of engineers and architects. To avoid complicating the governmental machinery and to assure continuity of purpose a board of professional licensing is proposed with responsibility for certification and licensing. Its jurisdiction would continue regulation and licensing as it exists under

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the Trust Territory code, the Mariana Islands district code, and the municipal ordinances.

Recommendation 77: We recommend that a board of professional licensing composed of six members be established by law to include the superintendent of education, director of public works and personnel officer ex officio; and three citizen members appointed by the governor with the advice and consent of the senate to six-year staggered terms.

Recommendation 78: We further recommend that the board be administratively attached to the civil service commission and that the personnel officer serve as secretary of the board and be assigned responsibility for any testing required by the board.

* Teacher certification may more appropriately be vested in the department of education. The board of professional licensing would not determine admissions to the Commonwealth bar. Under the constitution that responsibility will be administered pursuant to rules of the judiciary (article IV, section 8). Finally, jurisdiction over licensing of physicians, medical officers, and other healing arts professionals should be handled within the health agency. We defer our opinion on all allied health professionals.

The public auditor

Article III, section 12 of the constitution requires the governor to appoint a public auditor with the advice and consent of both the house of representatives and the senate. This unusual confirmation provision is followed by a further requirement:

The public auditor may be removed only for cause and by the affirmative vote of two-thirds of the members of each house of the legislature. In the event that there is a vacancy in the office of public auditor, the presiding officer of the senate shall appoint a temporary public auditor to serve until the vacancy is filled.

The constitution vests in the public auditor plenary auditing responsibility for the entire Commonwealth government, for branches and instrumentalities of it, including agencies of local government. The public auditor is to perform other duties provided by law and he is to make reports to the legislature and the governor which shall be made public promptly. It is the intention of the constitution that he be an independent auditor and maintain a relationship with the government similar to that of an outside public accounting firm with a client.

The public auditor should have a voice in establishing systems of accounts by the department of financial administration. The enabling statute for the office should assign responsibility for reporting an investment of idle cash, pension and trust funds. We anticipate cooperative relationships among the public auditor, the department of financial administration, and federal auditors.

The constitution does not specify qualifications or a term for the office. We believe the legislature should establish statutory qualifications to guide the governor in the appointment and to set the term of office and a limit on the number of terms an individual may serve. One overriding qualification is that the public auditor be a certified public accountant with experience in governmental accounting. Further, the enabling legislation should create a comparable position of assistant public auditor. The legislature should appropriate sufficient funds to allow this office to function properly. EP 4

Recommendation 79: We recommend that the office of public auditor be independent; that the enabling legislation provide that the public auditor be a certified public accountant with at least three years significant experience in public finance; that the term of appointment be six years; and that there be a two-term limitation.
Recommendation 80: We recommend that the public auditor be authorized

to enter into contracts for specialized auditing or related technical services including contracts with appropriate audit agencies of the federal government. Recommendation 81: We recommend that the public auditor be consulted and review proposed systems of accounts to be established by the department of financial administration and any other instrument of the Commonwealth government. Recommendation 82: We recommend that the jurisdiction of the public auditor extend to all branches, departments, agencies and instrumentalities of the Commonwealth government without limitation whatsoever, and to government contractors.

Board of elections

Article VIII, section 3 of the constitution authorizes the legislature to provide for voter registration, nomination of candidates, and administration of elections, inter alia. It does not mandate a specific organization to administer public elections. In view of the highly politicized nature of all elections (even for nonpartisan elections), the administrative authority must be impartial beyond question. We propose an independent, nonpartisan board of elections of five members, no more than three of whom are members of the same political party, with appropriate distribution of the membership among the populated islands. By statute the membership should include at least two women and ex officio representation by the executive assistant for Carolinian affairs.

Primary elections or party conventions may be established, thereby increasing the responsibilities of the administering authority. New registration systems, including mail registration, may be proposed. President Carter has recommended a major reform of residence requirements which essentially eliminate them with respect to matters over which the federal government has jurisdiction. While not required to do so, the legislature may consider the wisdom and

feasibility of such an approach in the Northern Mariana Islands. The briefing papers prepared for the constitutional convention examined provisions on residence requirements and may provide background for substantive revision of registration provisions.

The election law enacted by the Northern Mariana Islands legislature should be modified to reflect the following recommendations, as appropriate. Recommendation 83: We recommend that the legislature create a nonpartisan board of elections to be composed of five Commonwealth residents, no more than three of whom are members of the same political party and with distribution of membership among the populated islands; and that one member be the executive assistant for Carolinian affairs ex officio and that two of the members be women. Recommendation 84: We recommend that the members not be salaried and that no member be a candidate for public office; and that the members, other than the executive assistant for Carolinian affairs, be appointed by the governor with the advice and consent of both houses of the legislature.

* Problem - Carolinian Affairs usually represent the prevailing political party. It would upset balance of parties.

Line Agencies

* Services of the Commonwealth will be delivered by line or operating departments of the government: health, education, public works, community and social services, protective services, utilities, economic development, and natural resources. In the cases of education and public lands management and disposition the constitution specifies a particular organizational arrangement. Article III, sections 15 and 15, specifies that the principal departments be under the governor's jurisdiction and, unless otherwise provided by law, be headed by a single executive. It stipulates that executive branch officers, agencies and instrumentalities of the Commonwealth government and their respective functions and duties be allocated by law among not more than fifteen principal departments ". . . so as to group them so far as practicable according to major purposes." * Regulatory, quasi-judicial, and temporary agencies need not be part of a principal department. The constitution specifies "the functions and duties of the principal departments and of other agencies of the Commonwealth shall be provided by law." The legislature is authorized to reallocate duties of officers, agencies and instrumentalities among the principal departments. The governor may make changes necessary for efficient administration. If such actions affect existing law ". . . they shall be set forth in executive orders which shall be submitted to the legislature and shall become effective sixty days after submission, unless specifically modified or disapproved by a majority of members of each house of the legislature."

We propose that line functions--the ones that deliver services to the public--be organized into eight departments:

- ° Community affairs
- ° Economic development
- ° Education
- ° Emergency services
- ° Financial administration
- ° Health
- ° Natural resources
- ° Public works

Unless otherwise indicated, the head of a department should be a director appointed by the governor with the advice and consent of the senate. An appendix to Part III of the IPA report includes preliminary job qualification statements for certain key positions in the government, including executive branch officials. These were done by IPA as part of an early search process for potential off-island recruitment and may be useful guides in the general recruitment of top executives and administrators.

Early Search

Department of community affairs

The department of community affairs is proposed, with responsibility for social services and consumer protection, including regulation of retail establishments, presently vested in the chartered municipalities. Economic regulation of major industries and foreign investments would be the responsibility of the department of economic development. Certain regulatory matters would be assigned to other agencies (e.g., the board of professional licensing). The scope of consumer protection will depend on substantive legislation and program developments. Certain facets of human rights may be assigned to the department of community affairs; this too requires consideration of a substantive legislative program in that critical area.

* Public broadcasting should be phased out as a governmental function. Until then, it should be within the department of community affairs. *

* The department should play a significant role in administration of disaster relief programs, a matter that transcends much of the entire government's planning and service delivery. We propose that alcoholic beverage control be assigned tentatively to the department of community affairs. It may be desirable, over time, to

* No mention of
visitors Bureau
-134-

adopt one of three other alternatives: retention of the alcoholic beverage control board as an independent agency, assignment of this responsibility to the department of economic development, or retention of the board and assignment of it administratively to the office of the attorney general or to the department of emergency services.

Recommendation 85: We recommend that a department of community affairs be established to administer social, community, and consumer protection services, and that the department be headed by a director of community affairs appointed by the governor with the advice and consent of the senate. Recommendation 86: We recommend that alcoholic beverage control be administered by the department of community affairs.

Department of economic development

Economic development is vital to the Commonwealth. The principal mission of this department is to stimulate the private economy, reduce dependence on federal subsidy and implement economic development plans. It would share this responsibility with two other proposed agencies: a development corporation and a development agency.

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Regulation of industries and review of economic impact of proposed new business ventures and foreign investments would fall within the jurisdiction of this department. As noted above, regulation of local businesses (principally those currently licensed by the chartered municipalities) would fall within the jurisdiction of the department of community affairs.

A foreign labor board also has been proposed to review conditions under which persons may be recruited for employment in construction or service industries in the Northern Mariana Islands. If

such an entity is needed, it should be a part of the department of economic development, not established as an independent agency.

Although there are advantages to placing economic development and natural resources in a single department responsible for agricultural, natural resource, and private economic growth, we prefer division of economic development and natural resources functions to achieve a reasonable balance in priorities for commercial and industrial growth, and agricultural and fishing industries.

Recommendation 87: We recommend that a department of economic development be established with principal responsibility for economic growth, stimulation of private business investment, tourism, and the maritime industry; and that the department be responsible for labor services and promotion of harmonious labor relations in the private sector. Recommendation 88: We recommend that the department be headed by a person well qualified by reason of education and training to deal with requisite technical economic plans, investment policies, and business firms; and that he be appointed by the governor with the advice and consent of the senate.

Department of education

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This department is required to be established by the constitution (article III, section 13), headed by a superintendent of education appointed by a representative board of education. Under the constitution the governor appoints, with senate advice and consent, members of the board to four-year terms. The board ". . . shall formulate policy and exercise control of the public school system through the superintendent. Composition of the board of education and other matters pertaining to its operations and duties shall be provided by law."

The department should be responsible for all public education--elementary, secondary, higher, and special (adult, vocational and skills training)--and administer scholarships and grants for higher education. It would regulate private schools with respect to licensing, teacher certification (for public and private schools), facilities inspection, mandatory school attendance, standards of instruction, and related matters. The department should be responsible for library services, museums and similar entities. It would develop a comprehensive library system for the Commonwealth encompassing public, law, and legislative libraries. The Commonwealth cannot finance separate and overlapping library systems.

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The constitution specifies that the board of education be representative. A reasonable size would be five members serving four-year staggered terms. The board's membership should include persons knowledgeable in elementary and secondary school problems and adult and vocational education. At least two members should be parents of children enrolled in the public schools, at least one a Carolinian, and one a woman. There should be a statutory requirement to assure representation of the principal populated islands.

Formal qualifications of the superintendent of education should be established by the board. The superintendent should be appointed under a renewable contract for three-year terms with removal for cause prior to expiration. The superintendent would prepare for the board a plan for public school services, drawing on but not limited to proposals by OTSP consultants. The superintendent and the board should be authorized to establish local advisory boards and parents associations to assist in fashioning school services and to meet participatory needs. Participatory mechanisms are especially important in education and should be nourished.

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for IPA to
recommend

The board of education itself is the principal educational policy-making instrument under the constitution; this role should not be subverted by the educational bureaucracy, the superintendent, the governor, or the legislature. In turn, the board should not intrude into the daily administration of school affairs--the province of the superintendent. Scholarships for off-island higher education, which have been mainly in the hands of municipal officials, should become an integral part of the educational system.

this is
policy
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There should be an unequivocal ban on corporal punishment in the schools of the Commonwealth even though, under recent U. S. Supreme Court decisions, corporal punishment does not violate the "cruel and unusual punishments" prohibitions of the Bill of Rights (identical to the Marianas constitution, article I, section 4(h)).

Recommendation 89: We recommend that the department of education be responsible for elementary, secondary, and higher education, all publicly funded scholarships, adult, vocational and special skills training; that it administer provisions of law respecting regulation of private-sector education in the Commonwealth; that it monitor and report to appropriate authorities any instances of mistreatment of school children, including corporal punishment.

Recommendation 90: We recommend that the department of education be responsible for library services and oversee museums.

Recommendation 91: We recommend that the board of education be composed of five members appointed to staggered four-year terms and that members be eligible for re-appointment with vacancies filled for the balance of unexpired terms.

Recommendation 92: We recommend that the board be composed of one resident of Tinian, one of Rota, and two of Saipan; a woman; and a Carolinian; that all members be qualified voters and not otherwise employed in the government as elected officials or public employees; that the governor appoint at least two members from among parents of children enrolled in public schools; and that he consider in his appointments persons knowledgeable in problems of elementary, secondary,

adult, and vocational education. Recommendation 93: We recommend that the board of education establish professional qualifications and undertake a search for recruitment of a superintendent of education and that the appointment be for renewable terms of three years with earlier removal for cause after notice and hearing.

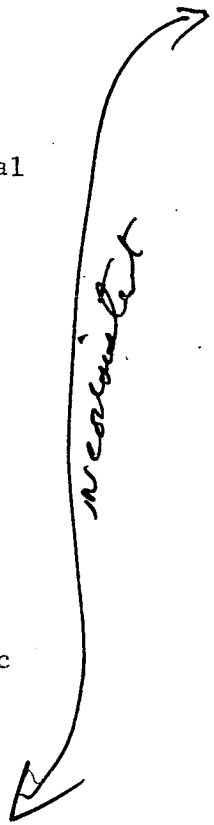
Department of emergency services

Protective services in the Marianas are inadequate. Criminal investigation and detection techniques are rudimentary, in part due to the paucity of professionally trained personnel and insufficient specialized equipment and technical capability. There has been a casual regard for ethical conduct and behavior of members of the police force. Problems of similar dimensions are manifest in the areas of fire protection and corrections. Services overall are qualitatively deficient.

At present police, fire, and corrections are part of the office of attorney general. While in theory this might be a strategic way of assuring oversight of emergency services, particularly police, it is unlikely to be effective, given past history and the high responsibilities that will visit on the new attorney general. The police chief is responsible for but has had no particular competence over fire and corrections.

Given the scale of government operations in the Northern Mariana Islands, we prefer a single protective services department--a department of emergency services with separate divisions for police, fire, and corrections. The department and particularly the division for police would be designated the LEAA state plan agency. A planning unit should be established, linked to the planning office in the executive office of the governor. The precise institutional arrangements for the planning unit should be done to facilitate

Marianas



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compatibility with planning requirements of the Law Enforcement Assistance Administration.

3 Directors

The governor should appoint a police chief, a fire chief, and a corrections and probations officer. They should be appointed with advice and consent of the senate and would serve at the pleasure of the governor. It is our view that the police chief should be designated the director of emergency services, but flexibility should be given to the governor in this regard. The director, the two chiefs and the corrections-probation officer should meet strong professional qualifications. [It may be necessary to recruit off-island, particularly for the position of police chief. — *leave out*]

Criminal justice planning agencies and councils can be established within the department to meet federal grants requirements of the Law Enforcement Assistance Administration. These instruments of planning should make forceful and positive inputs into the upgrading of services. Planning in the criminal justice area should encompass the entire scope of activities, which necessarily includes the judiciary, public defender, and attorney general.

Specialized training in criminal justice administration and police and fire sciences might be delegated to the department itself rather than to the training unit of the office of the chief administrative officer, but closely monitored by the central unit. To the maximum feasible extent, training should be at home rather than on the American mainland or Guam.

The board of parole should maintain close cooperative relationships with the department, particularly that unit of it with responsibility for corrections and probation.

Recommendation 94: We recommend that a department of emergency services be established to administer law enforcement, fire,

*public works
search*

corrections, juvenile rehabilitation, traffic regulation, civil defense (other than disaster relief), motor vehicle registration and inspection, security guard services for public buildings, control of stray animals, and enforcement of other governmental functions (tax collection, public and environmental health, building inspections, and related matters). Disaster assistance would not fall within the exclusive jurisdiction of this department, although emergency services would be a lead agency during an actual emergency, such as a typhoon. The rehabilitation and rebuilding activities cut across the jurisdictions of other agencies and should be separately and significantly addressed. Recommendation 95: We recommend that the governor appoint a director of police, a director of corrections, and a fire director within the civil service and that these persons should possess strong professional qualifications and that unless otherwise designated by the governor, the director of police serves as administrative head of the department but receives no additional salary; and that three directors be included in the governor's cabinet. Recommendation 96: We recommend that the department enforce fire and building codes that may be adopted. (This function may be shared with one or another agency, such as a department of building and housing.) Recommendation 97: We recommend that a criminal justice planning unit be established in the department of emergency services structured to meet requirements of the Law Enforcement Assistance Administration and that the scope of the responsibilities of this unit encompass the range of criminal justice matters.

** Problem of amounts*

Give us examples

** what of this?*

Department of financial administration

Fiscal administration of the Commonwealth must satisfy principals of accountability, control of disbursements, and efficiency. At present revenue collection, banking, payroll, payment of vouchers, and related aspects of financial administration are fragmented. The budget administration process is divided; and more than one unit of

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administration handles day-by-day financial management matters. Mayors of the municipalities issue checks; the public authorities have considerable financial autonomy, and revenue collection activities are spread among agencies. The problem is addressed in greater detail in Part III of the IPA report.

As recommended above, preparation and submission of the budget is a function of the office of the governor. All other financial administration functions except audit, a responsibility of the public auditor, should be placed within a single department of financial administration. An alternative under which collection and treasury functions would be handled by one agency and payroll, vouchering and disbursements by another offers no significant advantage given the size of the Commonwealth government. A unified institution holds the greatest promise of achieving an incorruptible and effective system of fiscal and money management, facilitating timely payroll and voucher payments, and reducing delay in supply and procurement matters.

The department of financial administration would be responsible for collection of revenue, both locally derived and from federal sources, and deposit and safeguard funds and disbursements for all branches, departments, agencies and instrumentalities of the Commonwealth government. Separate technical financial management operations by public corporations would be discouraged in order to foster costs-savings and accountability. The department would receive gifts and donations made to the Commonwealth and would maintain trust and pension accounts. It would open and draw on bank accounts and establish a uniform system of accounts after review and concurrence of the public auditor, and maintain computerized data processing systems for financial and other purposes, a function presently performed for the transitional government by the Trust Territory government. The department would provide staff on Rota and Tinian to handle fiscal administration on these neighbor islands.

*ND
Recommended
on 6/22/83*

Recommendation 98: We recommend that a department of financial administration be established to be headed by a director appointed by the governor with the advice and consent of the senate. Recommendation 99: We recommend that enabling legislation for this department specify that the director possess professional qualifications including at least a master's degree in an appropriate discipline or that the director be a certified public accountant and have at least five years of progressively increasing experience in governmental finance and accounting or equivalent private sector experience. Recommendation 100: We recommend that the director nominate a treasurer with the advice and consent of the senate; and that professional qualifications for the position be established in the enabling legislation. Recommendation 101: We recommend that the jurisdiction of the department extend to all locally-raised customs, excise and federal revenues receipts, treasury, accounting, and disbursement functions; that the department be responsible for gifts and donations to the Commonwealth; manage trust and retirement funds and related receipts and special revenue accounts on behalf of public corporations; that it be responsible for the proper deposit of funds, the selection of banks, and the disbursement of funds under proper authority of law; and that the department be required to maintain a uniform system of accounts, provide financial data; and that it issue a detailed annual financial report to be promptly published.

Department of health

Significant progress has been made in the Trust Territory and the Northern Mariana Islands in improving health care and environmental quality. Much more remains to be done. Some areas of health care are deficient, including mental health and environmental health. Further plans for better health and medical care delivery systems and increased professional cadres and training are underway.

Upgrading of facilities and standards of care is required in order to meet eligibility requirements for medicare and medicaid and to assure the health and wellbeing of residents. The feasibility of health maintenance organizations may be examined as a means of attracting private medical practitioners. Strong cooperative arrangements are required for those matters which are beyond the capacity of the Commonwealth--tertiary surgical care, diagnostic, and specialized laboratory services. New initiatives in health planning and coordination for which federal planning funds are available will require complex planning and coordinating networks. In this arena of public service delivery, there is pressure to establish separate planning and operating entities, in part a consequence of federal interests and requirements. Fragmentation in our view will do little to upgrade services. The fact that there has not been a balance among different facets of health, medical, environmental, and dental care and prevention activities does not warrant separate institutions.

There has been concern that facets of the health agency's jurisdiction will not receive full attention because the leadership of the agency will have a principal interest in the operation of the medical care facilities. The governor can remedy the situation by appointment of a health director who is prepared to give balanced attention to the range of matters within the jurisdiction of his agency. There should be a separate operating head of Dr. Torres X Hospital.

We propose the establishment of a single department of health responsible for planning, service delivery, standard setting and compliance. It would provide direct health, dental health, mental health, public health, medical care and emergency medical services at Dr. Torres Hospital and clinics or other facilities on Saipan, Rota, Tinian, and the islands north of Saipan. The department would set and

enforce standards of public and environmental health and be the principal credentialing agency for health and allied health personnel (see above on the proposed board of professional licensing). The department would be responsible for vital statistics. (We have tentatively indicated that it will issue marriage licenses, but it may be preferable to assign this responsibility to the Commonwealth trial court or to another agency, such as the department of financial administration.)

The health planning instruments required for federal funding should be institutionalized within the framework of the department, not separately from it, with strong linkages to the central planning-budgeting office in the executive office of the governor. The health planning bodies required as a prerequisite to obtaining federal health planning, construction and operating funds can be institutionalized without offending the principle of a central planning-budgeting office. An alternative is to place health planning, indeed all functional area planning, under the office of planning-budgeting in the executive office of the governor. As discussed in Part III, we urge a strong leadership role by the PBO and also believe that planning units should exist in each line agency to strengthen agency program development capability. The planning-budgeting officer should have review and possibly approval authority over appointment of planners in the line agencies, all of whom should be under civil service if these positions are federally funded.

Technical aspects of training in health and medical care, as distinguished from management training, should be handled directly within the department rather than the training unit of the office of the chief administrative officer. All management training for the Commonwealth should be under the CAO.

The head of the department should be a public health administrator, or otherwise trained in the healing arts or hospital or public health administration, or have similar senior credentials. His credentials must encompass both the healing arts and administration. A statement of qualifications should be developed and a serious search begun at an early date for recruitment of the director.

We propose the establishment of a board of health and environmental quality established by law as a policy-making body for the department. It would not oversee the administrative responsibilities of the director or persons in charge of Dr. Torres Hospital, public health clinics, or other facilities. Because public health regulations have the force and effect of law it should be a multi-membered body. Ample precedent in municipal and state boards of health exists on the mainland where, under U. S. constitutional law, these boards are given lawful delegations of legislative authority.

The constitution gives the government responsibilities for protection of the environment in article I, section 9, personal rights:

Each person has the right to a clean and healthful public environment.

Environmental quality is determined by both private and public activities, and standards of quality and compliance applicable in both sectors. No single agency of the Commonwealth will have full responsibility for environmental protection in all the following areas:

- ° water pollution control (sewage disposal, earth moving activities, erosion control);
- ° drinking water (groundwater quality; distribution systems);
- ° resource recovery (removal and disposition of solid wastes; handling of solid wastes; recycling of wastes for energy recovery; pesticides control);

In addition we propose the department have responsibility for agricultural and fishing development and for inspection of meat and meat products. It would have the central lands survey function. The department should work closely with other departments and with the Marianas Public Land Corporation. It will prepare plans and issue reports on environmental impacts of physical growth and development.

An alternative noted above would be a single department of economic development and resources. In order to assure a balance of concern for natural resource usage, particularly involving marine resources and submerged lands and industrial development, we prefer two departments. A major task of the governor and his planning office will be to assure consonance of purpose between the departments of economic development and natural resources.

Recommendation 105: We recommend that a department of natural resources be established to preserve and conserve the natural sources of the islands, to assure respect for Chamorro and Carolinian heritage and tradition, and with responsibility for submerged lands, wildlife, marine resources and places of historical significance; that the department be responsible for conservation of such resources, agricultural and fishing development, plant, meat and meat products inspection, the productive use of lands made available for agricultural homesteads; and recovery of minerals on submerged lands; and that it conduct land surveys.

Recommendation 106. We further recommend that the department of natural resources be headed by a director appointed by the governor with the advice and consent of the senate; and that an agricultural officer be appointed by the governor upon recommendation of the director to administer agricultural and marketing services and to oversee plant, meat and meat products inspection and animal quarantine functions. Recommendation 107: We recommend that there be within the

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department of natural resources an historic preservation officer and that a state review board be created by action of the department director in order to help meet federal grants support requirements.

State Review Board

Department of public works

A department of public works should be established for major public works, public transportation, road construction and maintenance, public utilities, and public buildings construction and maintenance. It would also be the principal "housekeeping" agency of the government with responsibility for provision of office space and facilities for Commonwealth activities, maintenance of public grounds, acquisition and maintenance of equipment, procurement of supplies, and related functions. The department would assume the local public works and sanitation functions now conducted by the chartered municipalities. It would be responsible for erection and maintenance of public signs and traffic signs and safety signals. It would maintain the public parks of the Commonwealth to the extent that these are not directly maintained by the Marianas Public Land Corporation. We also propose that the department be the enforcement agent for residential and commercial construction. If a department of buildings and housing is created, the enforcement function might be transferred to it, together with building code enforcement responsibility.

** However it is proposed building code enforcement w/ ERS*

The organization, improvements and financing of public utilities will remain one of the concerns of the Commonwealth. We see no virtue in continuing the organizational structure of the Saipan utilities agency, which is largely a paper entity. Questions affecting ways to upgrade utilities and services, rationalize rate-making, and the ownership and financing of a new Saipan power plant must be resolved. Certain activities of the department, including central repair operations and maintenance, over time might be assumed by the private sector. These matters, requiring in-depth

examination, do not materially affect the initial assignment of functions to the department of public works, recognizing that power or indeed all utilities might be transferred to one or more public corporations. Appendix D contains a memorandum, prepared separately, on aspects of public utilities organization and continues to have relevance.

Recommendation 108: We recommend that there be a department of public works responsible for public works and roads construction and maintenance; transportation; harbor facilities and docks; all utilities, including water supply, sewage disposal, and power utilities services and facilities; public signs and traffic signals; provision and maintenance of public boats; supervision and maintenance of public buildings, and provision of office space for all branches, departments, agencies and instrumentalities of the Commonwealth; acquisition, maintenance and repair of heavy equipment, other equipment, and related supply and procurement functions. Recommendation 109: We recommend that the department assume street sanitation, solid waste collection and disposal, and other public works functions formerly performed by the chartered municipalities, and that these functions be integrated into regular department operations. Recommendation 110: We recommend that the governor appoint a director of public works with advice and consent of the senate.

Independent Agencies

The constitution specifies or itself establishes agencies and instruments of the Commonwealth government that will have degrees of independence from the governor, and that are not part of the judiciary or legislature. Some agencies, such as the civil service commission and the department of education, are executive in function even if they are not controlled by the governor. These constitutional provisions are intended to assure that critical activities be non-partisan and have discretionary authority not normally characteristic

of line and staff departments reporting directly to the governor. There may also be entities that clearly are outside of the executive branch although they are part of the service-delivery system of the Commonwealth. It is our view that the constitutional requirements can be met while assuring harmony of operating functions among the full range of service delivery agencies.

Marianas Public Land Corporation

The Marianas Public Land Corporation is unique. It is created as an instrument of government by the constitution (article XI, section 4). The constitution also establishes the Marianas Public Land Trust; it contemplates a development bank. The constitution does not bar the creation of additional public benefit corporations, and there is precedent for the use of such instruments of government within the Northern Mariana Islands. The constitution specifies the nature, composition of the boards of the Public Land and Public Trust Corporations. The Public Land Corporation is to have nine directors with specific residential and other qualifications. Its members are appointed by the governor with senate advice and consent. The duties of the corporation include making available public lands for agricultural and village homesteading, transferring public land freehold and leasehold interests, special requirements with respect to lands within 150 feet of the high watermark of a ^{*24}shady beach, and receipt and transfer of monies from the public lands.

The constitution intended to assure through this arrangement strict control over the most vital asset of the people of the Northern Mariana Islands--its public lands other than submerged lands. It established an entity that could not be dissolved within the first ten years of its life by the legislature.

The corporation has three responsibilities: to prepare a comprehensive land-use plan for public lands, to manage public lands,

and to dispose of public lands, other than submerged lands. It will have responsibility for lands transferred under secretarial orders 2969 and 2989 and lands transferred under the covenant. The constitution does not vest in the Marianas Public Land Corporation the power to adjudicate land matters or to decide land claims (responsibilities vested in the land division of the Commonwealth trial court^{*}). The corporation does have vest^{ed} authority with respect to public lands management and disposition. The corporation itself determines employment of staff and use of contractors and consultants. It may sue and be sued in its own name, make contracts and borrow money within the constitutional framework of article X.

The corporation can enact a zoning system for public lands which cannot be countermanded by legislative action as long as the corporation remains in existence. Although it is not required that zoning laws for private land be consonant with public land use plans, it is essential that they be compatible to the maximum feasible extent.

As noted in the Analysis "No further action is needed on the part of the corporation or any branch of government to constitute the corporation as a legal entity. No articles of incorporation or by-laws need to be filed as a precondition to corporate status. The provisions of sections 4 and 5 of article X constitute the basic rules of organization and governance ordinarily to be found in the charter, articles of incorporation or by-laws of a corporation. Organizational and policy matters not specified by the constitution are left to the discretion of the corporation." (p. 146) The Analysis further states (at p. 150), "It is intended that the day-to-day business of the corporation be managed by a small professional staff of full-time employees."

* See Analysis, p. 146.

Against
Civil Service

The corporation must publish an annual report to the people. Article XI, section 4(f) authorizes the legislature to disband the corporation at any time ten years after the effective date of the constitution by an affirmative vote of two-thirds of the members of each house.

Section 5(g) allows the corporation to retain, according to the Analysis ". . . a portion of the funds for administration purposes with two restrictions: the funds must be necessary for administration and the expenses of administration must be reasonable. Administration includes administration of the management of public lands and administration of the disposition of public lands. The determinations with respect to what is necessary and reasonable are made by the corporation."^{*}

Detailed consideration of the internal organization of the corporation should be left to its board. It is important that a competent person with professional qualifications serve as executive officer and secretary of the corporation. A search should begin immediately to locate suitable candidates.

The constitutional status of the Marianas Public Land Corporation poses issues of relationships with other parts of the government. The public auditor has jurisdiction over the corporation (see Analysis, p. 80) but it is not clear whether the civil service commission has. We urge the directors of the Marianas Public Land Corporation to adopt the job classification, wage scale and personnel system adopted for the Commonwealth government. In addition, cooperation in the land use and development plans among the planning office, department of natural resources, and Marianas Public Land Corporation is essential.

* Analysis pp. 158-159.

What are these qualifications?

X DOOR

Recommendation III: We recommend that a statement of qualifications for a position of executive officer of the Marianas Public Land Corporation be prepared and that a search committee be formed and activated to assist the directors when they take office in their appointment of an operating head of the Marianas Public Land Corporation.

*Try to make the P
to look
ridiculous*

Bad

There is a fundamental issue of whether the Marianas Public Land Corporation should actively manage programs on public lands. The corporation acquires title to the land on which most public buildings are located, including Charlie Dock and the civic center (cf. Analysis, pp. 144-145). We doubt whether it was the intention of the framers of the constitution that the corporation would maintain these public facilities or the grounds proximate to them. Should the corporation itself manage public lands, which might be used for agricultural or recreation purposes? We propose as a fundamental policy that the corporation can meet its trust responsibility under the constitution by acting as the ultimate arbiter on which lands should be disposed of and under what conditions within constitutional restrictions, and similarly the conditions of active use of lands that remain in the public domain. Active management should be done by private persons or corporations, within the requirements of the constitution, or by regular departments and agencies of the executive branch, or possibly, by public corporations. Thus, the department of natural resources should operate agricultural stations and public recreation programs; and the department of public works should perform the public works and maintenance functions of public roads, building sites, parks, and other places on land held by the Public Land Corporation.

We are proposing that the present land and surveys function be assigned to the department of natural resources. Hopefully, a single entity would serve the entire Commonwealth, including the

Marianas Public Land Corporation and department of economic development. It may be necessary for personnel to be divided between natural resources and the Public Land Corporation in the event the latter insists on conducting its own surveys. It would not in any event have land ownership determination, that function being vested in the land divisions of the Commonwealth trial court by the constitution.

Marianas Public Land Trust

At least set out requirements.

This instrument is also created by the constitution article XI, section 6. We see no major organizational problems and make no recommendations.

Public benefit corporations

The public authority has become increasingly popular on the American mainland. Three objectives are served through use of the corporate device:

- ° business-type structure for operational and managerial efficiency;
- ° financing projects through bonds, based upon self-supporting enterprises;

Summary Avoid unnecessary governmental controls which impede performance.

Of all the advantages, those relating to access to money markets and avoidance of constitutional debt limits are the most frequently cited.

Three authorities presently perform quasi-governmental functions in the Northern Mariana Islands: the airport authority, the housing authority, and the fishing authority. The airport authority

to propose particular sites for industrial development or commercial parks. The government may wish to contract with a private corporation to operate an industrial park, or the department of economic development to operate the park and enter into contracts and leases with the individual firms that would locate there. A mixed-ownership corporation may also be feasible.

Boards and Commissions

A range of miscellaneous boards and commissions have been created or proposed with respect to governmental activities. Too many have been created in the past without full regard to purpose or capacity to fulfill their assignments. Many have been abandoned and others never became active as noted above. A list of all of those entities that are known to have been authorized or established is contained in Appendix B.

Recommendation 115: We recommend that no board or commission be established except by legislation or by executive order of the governor or rule or regulation of an authorized agency head; that all such actions be taken in conformance with an administrative procedures act specifying the publication of the appropriate order, rule or regulation; that provision be made for the termination of such entities after they have accomplished their purpose or are no longer needed; and that the governor periodically review the special boards and commissions.

APPENDIX A

AGENCIES AND DEPARTMENTS
DISTRICT AND TRANSITION GOVERNMENTS

1. OFFICE OF THE RESIDENT COMMISSIONER

The office of the resident commissioner is the executive and administrative office for the transitional government. The executive, administrative and supervisory authority over all activities in the NMG emanates from this office. Seven staff positions. Total operating budget for FY '77 - \$149,000.

2. OFFICE OF PROGRAMS AND BUDGET

A staff organization of the executive branch, reports directly to the resident commissioner on matters related to budget development, revenues and reimbursements and expenditure reporting. Eight staff positions. Total operating budget for FY '77 - \$52,600.

3. OFFICE OF THE PUBLIC DEFENDER

Provides legal services, both criminal and civil, to eligible persons. Seven staff positions. In FY '77 included in Trust Territory budget.

4. DEPARTMENT OF HEALTH SERVICES

Seeks to improve the general health through medical care, preventative medical services, dental services, establishing and enforcing environmental and sanitary standards, and disseminating information on health and sanitation practices. Divisions include: hospital and dispensary services, public health, environmental health, sanitation, dental services, and special health services. Total department-wide staff is 144. Total operating budget for FY '77 - \$1,137,600.

5. DEPARTMENT OF EDUCATION

Provides elementary, secondary, vocational and special education in two high schools, three junior high schools, and eleven elementary schools. Divisions include: administration, elementary schools, secondary schools, and special education. Total department-wide staff is 286. Total operating budget for FY '77 - \$1,515,800.

6. DEPARTMENT OF PUBLIC AFFAIRS

Administers community and social development programs through public education in political development and community-oriented areas, such

as recreation, youth organizations, senior citizens programs improvements in community facilities, etc. Divisions include: public information, broadcasting, civic affairs, legislative liaison and community development. Total department-wide staff is 24. Total operating budget for FY '77 - \$127,000.

7. DEPARTMENT OF RESOURCES AND DEVELOPMENT

Stimulates and maintains resources through development programs in agricultural land management, marine resources, tourism and foreign investments. Divisions include: agriculture, economic development, lands and surveys, land commission, employment services (labor), and fisheries development. Total department-wide staff is 106. Total operating budget for FY '77 - \$622,100.

8. OFFICE OF THE ATTORNEY GENERAL

Functions include legal and regulatory activities, public safety and protective services, and immigration and consular services. Divisions include: legal affairs, public safety (police and fire), immigration and consular services. Total department staff is 87. Total operating budget for FY '77 - \$440,500.

* 9. DEPARTMENT OF GENERAL ADMINISTRATION

Provides administrative support, financial and accounting management, personnel management, benefits and training programs; procurement, storage and distribution of necessary equipment, supplies and materials and other support functions. Divisions include: office of the director, finance and accounting, personnel and training, procurement and supply, and revenue (customs and tax). Total department-wide staff is 47. Total operating budget for FY '77 - \$306,500. The revenue division assesses and collects all taxes with the exception of import duties. Funded by the legislature out of revenue collected. Ten staff positions. Total operating budget for FY '77 - \$18,800.] ?

10. DEPARTMENT OF PUBLIC WORKS

Responsible for operation, maintenance and construction of public facilities, infrastructure, and major equipment, maintenance and renovation of schools and health service buildings and facilities, all governmental administrative buildings, lawns and facilities, public roads, docks, harbors and airports, and public grounds upkeep. Divisions include: operations and maintenance, Saipan utilities agency, Rota and Tinian utilities, construction and automotive and heavy equipment repair shop. Total department-wide staff is 303. Total operating budget for FY '77 - \$2,868,900.

APPENDIX B

BOARDS AND COMMISSIONS
DISTRICT AND TRANSITION GOVERNMENTS

1. AD HOC COMMITTEE ON TINIAN UNDERWATER PARK
(See NMI Legislature Resolution No. 63-1975)

Surveys potential park sites and conducts feasibility studies. Six members appointed by the Resident Commissioner with the advice and consent of the legislature. No budget.

2. ALCOHOLIC BEVERAGE CONTROL BOARD
(See 11.16 Mariana Islands District Code)

Licenses the importation, manufacture and sale of alcoholic beverages. Six members appointed to two year terms by the Resident Commissioner with the advice and consent of the legislature. No budget

3. ARCHITECTS AND ENGINEERS SELECTION COMMITTEE

Selects from list provided by the Director of Public Works private firms to perform architectural and engineering work on CIP projects under the contracting authority of the Resident Commissioner. Five members appointed by the Resident Commissioner. No budget.

5. CETA MANPOWER ADVISORY COUNCIL
(See CETA Grant Application, Section II.A)

Reviews training proposals and establishes criteria for CETA programs. Thirteen members appointed by the Resident Commissioner. No budget.

6. COMMUNITY ACTION AGENCY BOARD OF DIRECTORS
(See CAA Articles of Incorporation, 3/24/67)

Acts as policy making body for the Community Action Agency, responsible for identifying the needs of the community and formulation of plans to meet these needs. Fifteen members appointed partly by local district commission legislature, the mayors, the Resident Commissioner and representative non-profit organizations. Budgeted at \$157,000 for FY '77.

7. DISTRICT LOAN BOARD (ECONOMIC DEVELOPMENT LOAN FUND)
(See Trust Territory Manual of Administration, Part 462.1 and .2 dated 2/8/74)

Promotes economic and social development. Five ex-officio members are Deputy District Administrator, District Attorney, Finance, Revenue and Economic Development Officers and two additional members appointed by Resident Commissioner. No budget.

- ✓ 8. DISTRICT MARINE INSPECTION BOARD
(See Title 19 of the Trust Territory Code)

Development of an improved program in marine safety. Six members appointed by the Resident Commissioner. No budget.

- ✓ 9. ENVIRONMENTAL PROTECTION BOARD
(See Title 63 of the Trust Territory Code)

Provides protection and enhancement of environmental quality of the air, land, and water of the Trust Territory of the Pacific Islands. Three permanent members include Directors of Public Works, Resources and Development, and Health Services. Six rotating members are appointed by the High Commissioner. Funded by the United States Environmental Protection Agency. Budget for FY '77 is \$130,000.00.

- ✓ 10. FOREIGN INVESTMENT BOARD
(See Title 33 of the Trust Territory Code)

Evaluates foreign business applications and recommends approval or disapproval to the Resident Commissioner. Five members appointed by the Resident Commissioner with the advice and consent of the legislature. Economic Development Office provides support staff. No budget.

- ✓ 11. HEADSTART POLICY COUNCIL
(See United States Public Law 90-22)

Initiates suggestions and ideas for program improvement and receives reports by the administering agency with regard to its recommendations. Seven members elected by the headstart parents, six appointed from the Education Department, Resident Commissioner's office, District Legislature, and the Municipal governments. Funded by the Department of Health, Education and Welfare, Office of Child Development. Budgeted at \$129,000 for FY '77.

- ✓ 12. HEALTH COUNCIL

Identifies health problems and recommends improvements in services to Director of Health Services. Six members appointed by the Resident Commissioner with the Director of Health Services, Chief of Public Health, and Chief of the Dental Clinic serving as ex-officio members. No budget.

- ✓ 13. HISTORICAL PRESERVATION COMMITTEE
(See Title 67 of the Trust Territory Code)

Reviews and selects sites for nomination to the National Register. Funding up to fifty percent by the National Park Service. The budget for FY '77 is \$42,100.

14. HOMESTEAD INSPECTION COMMITTEE
(See Marianas District Administration Memorandum No. 9-62, dated 10/17/62)

Inspects homestead sites designated by the Land Title Officer to determine if the homesteader is complying with the conditions of his homestead permit. Four members appointed by the Resident Commissioner. No budget.
15. HOMESTEAD PRIORITY REVIEW BOARD

Prioritizes homestead applications according to priority as established by marital status and need. Three members appointed by the Resident Commissioner. No budget.
16. INCENTIVE AWARD COMMITTEE
(See Public Service System Regulation-Part 11.8 and Manual of Administration Part 222.1)

Reviews and evaluates nominations for Superior Performance awards and Special Act or Service Awards and submits recommendation to the High Commissioner. Five members appointed by the Director of Personnel of the Trust Territory Government. No budget.
17. LAND ADVISORY BOARD
(See Title 67, Trust Territory Code)

Recommends tracts of lands to be designated as homesteads and formulates and recommends plans for the utilization of public lands. Three members appointed by the Resident Commissioner with the advice and consent of the legislature. No budget.
18. MINIMUM WAGE COMMITTEE
(See NMI Legislature Resolution No. 92-1975)

To review and recommend a minimum wage law for the Northern Mariana Islands. Ten members appointed by the Resident Commissioner with the advice and consent of the legislature. No budget.
19. MUSEUM BOARD
(See 3.40 Mariana Islands District Code)

Create and maintain a museum, accept gifts for the museum, adopt a seal and rules and regulations for its management. Seven members appointed by the Resident Commissioner with the advice and consent of the legislature. No budget.
20. ROTA MUNICIPAL SCHOLARSHIP BOARD
(See Rota Municipal Code)

Reviews scholarship applications and selects deserving students for study in higher education. Members appointed by the mayor with approval of the legislature. \$30,000 appropriated in school year 1976-77.

21. ROTA PLANNING COMMISSION
(See 3.20 Mariana Islands District Code and Title 51 of the Trust Territory Code)
Prepares, reviews and implements a master plan and land use requirement for Rota. Five members appointed by the Rota Municipal Council. No budget.
22. SAIPAN MUNICIPAL SCHOLARSHIP BOARD
(See 3.6 Saipan Municipal Code)
Control the use of funds for scholarship assistance; receive and review applications for scholarships. Four members appointed by the mayor with the approval of the Municipal Council. Funded by the Municipal Council and the legislature. \$294,000 appropriated in school year 1976-77.
23. SELECT COMMITTEE ON WAR CLAIMS SETTLEMENT
(See NMI Legislature Resolution No. 5-17, adopted 2/7/77)
Processes claims against any government, including the United States Government, foreign nationals and companies arising from hostilities of World War II and the period immediately thereafter. Five members appointed by the Speaker of the legislature. Funded by the legislature. Budgeted at \$15,000 for FY '77.
24. SHIPPING COMMITTEE
(See Resident Commissioner's Memo dated 8/5/76)
Formulates commercial shipping guidelines and procedures. Five members appointed by the Resident Commissioner. No budget.
25. SURVEY BOARD
(See Manual of Administration, Part 278.2)
Review obsolete equipment to determine whether suitable for scrap or bid. Five ex-officio members are directors of Education, Economic Development, Public Works, Custom and Tax and Hospital Administrator. No budget.
26. TINIAN MUNICIPAL SCHOLARSHIP BOARD
(See Tinian Municipal Code)
Reviews scholarship applications from high school students and award scholarships to deserving students for post secondary institutions. Members appointed by the mayor with the approval of the Council. Funded by the Municipal council and legislature. Budgeted at \$26,300.
27. VISITORS BUREAU
(See District Law No. 4-145)
Promotes the establishment of a visitor industry in the Northern Marianas. Nine members appointed by the Resident Commissioner with the approval of the legislature. Budgeted at \$7,192.14 for FY '77.

APPENDIX C

DESCRIPTION OF PROPOSED EXECUTIVE BRANCH
AND INDEPENDENT AGENCIES

This appendix describes proposed principal agencies, boards and offices of the executive branch of the Commonwealth government of the Northern Mariana Islands. Each instrumentality of government is presented here with the following descriptions.

I. Legal Basis

This includes references to the constitution of the Commonwealth of the Northern Mariana Islands. Constitutional provisions mandate certain institutional arrangements, offices, functions, and also delegate discretionary authority to the legislature. (See constitution, article II, section 1, article III, sections 13, 14, 15, 16.)

Statutory references indicate Trust Territory or district code provisions, or other legislative source and serves to indicate past or present authorizations or precedent. Under the constitution "Laws in force in the Northern Mariana Islands on the day preceding the effective date of the Constitution that are consistent with the Constitution and the Covenant shall continue in force until they expire or are amended or repealed" (schedule on transitional matters, section 2). It is anticipated that all new instruments of government will be created initially by the legislature, other than those directly established by the constitution. Agency profiles do not contain references, however, to the municipal codes of Saipan, Rota or Tinian, and they generally do not contain references to the covenant or to the orders of the Secretary of the Interior.

II. Proposed Functions

This enumerates principal functions that are proposed to vest in the identified agency. In each instance the assignment of duties and responsibilities should be reviewed with respect to their appropriateness for the suggested agency and potential advantages or disadvantages in departures from present structural arrangements. Thus, it is proposed that security guard service for public buildings be provided by the emergency services department (police force) rather than the public works department. It may prove infeasible immediately to transfer existing security guard personnel and integrate them with the police force.

III. Status

This identifies the type of agency that is being proposed, and its relationships with the governor. Principally, executive branch departments are proposed, to be headed by a single agency head appointed by and responsible to the governor with the advice and consent of the senate. This is consonant with article III, sections 14 and 15 of the constitution. Where the constitution provides a special relationship, as in the case of the department and board of education, the term "quasi-independent" is used.

IV. Responsibility for Policy and Execution

This outlines the division of responsibility for policy setting regarding each agency's functions and for executing policy. Where mandated by the constitution or where proposed for participatory or other stated reasons, the use of a multimembered board may be proposed. In other instances the department head will set policy within his statutory authorization and be accountable for implementation of agency functions. Policy determination is subject to executive and legislative control within constitutional or statutory requirements. Thus, the capacity of a department head to deal with personnel is subject to the constitutional mandate for an independent civil service commission.

It may be feasible to adopt a basic statutory arrangement for all boards with respect to appointments, length of terms, filling of vacancies, eligibility for reappointment, qualifications, removal, code of conduct, and administrative procedures to be followed (such as authority to issue regulations with the force and effect of law).

An omnibus administrative procedures act should be adopted, defining control requirements with respect to agency regulatory authority and procedures. Likewise, legislation on public access to government (sunshine laws), elimination of superannuated agencies (sunset laws), contract control and procedures, and strict codes of ethics are required.

V. Staffing

We have indicated use of administrative advisory or coordinative bodies, as in the case of a proposed council of principals for the department of education.

VI. Alternatives for Organization and Structure

Where appropriate, major alternative methods of dealing with the functions and organization of the proposed agency are posited.

VII. Internal Organization

Where appropriate, details on internal organization are included. We propose that the legislature enact laws establishing the principal departments and agencies, and leave to the executive branch (governor, policy board, or agency head) the structuring of the internal units of the agency, subject to constitutional and legislative requirements. This is discussed in detail in Part II of the IPA report.

VIII. Decentralized Organization

Article III, section 17 of the constitution specifies the governor's authority to delegate responsibilities to a mayor, including administration of public services in the island or islands in which the mayor has been elected.

IX. Authority to Establish Rules and Regulations

This details proposed delegation of rule-making authority to the agency, and particularly to the agency head or to any board that is proposed to be created. Special requirements involving submission of workable plans or proposed regulations may be imposed as a condition of federal grants.

X. Contractual Authority

This deals, as appropriate, with the proposed authorization of the agency to enter into contracts. As noted, omnibus legislation may be needed.

XI. Funding

Unless otherwise stated, it is assumed that funds for an agency will be appropriated to it by the legislature. Proposed funding levels will be identified in the executive budget. Each agency will participate in the budget-making process and may be eligible for special federal grants.

XII. Citizen Participation

This includes use of citizen advisory boards or task forces. Much of this should be left to administrative discretion rather than mandated by statute.

Executive Office
of the Governor

I. Legal Basis

Constitution. Article III.

II. Proposed Functions

1. There will be an executive office of the governor to assist the governor in carrying out the constitutional responsibilities of office. It should respond to gubernatorial initiative and should be structured and if necessary, restructured without being subject to the requirements of article III, section 15. *Departments*

2. The executive office should provide services for the governor and those to whom he has delegated responsibilities for decision-making and policy implementation with specialized expertise to facilitate their tasks. The executive office should be the instrument through which he controls appointed representatives, the heads of the executive departments and the departments they administer. Its functions should include program planning and policy formulation, budget preparation and execution, preparation and support for the governor's legislative program, ceremonial and consular affairs, and facilitating a cohesive executive branch and efficient delivery of all public services in the Commonwealth.

3. In addition to the executive office, the governor will have a small immediate staff.

III. Status

Executive branch office.

IV. Responsibility for Policy and Execution

1. There will be an elected governor and lieutenant governor under the constitution. The governor has responsibility for implementing the laws of the Commonwealth and for delivery of public services.

2. The lieutenant governor becomes governor in the event the office is vacated or the governor is incapacitated. The lieutenant governor should be under assignment of the governor without statutory authority for an initial experimental period.

3. The responsibility for administration and policy execution should be delegated to a chief administrative officer. The governor, an

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elected official, may not arrive at his position solely by virtue of administrative ability and he will have major policy-making and ceremonial duties. Therefore, he must have in close association with him a manager with the capability of supervising day-by-day operations of the executive branch and of the executive office. The chief administrative officer should be appointed by the governor and serve at his pleasure in order that the governor have immediate assistance in establishing the executive branch and in selecting department heads. It would be desirable to designate a search committee for locating the best candidate for the job. The principal qualification should be proven experience in management and administration preferably in local government at the sub-state level. Education in public administration, business administration, law or a related field would be highly desirable although less important than a demonstrated track record of management accomplishment.

*
Does not state duties + comment
4. A deputy chief administrative officer should be appointed by the governor to coordinate the delivery of decentralized services and other designated tasks. He would be facilitator of government services on the neighbor islands. He would be responsible for reporting to the chief administrative officer on the quality of service delivery. He would make recommendations and carry out arrangements for procedural, systematic improvements and identify particularized needs of islands and population groups for programmatic expansion. These responsibilities should not interfere with duties and responsibilities of line agency officials, who would retain authority for expending budgeted appropriations and be responsible for the efficient delivery of the services of their departments.

5. The executive office should include an assistant to the governor for legislative programs. He should be appointed by the governor and serve at his pleasure. The assistant for legislative programs should be responsible for coordinating the review of and drafting the governor's legislative program. He would maintain close contact with the heads of executive agencies and special boards and instrumentalities for determining the programmatic needs of the Commonwealth. After the governor's program is submitted to the legislature he should be available to coordinate relations with legislative committees.

6. There should be a planning-budgeting officer whose appointment and terms of service are similar to those specified above for the chief administrative officer and with professional qualifications. He would operate a central planning unit. He should formulate the executive budget and coordinate all departmental input and information necessary for the budget. He would work closely with the staff of the department of financial administration. The director of finance would provide data which are reliable and suitable for budgetary purposes. The planning-budgeting officer should review the proposed submissions of

executive agencies, mayors and special boards, commissions, and instrumentalities. He should play an active role in establishing a plan and a calendar for preparing and submitting budget requests. The planning-budgeting officer would coordinate long and intermediate range planning for social and physical development programs and would also facilitate the planning function within the individual executive agencies and be responsible for zoning regulations and administration. Under article IX of the constitution, there is a public land corporation which has similar functions with respect to public lands. In cooperation with the corporation, the planning-budgeting officer should study the feasibility of and make recommendations for a comprehensive zoning system for the entire Commonwealth.

7. An assistant for grants' coordination under the planning-budgeting officer would supervise the implementation and review of federal grants. He would serve at the pleasure of the governor, and work closely with agencies administering grants to assure compliance with federal regulations. He would coordinate the search for additional funding sources and would assist in the preparation and approval of all grant applications. He would work closely with the Washington representative and any Region IX liaison officer in promoting federal assistance.

8. The governor should appoint an assistant for public information, who, serving at his pleasure, would be responsible for protocol and have other assigned duties and responsibilities.

9. The constitution requires the governor to appoint an executive assistant for Carolinian affairs. He should be located in the governor's office. A staff person in the executive office should be assigned responsibility for the status of women and young people.

V. Staffing

All clerical support staff will be shared, excluding the governor's personal staff. Professional staff may be assigned to the assistants to the governor.

VI. Alternatives for Organization and Structure

One alternative model for organizing the functions listed above would be separate offices for planning, budgeting, public information and legislative programs, not located within the executive office of the governor. This model might eventually be adopted if these several functions become too individually extensive to be effectively coordinated in one office. At present they are retained within the executive office in order that support staff, clerks and typists, may be shared, and to achieve coordination requiring input of all of the units.

*Inconsistent w/ previous new **

How about old people

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VII. Internal Organization

All assistants to the governor will report directly to him through the chief administrative officer or planning-budgeting officer unless otherwise specified by the governor. The chief administrative officer will supervise the internal operation of the executive office.

VIII. Decentralized Organization

The executive office of the governor will be centralized. The deputy chief executive officer will report on the decentralized operation of the executive branch but will have no direct line authority.

what does this mean? *

IX. Authority to Establish Rules and Regulations

The authority of the executive office to establish rules and regulations is bound upon the governor's constitutional authority. These should be issued as executive orders of the governor.

X. Contractual Authority

Coincidental with constitutional authority of governor.

XI. Funding

Funding will be through legislative appropriation and special grant monies.

XII. Citizen Participation

There is no need to establish any additional instrumentality for citizen impact in the executive branch initially until the effectiveness of the governor's council, particularly the local mayors who serve on it, as a vehicle of citizen participation has been tested..

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Review is hard work
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The Governor's Council

I. Legal Basis

Constitution. Article VI, Section 5

II. Proposed Functions

1. The constitution creates a governor's council composed of the governor, the four locally elected mayors, and the executive assistant for Carolinian affairs. It requires the governor to convene the council at least four times a year, and specifies that the council advise the governor on local affairs and matters concerning the relationship between the islands and the Commonwealth.

2. The council should be used as a forum for discussing the quality of service delivery on the islands and for presenting recommendations for budget allocations for the islands.

3. In addition, the council should be a principal instrument through which the mayors communicate with the executive branch. The governor should convene the council frequently as a mechanism for communicating with locally elected officials and residents who are geographically removed from the centralized Commonwealth government.

4. The council may also serve as an instrument of planning.

5. The members of the council should be allowed to petition the governor for a meeting when special circumstances justify one, or when they believe the quarterly meeting requirement is inadequate.

III. Status

Constitutional advisory body.

IV. Responsibility for Policy and Execution

The council as a body will have no responsibility other than to advise the governor. Administrative responsibilities may be delegated to individual mayors under the provisions of the constitution, but the council as a body will have no administrative responsibilities.

V. Staffing

The governor may make available members of the executive branch on temporary assignment. The council will have no permanent staff. The governor, as chairman of the council, should provide necessary support services and office space.

VI. Alternatives for Organization and Structure

The council is an advisory body within the executive branch consistent with the provisions and spirit of the constitution.

VII. Internal Organization

The governor will serve as chairman. There will be no other officers, and members will serve without rank.

VIII. Decentralized Organization

None.

IX. Authority to Establish Rules and Regulations

The council itself will have no rule-making authority. The constituent members, as mayors, may be delegated authority to administer services on their respective islands, in which case they will have rule-making authority commensurate with their administrative authority.

X. Contractual Authority

None.

XI. Funding

None. Requirements for other than personal services will be met with funds appropriated to the governor's office. No member will receive any compensation for service on the council.

XII. Citizen Participation

Discretionary.

The Governor's Cabinet

I. Legal Basis

Constitution. Article III, Sections 14 and 15.

II. Proposed Functions

1. The governor may convene the heads of executive departments, members of the executive office, commissions, and special bodies into a formal structure, the cabinet. Both the size and mission of the cabinet should be left to the discretion of the governor.

2. Possible functions include promoting communication among agencies and the governor, advising the governor on policy issues, joint planning and operations, and mobilization of the government for situations which require fast action.

3. Traditionally, political executives at all levels of American government have used cabinets in a wide variety of ways. The cabinet should be flexibly structured to meet the needs of the chief executive. It should be established by executive order and not by law. As a non-statutory body, its creation requires no legislation or reorganization plan approval under article III, section 15 of the constitution.

III. Status

Advisory without statutory basis.

IV. Responsibility for Policy and Execution

At the discretion of the governor.

V. Staffing

Staff needs and requirements for clerical support and space will be authorized by the governor.

VI. Alternatives for Organization and Structure

At the discretion of the governor.

VII. Internal Organization

At the discretion of the governor.

VIII. Decentralized Organization

None.

IX. Authority to Establish Rules and Regulations

The cabinet itself would have no rule-making authority, although individual members would have authority as heads of executive agencies delegated by the governor.

X. Contractual Authority

None.

XI. Funding

None. Requirements for funds will be met in the regular budget of the governor's office. At the discretion of the governor there will be no special budget or appropriation for the cabinet. No member of the cabinet will receive extra compensation for service.

XII. Citizen Participation

Discretionary.

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Office of
Attorney General

I. Legal Basis

Constitution. Article III, Section 11.

Statutes. Title 2, Trust Territory Code, Chapter 22(3);
Title 3, Trust Territory Code, Chapter 3, 5 and 7.

II. Proposed Functions

1. Functions of the office of attorney general will include: representation of the Commonwealth in all legal matters; prosecuting violations of Commonwealth law; providing legal advice to the governor and executive department. The office will have exclusive jurisdiction in these matters unless otherwise provided by law.

2. The attorney general also will serve as counsel to all authorities and commissions.

* ?
3. He will be responsible for immigration and emigration, naturalization, and alien property (T. T. Japanese Property)

4. He will authenticate, compile, publish and index acts of the legislature, the Code of the Commonwealth and rules, regulations and executive orders, other than those pertaining to the internal management and operations of agencies.

5. He will keep the Seal of the Commonwealth.

6. He will register and regulate corporations.

7. He will certify notaries public.

III. Status

The attorney general is a constitutional officer of the Commonwealth. The office of the attorney general is an executive branch department.

IV. Responsibility for Policy and Execution

1. The constitution provides for the appointment of the attorney general by the governor with the advice and consent of the senate. He should be subject to removal by the governor after notification of the reasons for such action. Qualifications for the attorney general should be the same as those prepared for Commonwealth trial court judges.

* Does not mention - as per previous
Deputy AG. -179-

2. The office will include a director of immigration and naturalization appointed by the governor upon nomination of the attorney general with advice and consent of the senate.

3. The board of parole would be administratively attached to the office of attorney general.

V. Staffing

* The office should consist of approximately three assistant attorneys general whose responsibilities will be to assist the attorney general in the functions delineated above. They each should be attorneys.

VI. Alternatives for Organization and Structure

1. Under the law of the Trust Territory, the attorney general has responsibilities for police and fire services. This combination of functions has been rejected as inappropriate for the Commonwealth government. Another alternate model would place matters of immigration and naturalization in a separate office.

2. The attorney general might be appointed to serve at the pleasure of the governor. Alternatively, he might be appointed for a set term and removed prior to the term's expiration only for cause.

VII. Internal Organization

The internal organization will be at the discretion of the attorney general, subject only to budgeted appropriations.

VIII. Decentralized Organization

Only those operations relating to the entry of aliens at particular points within the Commonwealth will be decentralized.

IX. Authority to Establish Rules and Regulations

Under a proposed administrative procedures act, the office of the attorney general will have responsibility for developing general standards for the rules and regulations established by departments and enforcement of such standards.

Different set-up for services in Dore & Timin

X. Contractual Authority

The office of the attorney general will review and approve all contracts entered into under the contractual arrangements act.

XI. Funding

Funding will be by appropriation of the legislature.

XII. Citizen Participation

Discretionary.

Board of Parole

I. Legal Basis

Constitution. Article III, Section 9(c)

II. Proposed Functions

1. May grant paroles after conviction and minimum period of imprisonment specified in law.
2. Shall establish standards of parole which shall be uniform for all classes of parole.
3. Shall enforce parole and may suspend or revoke a parole for violation of standard.
4. Shall review record of prisoners with respect to eligibility for parole at least annually.
5. The board shall provide advice to the governor with respect to any reprieve, commutation, or pardon pursuant to article III, section 9(c) of the constitution.

III. Status

Constitutional board administratively attached to the office of attorney general.

IV. Responsibility for Policy and Execution

The board of parole shall consist of three persons appointed by the governor for six-year terms, at least one of whom is an attorney and one is a woman. Members shall serve without compensation but may be reimbursed for actual and necessary expenses in connection with services on the board. The governor shall designate one member to serve as chairman and one as vice chairman. Of the members first appointed, one shall serve for two years, one for four years, and one for six years.

V. Staffing

There will be no permanent staff. Support services will be provided by the attorney general.

VI. Alternatives for Organization and Structure

None.

*

VII. Internal Organization

There will be a chairman and two co-equal members.]
How about vice.

VIII. Decentralized Organization

None.

IX. Authority to Establish Rules and Regulations

The board will establish uniform standards for the granting of paroles. These standards must be approved by the governor and made public.

At procedure

X. Contractual Authority

None.

XI. Funding

Reimbursements for expenses incurred by members may be provided for in the budget for the executive office of the governor.

* How about in A G

XII. Citizen Participation

None.

Civil Service Commission

I. Legal Basis

Constitution. Article III, Section 16.

II. Proposed Functions

1. There will be a civil service commission required by the constitution which will establish and administer personnel policies for public employees of the Commonwealth. It will provide for a merit system governing the hiring and advancement of employees.

2. The commission will classify employees according to areas and degrees of responsibility, and provide for salary classifications and pay scales subject to legislative and budgetary constraints.

3. The commission in cooperation with a training unit of the chief administrative officer will develop plans for training employees and improving their general level of performance, and establish incentives for career advancement.

4. The commission will receive, review, and pass judgment on employee grievances.

5. The commission will administer equal employment programs.

III. Status

Constitutionally established independent body.

IV. Responsibility for Policy and Execution

1. The civil service commission will be a nonpartisan, independent body composed of three members appointed by the governor for staggered six-year terms. Of those first appointed, one will serve for two years, one for four, and one for six. There will be a limit of six years on the length of service, exclusive of the original appointment.

2. At the time of appointment no member shall have been for a period of one year prior to appointment an officer of a political party or a government official, either elected or appointed.

3. All members must be qualified voters under article VII of the constitution and all must have been residents of the Commonwealth for a minimum of five years. At least one must be a woman.

*How about
CAO
management*

X

4. Within the commission there will be a personnel office charged with the execution of commission policies and judgments. The department will be headed by a personnel officer appointed by the commission according to qualifications established by the commission. The commission should either appoint a search committee or designate itself as such. The qualifications established by the commission should include requirements that the director be thirty years of age and hold either a Masters degree in public, business, or personnel administration or equivalent credentials. The director should have had five years of progressively increasing experience in the field of personnel administration in either government or private business or both. An appropriate equivalent combination of these criteria would be acceptable. The search committee should be encouraged to conduct a broad recruitment effort in the Northern Mariana Islands, the Trust Territory, Guam, the United States federal, state and local governments, and seek the assistance of the International Personnel Management Association or other personnel management organizations.

5. At the discretion of the commission, it may enter into contract with the personnel officer for a maximum of three years, subject to renewal, or it may appoint a director to a three-year term of office. The salary of the personnel officer should be at parity with the heads of the executive departments.

6. The commission should prepare a comprehensive personnel management plan for submission to the governor and legislature. It should establish the personnel policies of the Commonwealth, including plans for a career management service of technical, professional, management, and administrative and supervisory personnel. The service should have qualifications for membership which would signify policy, administrative, supervisory and professional skills and the ability to exercise independent judgment in work scheduling, program management, evaluation of performance and allocating resources. Entry into the service should be determined by examination for proficiency in the above-mentioned and other appropriate areas.

7. The comprehensive plan formulated by the commission should also include training and career development programs and criteria for evaluating the effectiveness of programs. The plan should also address issues of lateral entry, flexibility of assignments, use of trainees in internships, and cooperation among agencies.

8. Both the governor and the legislature would be allowed to comment on the comprehensive plan before it is adopted by the commission.

July 30

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V. Staffing

The major functions should be staffed by a professional personnel officer. A total staff of approximately six persons is contemplated.

VI. Alternatives for Organization and Structure

An alternate model would be a policy-making civil service commission and a separate executive department of personnel.

VII. Decentralized Organization

The personnel function is to be centralized.

VIII. Authority to Establish Rules and Regulations

The authority to legislate and establish rules and regulations will be carried out under the procedures outlined above.

IX. Contractual Authority

The commission would have contractual authority but it is anticipated that this authority would be used sparingly for consultant services and special studies beyond the capacity of the commission.

X. Funding

Funding will be through legislative appropriation. + 30,000 = PA

XI. Citizen Participation

Discretionary.

B o a r d o f
P r o f e s s i o n a l L i c e n s i n g

I. Legal Basis

Constitution. Article III, Sections 14 and 15.

II. Proposed Functions

1. There will be a board of professional licensing which will certify the qualification of architects, engineers, surveyors, plumbers, ship officers, electricians, carpenters, barbers and beauticians, to practice their profession or trade in the Commonwealth. Its authority would not extend to lawyers, physicians or other health professionals. Teacher certification probably would be done under the board of education.

2. The board will issue licenses in the professions listed above and to all other professionals and tradesmen specified in law.

3. The board may require evidence of licensing or certification from a person who seeks to practice or work in a profession or trade. It may administer a test in cooperation with the department of personnel as verification of professional competence. It also may contract for the purchase of tests or require an applicant to pass a test separately administered.

III. Status

Statutory board administratively attached to the civil service commission/personnel office.

IV. Responsibility for Policy and Execution

1. The board of professional licensing will be composed of six members. The superintendent of education, the director of public works and the director of personnel will serve as ex officio members. Three members will be appointed by the governor to six-year terms. Each will be a representative of one of the professions subject to the requirement of licensing, and no two will represent the same profession. All members will serve without compensation, although members may be reimbursed for actual and necessary expenses incurred in the performance of duties.

2. The personnel officer will serve as executive secretary of the board and will administer tests or credentialing activities as required by the board.

V. Staffing

Support staff will be provided by the personnel officer.

VI. Alternatives for Organization and Structure

The professional licensing function could be delegated to appropriate executive departments. Thus, the department of public works could be authorized to license engineers and architects.

VII. Internal Organization

The governor would designate a member to serve as chairman and vice chairman.

VIII. Decentralized Organization

None.

IX. Authority to Establish Rules and Regulations

The board will have authority to establish criteria and standards in each profession and trade subject to licensing under Commonwealth law. Criteria and standards may include evidence of a license in another jurisdiction, credentials of training and competence issued by a professional body, a requirement that the applicant pass a test administered or accepted by the board.

X. Contractual Authority

The board may enter into contracts for testing services subject to the provisions of the contractual procedures act.

XI. Funding

The legislature may appropriate funds for contractual services.

XII. Citizen Participation

The board may solicit recommendations of appropriate professional associations regarding standards which should be met by practitioners in a particular trade or profession.

The Public Auditor

I. Legal Basis

Constitution. Article III, Section 12.

II. Proposed Functions

1. The constitution requires the public auditor to audit receipts, possessions and disbursements of public funds by the three branches of government, and to report at least once a year both to the legislature and the governor.

2. The public auditor's authority extends to auditing the receipts and disbursements of funds of public authorities.

3. The public auditor should not be denied the right to conduct pre- and trans-audits if he determines this is essential to the fulfillment of his constitutional duties. He should not be denied the right to conduct management audits. He may comment on agency compliance with constitutional and statutory requirements respecting fiscal integrity and conditions of special funding, such as federal grants. He would report the investment of idle cash and investments of pension and trust funds. He may provide guidance to the treasury on systems for controlling receipts and disbursements. He may cooperate in audits by the federal government in order to reduce duplication of effort. He should be consulted on the establishment of a system of uniform accounts.

4. He should be required to make all reports public, in addition to his annual report.

III. Status

Constitutionally established independent office.

IV. Responsibility for Policy and Execution

1. Under the constitution, the governor appoints a public auditor subject to the advice and consent of both houses of the legislature. He can be removed only by vote of both houses; the presiding officer of the senate appoints a temporary public auditor in the event of a vacancy.

2. The term of appointment, not specified in the constitution, should be six years and there should be a two-term limitation. Unless otherwise determined, the public auditor should be a CPA with at least three years significant experience in public finance or related experience. He should be knowledgeable in techniques of financial and management audit.

three years significant experience in public finance or related experience. He should be knowledgeable in techniques of financial and management audit.

V. Staffing

There should be one deputy public auditor appointed by the governor on recommendation of the public auditor. He should be a professionally trained accountant with similar experience to the public auditor.

VI. Alternatives for Organization and Structure

There are no alternative models for this office since the public auditor is constitutionally created.

VII. Internal Organization

The internal organization of the office should be at the discretion of the public auditor, subject to budgetary appropriations.

VIII. Decentralized Organization

The public auditor at his own discretion may conduct audits of decentralized executive departments and of specific operations limited to a single island. No separate decentralized staff is required.

IX. Authority to Establish Rules and Regulations

The public auditor may require a particular form and method in connection with reporting of fiscal data, principally adhering to required federal standards and general accounting principles for municipalities. He may specify criteria for annual financial reports of agencies and public authorities.

X. Contractual Authority

The public auditor may enter into contractual arrangements with appropriate individuals or private concerns for technical audit work.

XI. Funding

The office of the public auditor will be funded by appropriation of the legislature. It would be a serious violation of the constitutional mandate if the legislature fails to appropriate a reasonable amount or the governor item vetoes appropriations unless they are demonstrably excessive.

XII. Citizen Participation

Discretionary.

Board of Elections

I. Legal Basis

Constitution. Article VIII, Section 3.

II. Proposed Functions

1. There will be an independent and nonpartisan board of elections.

2. The board will administer and supervise all elections, including local elections, in the Commonwealth; register voters, provide for nominations, count ballots and certify the vote. Its responsibilities will include providing polling places and poll workers in Saipan, Tinian, and Rota, and for balloting by mail elsewhere in the Commonwealth, according to a Commonwealth election law. The board will assure availability of information regarding registration procedures.

3. Within constitutional statutory standards, the board will be responsible for setting and publicizing dates of elections, times during which the polls are open, location of polls, and information regarding candidates and issues to appear on the ballot.

4. The board will provide for absentee balloting and requirements of the election law for the conduct of orderly and fair elections.

III. Status

Independent and nonpartisan.

IV. Responsibility for Policy and Execution

This matter is addressed in an act of the Northern Marianas Island legislature.

V. Staffing

Staff would be appointed within budgetary appropriations. No separate legal counsel is warranted. A small permanent staff only is needed except before elections.

VI. Alternatives for Organization and Structure

Alternative methods and terms of appointment and for the composition of the board may be used. Structural alternatives are few. Any

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* missing
Department of
Financial Administration

I. Legal Basis

Constitution. Article II, Sections 14 and 15.

II. Proposed Functions

1. There will be a department of financial administration responsible for all revenue receipts and expenditures of the Commonwealth and within it a treasury responsible for deposit and safeguarding of public funds. The jurisdiction of the department will encompass all governmental functions and all branches, departments, agencies and jurisdictions of the Commonwealth, including public corporations.

2. The department will collect taxes, including duties and the territorial income tax, all utility receipts and fees, handle the payroll for Commonwealth employees, and payments of vouchers. It will receive and account for all gifts and donations to the Commonwealth and instrumentalities and agencies of it. The department will manage pension funds and investments.

3. It will open and manage bank accounts and have authority to draw on those accounts.

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4. For purposes of revenue collection, the department will be assisted by the police force. Some collection activities may be shared with operating agencies.

5. The department will insure that expenditures of all branches, departments, agencies and instrumentalities of the Commonwealth government do not exceed their appropriations or violate the lawful purposes of appropriations. It will approve payroll forms and related documents pertaining to agency fiscal affairs, approve purchase orders, encumber funds and report at least once a month to each agency and be the chief administrative officer with regard to agency expenditures, obligations and balance of funds remaining.

6. The department will provide reports periodically to the administrative officer of the legislature, courts and public authorities regarding the expenditures by such entities.

7. It will provide financial data necessary for formulating the budget, including expenditures by source and program and projections of anticipated revenues, including grant funds.

*

nonpartisan and independent body must be located outside the direct control of the executive and legislative branches.

VII. Internal Organization

The organization of the staff of the board should be flexible. Staff members should interchange responsibilities as necessitated by the calendar with temporary staff employed in the period before elections are held.

VIII. Decentralized Organization

The board of elections will provide for polling sites on Rota and Tinian and temporary staff will be employed on those islands as necessary.

IX. Authority to Establish Rules and Regulations

Authority of the board to establish rules and regulations on the conduct of elections will be delineated in the election law.

X. Contractual Authority

The board may contract with private firms for technical services and equipment such as rental of voting machines and printing of ballots.

XI. Funding

Funding will be from legislative appropriations.

XII. Citizen Participation

When feasible, volunteers should be used to work at polling sites.

Department of
Community Affairs

CAA

I. Legal Basis

Constitution. Article III, Sections 14 and 15.

II. Proposed Functions

1. The department of community affairs will administer social services of the Commonwealth, including financial support, human rights, the old age program, food stamp programs, youth employment programs and other programs of assistance to the disadvantaged and social development which may be initiated. It will work closely with the community action agency.

2. The department will promote the betterment of communities and villages, on all of the populated islands, through civic and recreation programs and it will encourage volunteer services, programs and activities.

3. The department will provide sports and recreation activities for young people, including support of boy and girl scouts, and special programs for women. Basic responsibility for park and recreation will be vested in the department of natural resources.

4. The department will be responsible for consumer affairs, including local licensing of public recreation, such as cock fights, alcoholic beverage control, and related activities; and registration and licensing of household pets. In cooperation with the department of emergency services the department should develop plans for controlling the stray animal population. Its authority will not extend to regulation of major business activities, although mutually agreeable plans for cooperation in appropriate areas may be formulated with the department of economic development.

unless not Agriculture

III. Status

Executive branch department.

IV. Responsibility for Policy and Execution

The governor will appoint a director of community affairs with the advice and consent of the senate to serve as head of the department.

V. Staffing

The department will be staffed by persons within the civil service. If subsequent legislation so authorizes, a consumer affairs officer of the Commonwealth may be appointed.

VI. Alternatives for Organization and Structure

An alternative would be to include in the department the functions of public housing, village homesteads, tourism and public information. A second alternative would be to place consumer affairs and regulation in the department of economic development. Initially, this will be a small department but will grow as social services are expanded.

VII. Internal Organization

The department will be divided into two units, one for social services including the old age program, food stamp and other programs for the disadvantaged, and recreation, and one for consumer affairs and regulation. A unit for youth employment and training may be required.

VIII. Decentralized Organization

Services will be decentralized for local delivery. There will be a community development officer on Rota and Tinian. Each will supervise social service programs and consumer affairs and they will represent the department of economic affairs since no separate decentralized staff is warranted.

IX. Authority to Establish Rules and Regulations

The department will formulate rules and regulations within its regulatory jurisdiction and for locally funded and operated programs subject to the administrative procedures act.

X. Contractual Authority

None.

XI. Funding

All funding will be through appropriation of the legislature and special grants.

XII. Citizen Participation

Department programs should be designed to meet particular needs of each community as well as the Commonwealth as a whole. The department will develop plans for involvement of local residents in the process of planning and evaluating community service programs. Where possible, the local community should be included in the delivery of services through volunteer programs. Plans in those areas should be reviewed by the governor after consultation with the governor's council.

Department of
Economic Development

I. Legal Basis

Constitution. Article XIV and Article III, Sections 14 and 15.

II. Proposed Functions

1. The department of economic development will promote economic growth and tourism in the Northern Mariana Islands. It will develop plans and policies to encourage the growth of private business investment.

2. It will be responsible for the development of the tourist industry, including hotels and other public accommodations.

3. Applications for permits to conduct major businesses in the Commonwealth will be reviewed by the department as to economic impact. (The department will make recommendations to the attorney general for registering of private corporations.)

4. The department will be responsible for developing and regulating the maritime industry.

5. The department will be responsible for labor services. It will promote harmonious labor relations among businesses and employees. It should work closely with community affairs on youth employment programs.

III. Status

Executive branch department.

IV. Responsibility for Policy and Execution

The governor will appoint a director of economic development with the advice and consent of the senate.

V. Staffing

The department should include, in addition to the director, two economic development officers responsible for business regulation and development and a labor relations officer. They would be within the civil service.

* problem with
Constitutional provision
on decentralized
Service

VI. Alternatives for Organization and Structure

The functions of the department could be combined with those of the department of natural resources.

VII. Internal Organization

The department should be subdivided into a unit responsible for private sector affairs, including regulation and development and one responsible for labor relations. The director should designate one of the economic development officers as the agency planner who would facilitate intradepartmental planning and also serve as liaison to the central planning-budgeting office.

VIII. Decentralized Organization *

There will be no permanent staff on Rota and Tinian; however, a community development representative could represent the department of economic development through cooperative agreements between the two departments.

IX. Authority to Establish Rules and Regulations

The department may formulate rules and regulations for businesses operating in the Commonwealth within its statutory jurisdiction.

X. Contractual Authority

The department will have contractual authority consistent with the contractual procedures act.

XI. Funding

The department will be funded through local appropriation and special grants.

XII. Citizen Participation

The department may use advisory boards of citizens for planning and developing locally owned and operated enterprises. The Marianas Visitors Bureau, which is principally a private entity under local enabling law, will be functionally within the department.

Department of Education

I. Legal Basis

Constitution. Article III, Section 13; Article XV.

II. Proposed Functions

1. The department of education will provide public elementary and secondary education; and higher education which may be undertaken by the Commonwealth in the future. It will be responsible for adult education, vocational or special skills training, including development of skills required for public sector employment.

2. The department will regulate private sector educational facilities and services, including private schools in the Commonwealth, encompassing the licensing of private schools, certification of teachers, inspection of facilities, mandatory attendance requirements, and standards.

3. The department will oversee and provide public library services in the Northern Mariana Islands, and museums, and be responsible for their overall administration. A coordinated reference and research library for the Commonwealth is contemplated, which will also service the legislature and judiciary.

4. The department will administer scholarships and special grants for higher educational purposes.

III. Status

Quasi-independent.

IV. Responsibility for Policy and Execution

1. Responsibility for establishing policy of the department of education will be vested in a five person representative board of education whose members will be appointed by the governor for four-year staggered terms. Responsibility for execution of board policy and for administering the department will be vested in a constitutionally created office of superintendent of education. The superintendent will be appointed by the board and subject to removal by the board.

2. The board should be composed of five members. Of those first appointed, two should be appointed to two-year terms, two to three-year terms, and one to a four-year term, so that the expiration of terms of service is staggered. Members should be eligible for re-appointment. The board should be composed of one representative of Tinian, one of Rota, and two of Saipan. One member should be a woman. One member should be a Carolinian. All should be qualified to vote in the Commonwealth pursuant to article VII of the constitution, and should not serve in other capacities in the government, either as elected officials or as public employees. These would be statutory requirements.

3. Of the members to be appointed, one should be knowledgeable in problems of adult and vocational education; two should be parents of children currently enrolled in the public schools; and two by virtue of their training and background should have an understanding of elementary and secondary school problems. The governor should have the power to remove board members for cause after notice and opportunity to be heard. No compensation should be granted to members for their services, other than for actual and necessary expenses incurred in the performance of duties.

4. All board policies shall be promulgated in accordance with the administrative procedures act of the Commonwealth. Office space and support for the board other than the position of secretary of the board should be provided by the superintendent. One member of the board should be designated by the governor to serve as president and one as vice president for terms of one year. No member should serve in such capacity more than once until one full year has passed since the end of his last term of service.

5. The board should be required by law to issue an annual report to the governor and legislature, which should be made public. The report should address major policy issues and the state of education for the entire Commonwealth and for each island.

6. Under the constitution, the superintendent is to be appointed by the board. As part of the recruitment of a superintendent, the board should set forth the formal qualifications for the position in such areas as professional training in the field of education, and experience. The superintendent should be appointed under a renewable contract term of three years. The contract should establish provisions for removal of the superintendent for cause by the board before the expiration of the contract. The superintendent should recommend to the board a plan for organizing and staffing the school system which should become effective upon board approval. The plan should include requirements for the delivery of services for the residents of Rota, Tinian, Saipan and the northern islands within limitations and requirements of the constitution.

V. Staffing

1. The superintendent should consider the feasibility of organizing a council of principals to serve him in an advisory capacity and to act as a forum for coordinating policy.

2. The board would itself employ a secretary who would report to the superintendent of education.

3. All department of education staff would be within the civil service.

VI. Alternatives for Organization and Structure

Under the constitution, the department is clearly within the executive branch although it does have a measure of independence with its policy-making and constitutionally-created board. Traditional models of an elected board and a separate school district may be eliminated as alternatives under the constitution. A separate office for payroll, personnel, procurement and budget is rejected as unnecessarily duplicative of the regular staff functions of the executive branch and as fragmenting the department from the executive beyond the intent of the constitution.

VII. Internal Organization

The department's internal organization should include separate units for special education (vocational, adult and special skills), libraries and museums, secondary education, primary education, post secondary education, and administration.

VIII. Decentralized Organization

1. The superintendent will provide plans for delivery of services to the residents of Rota, Tinian, Saipan and the islands north of Saipan. As mandated by the constitution, all public services must be delivered on an equitable basis to residents. In the case of public schools, education should initially take place in the existing facilities on Tinian and Rota with arrangements for lodging and transporting high school students from those islands to Saipan. Since the education of children depends on physical facilities, any expansion of schools on those islands should be specified in the Commonwealth plan for physical development and the expansion and development of all public services and the availability of resources for capital improvements.

2. In his plan, the superintendent should consider designating as his local representative in Rota and Tinian, pursuant to article III, section 17 of the constitution, a local school official with training in the field of education, such as a school principal, to supervise public education on the island or to coordinate school administration for a designated area.

IX. Authority to Establish Rules and Regulations

1. Authority to establish rules and regulations for carrying out internal school administration policies should be delegated to the superintendent by the board except where the board reserves to itself the right to establish regulations with respect to a particular policy relative to the constitutional duties of the board.

2. Authority to administer rules and regulations should be vested in the superintendent or in his delegated representative under the conditions for administering educational policy according to plans established by the superintendent and approved by the board. The administration of policy, including particular rules and regulations, should be reviewed periodically by the board.

X. Contractual Authority

In addition to its authority to engage a superintendent, the board should have authority to enter into contract with other agencies of the Commonwealth government, the government of the Trust Territory of the Pacific, the government of the United States, or with private concerns, for services which the board believes cannot be effectively or efficiently administered by the board. All contracts should be subject to the requirements of the contractual procedures act of the Commonwealth.

XI. Funding

The department of education in both its direct and indirect costs shall be funded from local appropriations and federal government sources, including special grants for which the Commonwealth may become eligible. The department may provide special adult, vocational and special education on a fee basis.

XII. Citizen Participation

1. The board of education is a participatory body.
2. The superintendent may designate local advisory boards, parent associations, and other appropriate citizen bodies to serve in an advisory capacity for individual communities or islands.

*Noted
for
revised*

Department of
Emergency Services

I. Legal Basis

Constitution. Article III, Sections 14 and 15.

Statutes. Title 69, Trust Territory Code; see also: Title 2, Section 55(2), Trust Territory Code; Title 13, Mariana Islands District Code, Chapter 13.04.

II. Proposed Functions

1. The department will be responsible for the enforcement of laws of the Commonwealth, preserving peace and maintaining order on all islands of the Commonwealth. It will enforce traffic regulations and animal control laws, serve process issued by the judiciary, conduct criminal investigations, control private ownership of weapons and administer and maintain Commonwealth detention facilities, including special facilities for juveniles.

2. Its responsibilities will include civil defense, motor vehicle regulation and inspections, and provision of security services for government buildings.

3. The department will provide fire service, operate fire equipment, and be responsible for fire prevention measures, including related inspectional and enforcement activities.

4. The department will have enforcement responsibilities in tax collection, public health, environmental quality and buildings (or code) inspections. These enforcement activities will be conducted cooperatively with other departments.

5. The department would replace locally administered fire and police services of the chartered municipalities.

security guards

III. Status

Executive branch department.

IV. Responsibility for Policy and Execution

1. Responsibility for the department's functions will be vested in a director of emergency services appointed by the governor with senate advice and consent, and a police chief, a fire chief and corrections and probation officer. Unless the governor designates otherwise, the police chief will serve as director of emergency services, that is, he will be the agency head but will receive a single salary.

only volunteer

2. The police and fire chiefs will examine and make recommendations to the governor on the feasibility of auxiliary police and volunteer fire forces and institute and oversee such forces as are authorized. They will also develop recommendations on liability insurance and indemnification of auxiliary and volunteer forces.

3. In cooperation with the department of health, the department may participate in provision of emergency medical services under plans approved by the governor, subject to the authority of the governor under article III, section 10 of the constitution.

V. Staffing

The uniformed police and fire forces will be retained, with as much interchange of personnel as possible. The municipal uniformed forces will be incorporated into the centralized department and if feasible detailed to the island where they served on the respective municipal force.

VI. Alternatives for Organization and Structure

The Trust Territory code, located police and fire services in the office of attorney general. This arrangement was continued under the September 1976 organization chart of the resident commissioner.

VII. Internal Organization

There will be within the department a police force, fire agency, and corrections and probation office established by statute. If emergency medical services are added, this function can be assigned by the governor. Considerable opportunity exists for interchange of personnel and cooperation between the two divisions.

VIII. Decentralized Organization

Decentralized services will be provided on Rota and Tinian with-
in a single unit.

IX. Authority to Establish Rules and Regulations.

2. The department will establish rules and regulations regarding fire safety. This authority will extend to standards which are applied to building construction. The department will submit a fire code in the form of recommendations to the governor who will in turn submit proposed legislation to the legislature establishing standards of fire safety for residential and commercial construction.

X. Contractual Authority

The department will have authority to enter into contracts subject to the provisions of the contractual procedures act.

XI. Funding

Funding will be through ~~legislative appropriation~~ and through special grants from the federal government, such as the Law Enforcement Assistance Administration. There will be a single appropriation by the legislature for both police and fire which will be administered under a unified budget for the department. LEAA

XII. Citizen Participation

The director of emergency services may establish one or more community relations boards for promoting harmony within local communities.

Department of
Financial Administration

I. Legal Basis

Constitution. Article II, Sections 14 and 15.

II. Proposed Functions

1. There will be a department of financial administration responsible for all revenue receipts and expenditures of the Commonwealth and within it a treasury responsible for deposit and safeguarding of public funds. The jurisdiction of the department will encompass all governmental functions and all branches, departments, agencies and jurisdictions of the Commonwealth, including public corporations.

2. The department will collect taxes, including duties and the territorial income tax, all utility receipts and fees, handle the payroll for Commonwealth employees, and payments of vouchers. It will receive and account for all gifts and donations to the Commonwealth and instrumentalities and agencies of it. The department will manage pension funds and investments.

3. It will open and manage bank accounts and have authority to draw on those accounts.

4. For purposes of revenue collection, the department will be assisted by the police force. Some collection activities may be shared with operating agencies.

5. The department will insure that expenditures of all branches, departments, agencies and instrumentalities of the Commonwealth government do not exceed their appropriations or violate the lawful purposes of appropriations. It will approve payroll forms and related documents pertaining to agency fiscal affairs, approve purchase orders, encumber funds and report at least once a month to each agency and be the chief administrative officer with regard to agency expenditures, obligations and balance of funds remaining.

6. The department will provide reports periodically to the administrative officer of the legislature, courts and public authorities regarding the expenditures by such entities.

7. It will provide financial data necessary for formulating the budget, including expenditures by source and program and projections of anticipated revenues, including grant funds.

8. The department will establish a uniform system of accounts acceptable to the public auditor. The Commonwealth accounting system will be on an accrual basis and will conform to generally accepted standards of governmental accounting. The department will provide information to the public auditor and to the chief administrative officer as requested.

9. The department will operate a central computerized data processing system for financial and other purposes.

10. The jurisdiction of the department will extend to the outer islands and oversight and audit of any authorized decentralized expenditures or payments of vouchers by resident department heads and mayors.

11. The department will issue an annual financial report to the governor, legislature and public auditor.

III. Status

Executive branch department.

IV. Responsibility for Policy and Execution

The department will be headed by a director of finance appointed by the governor. He should be a certified public accountant with at least five years of progressively increasing experience in governmental accounting, or have equivalent private sector experience. The governor will appoint a treasurer upon nomination of the director with the advice and consent of the senate. The treasurer will develop criteria for the selection of banks to be used by the Commonwealth. The director and the treasurer will be bonded, as will other principal deposit officials. The treasurer will select the banks to be used by the Commonwealth with the approval of the director of finance and report annually to the governor on the banks used.

V. Staffing

The department will include a customs and tax officer, and two finance officers responsible for the daily processing of requisitions, purchase orders, vouchers and the issuance of checks.

VI. Alternatives for Organization and Structure

The alternatives of a tax and revenue office and a treasurer separate from the office with responsibility for disbursement are rejected on the basis of scale of operation.



** Not Considered
CPA*



VII. Internal Organization

The treasury division will be established by statute within the department.

VIII. Decentralized Organization

All financial operations of the Commonwealth will be centralized in the department of financial administration. There will be no decentralized units, except for authorized collection activities.

IX. Authority to Establish Rules and Regulations

The authority of the department to make rules and regulations will extend to executive branch agencies respecting receiving, expending and encumbering funds, and reporting financial transactions. The department will have no unilateral authority to increase, decrease or alter an agency budget. The department will notify the governor and the chief administrative officer on known or likely budget overruns and improper expenditure practices. The department and the treasury will be forbidden to make expenditures not provided for in the budget and for which funds are not available. *control*

X. Contractual Authority

The department will have authority to enter into contracts for specialized data processing, forms design, and accounts services, subject to legislative authorization. It may be authorized to contract for EDP services and equipment.

XI. Funding

The department will be funded through legislative appropriation.

XII. Citizen Participation

Discretionary.

Department of Health

I. Legal Basis

Constitution. Article III, Sections 14 and 15.

Statutes. Title 63, Trust Territory Code; see also: Title 9 Mariana Islands District Code.

II. Proposed Functions

1. The department will provide direct primary and preventative health, medical, mental and dental health care delivery and maintenance services.

2. The department will establish and enforce standards of public and environmental health in such areas as communicable disease control, medical care and treatment, dental health, maternal and child care, mental health and retardation, drug and alcohol abuse control; water quality, environmental quality, and regulation of physicians, medical officers, dentists, nurses, midwives, and other healing arts professionals.

3. The department will be the repository of vital statistics relating to births, marriages, and deaths and administer the office of medical examiner. It will issue marriage licenses.

III. Status

Executive branch department.

IV. Responsibility for Policy and Execution

1. The department will be headed by a director of health appointed by the governor with professional training, including formal education in one or more branches of the healing arts or public health and progressively increasing responsibility in health administration. The director will have responsibility for carrying out the agency's functions. He should report to the governor on matters pertaining to public health and the provision of medical services throughout the Commonwealth and make recommendations for policy initiatives and for regulations and enforcement.

2. A board of health and environmental quality will be formed to establish standards of public and environmental health. The board

may be empowered by the legislature to set rules and regulations within a defined jurisdiction as designated by the legislature.

3. The board would be composed of seven members appointed by the governor with the advice and consent of the senate. The governor would designate a chairman and vice chairman for one year terms. Members should serve six-year staggered terms. It may be desirable to provide that the director of health, the director of natural resources and the attorney general serve as nonvoting ex officio members. Board members would receive no compensation for services other than reimbursements for actual and necessary expenses incurred in the performance of their duties as board members. The director of health would provide office space and secretarial support, as needed.

4. The director would execute all department programs. The board would not have administrative authority; its functions would be limited to policy-making and promulgation of public health and environmental quality rules which will have the force and effect of law.

V. Staffing

We make no recommendation.

VI. Alternatives for Organization and Structure

A major functional alternative of establishing a separate health maintenance organization might be considered. An alternative option is a separate hospital entity and a separate environmental quality board.

VII. Internal Organization

We make no recommendation.

VIII. Decentralized Organization

We make no recommendation.

IX. Authority to Establish Rules and Regulations

The board would operate under authority granted to the department in matters governing health and environmental quality. It would be empowered to adopt rules and regulations for the maintenance of public health and environmental quality and to impose fines and penalties for infractions, unless a different penalty is set in law.

X. Contractual Authority

The department will have authority to enter in contractual or cooperative arrangements with other governmental agencies and with private medical services providers.

XI. Funding

Funding sources will include legislative appropriations and general or special federal grants.

XII. Citizen Participation

1. The board of health and environmental quality is a participatory body.

2. With the approval of the governor the director may establish health planning advisory boards or other bodies, including specifically a health planning and public health development or coordinating entities for the purpose of meeting federal grant requirements. The department may elicit community, professional or outside assistance in developing comprehensive health services plans. The department will encourage use of volunteers.

Department of
Natural Resources

I. Legal Base

Constitution. Article III, Sections 14 and 15; Article XI, Section 2; and Article XIV.

Statutes. Title 45 Trust Territory Code, Chapter 7

II. Proposed Functions

1. A department of natural resources will be formed to preserve and conserve the natural resources of the islands of the Commonwealth, pursuant to the constitution, including its Chamorro and Carolinian heritage and tradition. These resources will include submerged land, wildlife, the ocean and its resources, and places of historical significance.

2. The department will provide for the conservation of resources, the preservation of aquatic, animal and plant life, including endangered species, and other things contributing to the character and enrichment of fishing and agricultural cooperative associations.

3. It will support agricultural development, including the productive use of lands made available for agricultural homesteads. It will inspect meat and meat products.

4. It will work cooperatively with the department of economic development on plans for recovery of minerals in submerged lands and with the Marianas Public Land Corporation on public land development.

5. It will review and comment on the environmental impact of physical growth and development.

6. It will administer historic and landmark preservation programs.

III. Status

Executive branch department.

IV. Responsibility for Policy and Execution.

The governor will appoint a director of natural resources with senate advice and consent who will serve at his pleasure.

V. Staffing

The department will include an agricultural officer appointed by the governor who will administer the agricultural and marketing services, inspections of meat, foodstuffs and animal quarantine, the agricultural supply and equipment service, and the animal and live-stock sales program. The department will have a land survey officer.

VI. Alternatives for Organization and Structure

The functions in II might be combined with those of the department of economic development into one executive agency under a unified directorship with appropriate statutory divisions.

VII. Internal Organization

We make no recommendation.

VIII. Decentralized Organization

The agricultural stations on Rota and Tinian will be continued.

IX. Authority to Establish Rules and Regulations

The department will have rule-making authority in keeping with the administrative procedures act.

X. Contractual Authority

The department will have contractual authority consistent with the contractual arrangements act.

XI. Funding

The department will be funded with appropriations from the legislature and with special grants and charges, including royalties.

XII. Citizen Participation

The director of natural resources will be authorized to establish citizen groups as advisory bodies for department policies.

Department of
Public Works

I. Legal Basis

Constitution. Article III, Sections 14 and 15

Statutes. Title 2, Trust Territory Code, Section 1(2); Title 3, Trust Territory Code, Section 2(5); Title 4, Trust Territory Code, Section 51(1)(d). See also: Title 15 Mariana Islands District Code, Chapter 15.08; Title 77, Trust Territory Code, Sections 156 and 101.

II. Proposed Functions

1. The department of public works will be responsible for transportation encompassing all primary, secondary and other roads; and construction and maintenance of primary and secondary roads; and harbor facilities and docks. The department will erect and maintain all public signs.

2. The department will be responsible for public boats and related harbor activities.

3. The department will supervise construction, maintenance and operation of public buildings and their grounds including, to the extent feasible, such matters on behalf of public authorities. It will provide custodial (but not security guard*) services and maintain equipment, including heavy equipment necessary for fulfilling these duties.

4. Other responsibilities will include street sanitation, collection and disposal of all solid waste including garbage collection for both residential and commercial establishments.

5. The department will be responsible for the operation of public utilities including water, sewerage, and power. These activities may be transferred to a separate agency.

6. The department will issue permits for all residential and commercial construction. It will coordinate inspection activities prior to permit issuance among appropriate government agencies.

III. Status

Executive branch department.

* Security services will be provided by the emergency services department.

Transcript of Organization and Staffing

IV. Responsibility for Policy and Execution

The department will be headed by a director of public works appointed by the governor with senate advice and consent who will serve as his pleasure.

V. Staffing

No recommendation.

VI. Alternatives for Organization and Structure

An alternative organizational arrangement would separate the functions of road maintenance, public building and grounds maintenance; and solid waste collection and disposal. Public utilities operations might be carried out by a public utilities authority or by private concerns under contract, perhaps modeled on the arrangement for telecommunications services. A public advisory commission may be established to regulate utility rates and set service standards.

VII. Internal Organization

The Saipan utilities agency would be established as a separate entity.

VIII. Decentralized Organization

All services of the department of public works will be delivered on Tinian and Rota by consolidated single units of the department headed by a resident department head.

IX. Authority to Establish Rules and Regulations

The department may issue rules and regulations relating to the use and care of public buildings and grounds; this authority is not intended to interfere with the internal administration of other agencies. As noted, the authority of the department to establish rules and regulations will not include authority to regulate utility rates, although the department can make recommendations with respect to rates.

X. Contractual Authority

The department may enter into contracts subject to legislative controls. It will supervise activities by contractors involved in construction of public buildings and facilities.

XI. Funding

Department funding will consist of legislative appropriations, federal grants, and utility charges.

XII. Citizen Participation

Discretionary.



APPENDIX D

NORTHERN MARIANA ISLANDS PUBLIC UTILITY COMMISSION

This memorandum responds to the request for suggestions on establishing a Northern Mariana Islands utility regulatory agency for water supply, sewage disposal, electric power, and telecommunications (principally telephone).¹ All utilities in the Northern Mariana Islands are government owned and operated through the Department of Public Works except the telephone service, which is leased to Micronesian Telecommunications Corporation.²

Utility rates traditionally are set to assure equity and a reasonable profit or return on investment. Rates also can be used to control development and as a pricing mechanism to ration scarce resources, such as through establishment of differential rates for peak and off-peak periods.³

Summary of Alternatives

Following is a set of options that may help focus discussion on a range of institutional matters involving utilities, particularly planning, operations and regulations. The alternatives are not mutually

1. Regulation encompasses rate-making, franchising, setting of standards of service, and enforcement to assure compliance with standards.

2. See Contract Agreement between Government of the Northern Mariana Islands and Micronesian Telecommunications Corporation (Contract No. S77-022, dated October 22, 1976).

3. The Consolidated Edison Company in New York City, for instance, has just initiated a voluntary experiment offering lower off-peak rates to residential consumers; they would be charged substantially higher rates for heavy peak hour use. Similar experiments are underway in Florida and Vermont.

exclusive. This display of an overall agenda helps frame strategies for institutionalizing rate-making activities and broader issues of financing capital improvements.

Planning

1. Retain planning responsibility with existing operating agencies, public and private. Coordination of planning effort to be achieved with budgetary and planning officers of Northern Marianas government.

2. Assign utilities' planning responsibility to the planning officer of the Northern Marianas government. Coordination with operating agencies.

3. Assign principal planning responsibility to a new utilities' planning or regulatory agency. Coordination with operating agencies and with planning and budgetary officers of Northern Marianas government.

4. Assign planning responsibility for power to a Northern Mariana power authority to finance, build, and operate a major new electric power system, utilizing a combination of capital improvement funds and revenue bonds.

Operations

1. Retain principal operating responsibility in the Department of Public Works (Saipan Utility Agency and Rota and Tinian utilities) for water, sewage, and power operations. Micronesian Telecommunications Corporation would continue to operate the telecommunications

service under its contract agreement with Northern Mariana Islands government.

2. Contract power, and possibly water and sewage operations, particularly for Saipan, to private companies, modeled on the arrangement with Micronesian Telecommunications, with appropriate executive control by the government under the terms of the contract.

3. Establish one or more public corporations to operate utilities' services and to finance capital improvements.

Regulation (Rate and Standards
of Service; Compliance

1. Retain responsibility for rate-setting as presently authorized by the High Commissioner's 1965 regulation and for telecommunications by the contract agreement with Micronesian Telecommunications Corporation.

2. Establish an advisory agency to the resident commissioner (and later to the governor) for rate-making matters. Give the agency "ombudsman" responsibility over service performance.

3. Shift responsibility for regulation to a new Northern Mariana Islands public utilities commission.

Background

According to the Fiscal Year 1978 Budget Estimates to the U. S. Department of the Interior, a total gross expenditure of \$3.2 million is projected for the Saipan Utility Agency and \$282,000 for Rota and Tinian utilities, units of the Department of Public Works. For Saipan, \$2.0 million is included in the "net grant" estimate for the Saipan Utility Agency and \$1.2 million is expected from "reimbursements." For the Rota and Tinian utilities, the fiscal year 1978 "net grant" estimate is \$235,000 and \$47,000 from "reimbursements." In effect the "net grant" estimates are projected operating deficits.

Saipan Utility Agency

According to the same source:

The Saipan Utility Agency was established as a separate and funded entity, within the general category of the Department of Public Works, by Trust Territory High Commissioner Regulation Number 65-18 on December 22, 1965. The basic purpose . . . was to provide improved budgetary, management and accounting data and controls, especially from the standpoint of being able to identify and compare costs of utilities service production against revenues received. In addition, a more long-range view was also foreseen of a possible lease-out of the power and telephone systems to the private sector and/or establishment of a Public Corporation, to operate the utilities system as an autonomous or semi-autonomous entity.

Power for Saipan is provided principally from a steam-generating power barge installed in late 1975 on loan for a five-year period from the U. S. Corps of Engineers. (It is subject to recall after short notice in times of national emergency.) Improvement plans are underway for a permanent power system.

The Saipan water system is fed by pumping of potable water from four artesian springs, 16 deepwells, surface catchments and storage tanks with a 19-million gallon capacity. "This storage level is severely depleted during dry spells; and the wells and spring levels dip to a dangerous point, frequently requiring severe rationing of water and water hours to be mandated." Water distribution lines are, in many cases, obsolete causing an estimated daily water loss of over 500,000 gallons. The budget estimate notes, "the lack of meters in many consumer areas, and an unrealistic 'flat rate' system believed to be major causes of the loss of water due to carelessness and water usage abuses. Urgent efforts are being made to install meters throughout the island."

Sewage disposal in Saipan is viewed as being in an early developmental stage with dependence on cesspools, septic tanks and out-houses. Two primary treatment plants were installed and there are 30 miles of primary lines to waste water treatment plants. There is a low percentage of private tie-ins to the system attributed to a lack of funding capabilities among private citizens.

The Micronesian Telecommunications Corporation is franchised as the telecommunications common carrier entity for the Islands, with authority to interconnect with entities of other jurisdictions. The

franchise is for a 10-year period, with two five-year renewal options. Under its contract agreement with the Northern Mariana Islands government, the company agrees to pay \$426,500 to the government over a 10-year period with 6.5 percent interest per annum on the unpaid balance (Article 2 of the contract agreement contains the payment formula). The government is to receive 10 percent of any telecommunications revenues (see Article 4). The company also is required to "implement operational and financial plans to ensure that adequate Telecommunication services are provided to all subscribers in a timely manner and at the lowest possible cost in keeping with good services. These plans will set forth: 1. Level of Service; 2. Plan for Facilities; 3. Financial Projections ((a) Capital expenditures; (b) Income expenses; (c) Method of financing))." Article 11(a) of the contract agreement also provides

The suggested rates established in Exhibit 'A' attached hereto will remain in effect, if so established, commencing on or about November 15, 1976, for one (1) year and will be reviewed annually thereafter by the Government of the Northern Mariana Islands or its duly established Utilities Commission to assure an equitable return on the Company's investment.¹

Rota and Tinian Utilities

Rota has a power generation system composed of two diesel generators with a total capability of 600 kilowatts per hour. Consumption rates are expected to rise substantially. Tinian also has two diesel generators with a total generating capability of 600

1. Article 9 makes reference to the possibility of the government establishing "a separate body (such as a Utilities Commission)". Exhibit A states that current rates were established in 1969. Suggested rates reflect an approximate increase of 75 percent.

kilowatts per hour. In the event of major military development on Tinian as contemplated in the Covenant, "a complete drastic change in the programming, emplacement and management of the utilities, infrastructure and other facilities and programs at Tinian" would be required.

Most potable water in Rota comes from water caves in the Rota Sabanas (mountain plateau). Primary lines installed during the Japanese administration are used to effectuate the gravity flow to the village of Rota, a distance of approximately five miles. Expansion of the water system beyond the capacity of the water caves is anticipated as demand grows in the next two or three years. The Tinian potable water system involves a major shallow well in the Marpo Valley. Public Works pumps to the storage tank; an irrigation system is handled by the Northern Marianas Division of Agriculture.

Capital Improvements

For fiscal year 1978, \$2.9 million in capital improvement funds are requested principally for a Saipan power generator plant and for additional power generator facilities in Tinian and Rota.¹ A 30,000 kw generator is needed to accommodate the additional demand in Saipan. For Tinian, a 500 kw generator is proposed to relieve the demand on existing units. Similarly, a new 500 kw diesel generator is proposed for Rota. Funds totaling \$242,000 are proposed for power distribution

1. The feasibility of private capital or revenue bonds (using a public corporation) to finance capital improvements is not considered in the budget estimates but may be a viable alternative.

improvements for the three islands, with the largest amount (\$116,000) earmarked for Tinian to replace power distribution fixtures, transformers and lines.

A total of \$353,000 for fiscal year 1978 capital improvements are proposed for the Saipan and Tinian water systems; \$317,000 would be for replacement of secondary distribution lines in Saipan villages.

A waste water treatment plant for Saipan to cost \$91,000 also is proposed. The Fiscal Year 1978 Budget Estimates notes, "These facilities are a prerequisite set by the Environmental Protection Agency for renewal of the Marianas' National Pollutant Discharge Elimination System Discharge Permit."

Issues

In his memo of October 26, 1976, the director of the Office of Transition Studies and Planning noted, "One specific planning task which I foresee as requiring immediate attention of consultants is the creation of a Public Utilities Commission which can be made a part of the Government of the Northern Mariana policy by executive order (ResCom) and which commission can function immediately during transition to the new government."

The memorandum from Mr. Tenorio requests drafting of a technical and legal document creating the commission, outlining the structure of its organization, describing its duties and responsibilities and defining its overall operational criteria, including a policy for communication encompassing philosophy, objectives, and levels of service. The

memorandum further requests procedures, including the establishing of a utility rate structure and method of payment.¹

Since the bulk of the utilities in the Northern Mariana Islands not only are publicly owned but are publicly operated, the need for a separate agency to set rates or to conduct other regulatory functions must be confronted.² The setting of rates by any public agency that provides the utilities' services, has advantages and disadvantages. These may be summarized somewhat as follows:

A d v a n t a g e s

Reduces the need for another agency and the costs attendant on it.

Allows flexible adjustment of rates to operating costs.

Facilitates systems' capital expansion by using rate-setting authority to substantiate the agency's capacity to provide a sound fiscal base for revenue bonds (the private market may resist purchasing of revenue bonds if another agency sets rates).

D i s a d v a n t a g e s

Operating agency may be too "busy" with operational matters to focus on rate matters.

Operating agency, adhering to an entrepreneurial role, may want to make a profit and ignore social values in rate-making.

Operating agency may be less concerned with using rate-making to control land and economic development.

Separate regulatory agency can cohere rate-making of public and private utilities agencies.

1. Cf. July 1975 comments on "Saipan Utility Agency Rates"; and "Accounts Receivable - Utility Services," by U. S. Government Comptroller for Guam - TTPI (handwritten, initialled July 1975). Reports note that water and power rates were last set in 1966 and telephone rates in 1969. "The rates have not been reviewed and changed since that date."

2. One study of public utilities comments: "For privately owned utilities, regulatory commissions typically approve rate schedules drawn up by the utilities, but this is not usually so for publicly owned organizations. Rather, it is assumed that since the user in effect own the enterprise, no device to guard their economic interests is necessary. (Rates of public enterprises are state-regulated in some states,

In the Northern Mariana Islands, it is apparent that rate-making has been a fairly casual matter, with little concerted effort to bring rates closer to actual costs or to use rates as a lever to ration scarce resources and to control development. These factors invite consideration of correlative institutional issues pertaining to needed capital improvements and their financing, and opportunities for improved operations and management.

One issue is whether it would be feasible to establish a single utility commission for all four utilities, as well as for utility operations on Rota and Tinian? Should such an agency take the form of a traditional regulatory agency but with cognizance over rates for publicly operated utilities?

A second issue is whether a utilities planning agency is a more desirable first approach rather than a PUC-type instrument? Alternately, would it be appropriate to establish a PUC initially on a permanent basis with substantial authority, including capacity to plan systems' improvement and to negotiate leases with private vendors for operation of the Saipan power systems.

A third issue is whether the Public Works Department should continue to retain operating responsibility for utilities (other than telecommunications service)? Should operations be transferred to a public corporation? (The major benefit presumably would be opportunity

especially in situations where municipally owned organizations sell to users outside municipalities.) The process of rate-making in public enterprise is generally oriented more toward social goals than toward profit-making." Martin T. Farris and Roy J. Sampson, Public Utilities, Regulation, Management and Ownership (1973), p. 300.

to finance capital improvements, particularly expansion of a power facility, through revenue bond financing or a combination of capital fund resources.)

A fourth issue is whether the establishment of a utilities commission would add to administrative costs? Would a PUC encourage litigation, and consequential administrative procedures and delays?

A fifth issue is whether institutional changes of the type noted would reduce the capacity of the executive (resident commissioner now and elected governor after the new constitution is effective) and the legislature to maintain controls and oversight?

A sixth issue is whether new institutional arrangements should have jurisdiction over intra- and inter-island transport?

Data Prerequisites

Before final decisions can be made on the organizational form and responsibilities of a regulatory agency, and possible new institutional arrangements for developing and operating public utilities, information inputs involving the following are needed:¹

1. Details on how rates currently are set by or for the Saipan Utility Agency and other units of the Department of Public Works.

1. The economic and physical planning consultants and the existing operating agencies may have much of these data in hand. They are noted as items for further discussion. Some data on rates and services are contained in Exhibit A to the contract agreement with Micronesian Telecommunications Corporation; Trust Territory of the Pacific Islands, Manual of Administration, Part 303A, January 2, 1969; "Electrical Power Generation and Distribution: Larger Power Services," Part 303C.1, October 1, 1969; "Operating Policies and Procedures for Trust Territory Telephone Systems"; and Regulation No. 1 of the Saipan Utility Agency, approved January 27, 1966.

How current and accurate are the rates and classification systems?¹ Do they reflect actual and current costs and benefits? What technical expertise has been employed in the past for such matters? What notice and hearing arrangements are used?

2. The current state of planning and development for each set of utilities, respecting supply sources, transmission lines and pipes, distribution facilities, and the like. What data are available on the special needs of Rota and Tinian? What about the Northern Islands?

3. Consumer participation in regulatory functions. Are residential users sufficiently well informed or organized to "compete" as it were with larger commercial and industrial users?

4. The social and economic consequences of shifting to a non-subsidy user charge philosophy.

5. The state of financial and accounting records.

6. Past management surveys, internal or otherwise, of operating procedures, meter reading, billing and bill collection activities, service calls and maintenance. What has been the response to recommended changes?

1. The U. S. Comptroller's reports for 1975, cited supra, suggest that water and power rates are a decade old. They also note, "There is no requirement that rates be periodically reviewed." They report substantial deficits for fiscal years 1974 and 1975 for water, power and telephone (\$1.1 million for fiscal year 1974 and \$1.6 million for fiscal year 1975).

7. With respect to planning capital improvements, availability of "hard" data and their reliability respecting determination costs of services, including labor, raw material, construction, and the like?

Public Utilities Planning Agency

The most urgent need, based on an initial comprehension of the public utilities situation, is to upgrade existing utility services and facilities. Current developmental efforts and the work of consultants to OTSP will help crystallize short and longer term capital and operating requirements. Their efforts must be continued as the Commonwealth government takes effect. The principal goal is to assure comprehensive planning, developmental, and management systems. Rate-making is a part of the whole process. If treated alone, rate-making becomes a bit of a tail wagging the developmental dog. Critics maintain that traditional regulatory agencies tend to be litigious and laden with procedural roadblocks to timely action. They function more as quasi-judicial organizations than as quasi-legislative or planning ones. James A. Lundy made this pungent comment about PUC's:

The task of a utility regulator is one which requires the wisdom of Solomon, the patience of Job, the determination of a bulldog and the hide of a rhinoceros.¹

1. Quoted in Warren J. Samuels and Harry M. Trebing, eds., A Critique of Administrative Regulation of Public Utilities (1972), article by Charles F. Phillips, Jr., "The Effectiveness of State Commission Regulation," pp. 71 et seq. Phillips cites the effort of the New York Public Service Commission to re-orient itself, so that its activities "centered on the basic long-range problems of utility supply, rather than on its traditional adjudicatory functions" (at p. 81).

It is proposed that a public utilities planning agency first be established. The agency would remain in effect until the Commonwealth government is in operation and for a period thereafter (say six to 12 months). During this period a permanent arrangement would be designed, to be established by Commonwealth law. The agency as part of its planning effort would examine rate structures. It would serve a fact-finding function as an adviser to the resident commissioner (and later the governor). It would make recommendations, including as appropriate rate changes or other regulatory matters, but would not itself make final determinations. The agency would have a small staff relying to the extent feasible on governmental employees of operating departments for assistance. It would perform a quality review and performance evaluation function, including receipt and control of complaints and necessary follow-up.

During this initial period, a permanent organizational structure for financing, regulating, and operating utilities' services would be designed. This involves decisions on the feasibility of further lease arrangements with private firms; and the use of public corporations to finance, construct, and operating capital improvements, particularly for electric power.

Goals and Objectives

Changes in the responsibility for utilities and particularly in dealing institutionally with regulatory and planning matters should be designed to achieve stated goals and objectives.

1. To promote comprehensive development of public utilities' services for the Northern Mariana Islands designed to meet current and future consumer needs, encourage orderly physical, social and economic development of the Islands, and aid in the provision of essential governmental services.

2. To establish and revise rates and classification systems on equitable and sound economic and social bases.

3. To assure needed and desirable levels and quality of utility services for all user groups in ways that do not unfairly discriminate against any one group or groups of users.

4. To secure broad participation of citizen groups, government, commercial and industrial users, and the business community in the planning and design of utility services and their improvement and revision of rates and classification systems.

5. To design fair, open, and timely regulatory procedures that are equitable to users and providers (public and private), and to the public at large.

6. To achieve high levels of operating efficiency; to establish and implement meaningful complaint registration, performance evaluation, and remediation mechanisms; to institute cost and quality controls over utility services; and to assure meaningful public accountability and financial reporting mechanisms.

7. To utilize utilities' development as a lever for controlling physical and economic growth of the Islands.

Initial Tasks of the Public Utilities
Planning Agency

1. Review and assess operating problems pertaining to the adequacy of public utilities for the Northern Mariana Islands and proposed plans for their improvement. This should encompass water, power, telecommunications, and sewage disposal; and also developmental and regulatory aspects of taxicab, local bus and inter-island water transport.¹

2. Conduct reviews of and hearings on services, internal management, rates and standards of service.

3. Develop performance evaluation standards, and propose methods for remediation of deficiencies.

4. Outline criteria for revising existing rate structures and classification systems.

1. There is limited taxicab service in Saipan but no local public bus service. The new agency might examine the feasibility of hydrofoil service among the populated islands of Saipan, Rota and Tinian.

5. If appropriate propose changes in rates and classification systems to the resident commissioner or governor.

6. Review the need and desirability of using private investment capital or a public corporation for utilities' long term development and financing.¹ Analyze and propose recommendations on the feasibility of additional contractual arrangements for utilities' operations.

Organization

The agency should have a policy board that would be comprised of governmental officials whose duties and responsibilities encompass utilities' functions; and persons from outside the government representative of constituent or consumer groups, and the public at large. One alternative is to follow traditional practice on size and method of appointment of PUC boards. No magic number exists for an "ideal" PUC. Of the 50 states, as well as the District of Columbia, Puerto Rico and the Virgin Islands, the range is between one and seven; the majority of jurisdictions have three-member commissions.

1. The issue of marketability of bonds would be a key issue.

(Puerto Rico has five and the Virgin Islands seven. Oregon is unique with a one-man commission.) The advantage of a smaller number is greater capacity to move promptly and lower costs; a larger size commission presumably facilitates cohering in one body representatives of involved governmental agencies and nongovernmental constituencies.

The usual method of appointment of PUC members is by the governor, with or without senatorial advice and consent.

For the proposed utilities planning agency membership might be comprised of the following (or from among the following if a smaller size body is desired):

1. Three residents of the Northern Mariana Islands, to represent residential users, no one of whom has a substantial business interest on the Islands, or is an official (elected or appointed) or employee of the government of the Northern Mariana Islands or a municipality.
2. A person to represent commercial users.
3. A person to represent industrial users.
4. The executive officer, Office of the Resident Commissioner, ex officio.
5. The planning officer, Office of the Resident Commissioner, ex officio.
6. The programs and budget officer, Office of the Resident Commissioner, ex officio.
7. Attorney general, ex officio.
8. Commissioner of public works, ex officio.
9. Commissioner of general administration, ex officio.

This would be an 11-member commission. A more selective approach could be used, as noted, for a total membership of say three to five

The appointing authority would have the power to remove members for inefficiency, neglect of duties, or misconduct in office. Vacancies would be filled for the balance of the term. Staggered terms may be feasible. Members would not be salaried or entitled to any per diem payments. They would be entitled to actual and necessary out-of-pocket expenses incurred directly in connection with service on the PUC.

The resident commissioner (governor) would designate a chairman and vice chairman from among the members. Ex officio designees could delegate responsibilities to an agency representative. The Public Works Department or other appropriate agency would assign one or more persons to serve as staff and secretariat for the agency; such person would not be entitled to additional compensation. Additional professional support involving financial, operating, budgeting, and legal services would be provided initially on a "loan" basis. The agency would not have a budget of its own at first but funds should be identified within the Northern Mariana Islands government budget as soon as possible, covering necessary operating expenses, including where required employment of outside expertise.

The agency would be required to publish periodic reports on its work, and summaries of findings and recommendations. An interim report would be submitted to the resident commissioner not later than

six months from the date the commission has been appointed and has held its first meeting.

Meetings would be public; the agency would be authorized to hold executive sessions consonant with statutory requirements and provisions of the Commonwealth Constitution. It would keep minutes of its meetings, which would be public documents and open for inspection.¹ It would be entitled to take testimony pertaining to its jurisdiction.

The agency would be authorized to establish working committees of its members, appoint citizen advisory bodies and technical committees, maximizing voluntary participation. It would be expected to conform to existing or future statutory requirements or regulations pertaining to conflicts of interest and disclosure. It should develop operating procedures that stress disclosure, avoidance of conflict situations, and an internal code of ethics that are consistent with other legal requirements.

Permanent Organization

If there is a gradual shift to use of private companies to develop or operate utilities, particularly power, then the traditional regulatory role of a PUC becomes of greater significance. Even for public owned and operated utilities, outside consideration of rate-making and standards issues has advantages as shown above.

1. Certain data pertaining to private companies, carriers or operators may be subject to a degree of confidentiality.

The Tennessee Valley Authority, the most famous of the federal government's wholly owned public corporations, determines its rates for utility services, subject to congressional review. Revenue bond financing of capital improvements, as in the case of the Guam Power Authority and Guam Telephone Authority, also underlie internal rate-making arrangements.

For the permanent arrangement in the Northern Mariana Islands, a modified version of a traditional PUC may be appropriate. It would continue to emphasize planning as well as regulation and should have minimally a review or advisory role on all rate-setting matters, public and private. (The Virgin Islands Code gives its public utilities commission rate-setting authority over privately owned utilities. Public owned utility agencies set their rates; the PUC acts in an advisory capacity.)¹

Under Guam Government Code, a Board of Utility Rates is established. Its functions:

. . . shall be to formulate, establish and publish, and from time to time review and where necessary revise, subject to the approval of the Governor by Executive Order, fair and reasonable schedules, uniform as to classes, of public utility rates . . . except . . . [electric service of the Guam Power Authority and telephone service of the Guam Telephone

1. Title 30, §6, Virgin Islands Code (through 1966 amendments).

Authority]. Such schedules may provide for separate residential, commercial, industrial, or other standardized categories of rates.¹

The board's jurisdiction encompasses water and other utilities of the Public Utility Agency of Guam.²

Within criteria of this type, and with appropriate due process notice and hearing requirements, the permanent PUC for the Northern Mariana Islands would do the following:

1. Continue (and expand) the planning, "ombudsman" and review functions of the proposed utilities planning agency.
2. Provide a uniform base for rate-setting, within the general context of equity (reasonable classification systems, uniformity within classes, reasonable return on investment) and due process, for public and private utilities.
3. Monitor agency performance, public and private, with capacity to enforce compliance.
4. Provide reports and recommendations to the public and to the governor and legislature on capital and operating planning needs, financial capacity, operating deficiencies, interrelationships between utilities' services and land use planning and development.

1. Guam Government Code, §21003. The rates of the two authorities are internally determined, as an integral part of their revenue bond financing capacity. See §§21503(4) and 21603(d). Cf. §21000 which establishes the board, "For the purpose of insuring fair and reasonable public utility rates, including all related service, meter and other charges for all public utility services furnished by the Guam Power Authority and telephone service furnished by the Guam Telephone Authority, comprising a rate structure that is uniform and impartial with respect to all users similarly situated or falling within categories of standardized designation." Section 21002 excepts from the cognizance of the board electric service of the Guam Power Authority and telephone service of the Guam Telephone Authority. Reference to the 1970 Code, rather than the 1974 supplement, suggests that the amended language of §21000 is incorrect and that the board's jurisdiction does not extend to the two authorities. A proposed statute introduced in the Congress of Micronesia (Sixth Congress, First Regular Session, 1975, House Bill 6-114) would have established a Board of Utility Rates modeled on the Guam statute.

2. Sections 21204 and 21206.

The size, composition, and manner of appointment and removal of the PUC can be deferred. The testing ground is the proposed public utilities planning agency. This can help determine appropriate criteria for the membership and powers of the permanent agency.

For both the planning agency and the PUC, necessary accountability mechanisms are needed to assure that such agencies do not become a "thing apart" from the parent government, particularly the governor and the legislature.

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P A R T III

IMPROVING MANAGEMENT AND ADMINISTRATION

Fourteen

IMPROVING MANAGEMENT AND ADMINISTRATION

Chapter Five

OPERATIONS ON ROTA, TINIAN, AND THE ISLANDS NORTH OF SAIPAN

*

The population of the thirteen Northern Mariana Islands is concentrated at the seat of government--Saipan--where 13,000 people out of a total of 15,000 are located.* Populations of the neighboring islands are considerably smaller: Rota has a population of approximately 1,200, Tinian 600 and the northern islands 200. The distance from the southernmost island, Rota, to the northernmost populated island is more than 300 miles. Communication and transportation links among the islands --particularly the islands north of Saipan--are generally poor. Despite great strides in overcoming problems, such as introduction of scheduled jet air service among the three main populated islands and direct flights to Guam and Tokyo, many deficiencies remain--especially lack of inter-island telephone service. There are no telephones on Tinian. Radio communication with Pagan and others of the populated northern islands is very limited. Public services delivered to isolated, small insular populations require unique arrangements.

Constitutional Provisions

The political interests of Rota and Tinian were recognized during the political status negotiations and during the constitutional convention. The results, as contained in the covenant and the constitution

* Geographically, the Mariana Islands include Guam. Acquired by the United States under terms of the Treaty of Paris in 1898, Guam is a U.S. possession and political distinct from the other islands. The name "Northern Mariana Islands" originates from this distinction. Of the islands that comprise the Commonwealth, about one-half are uninhabited.

have significant implications for service delivery. The constitution confronts the potential under-representation of the neighbor islands. Article II, reflecting the mandatory requirements of the covenant, provides for equal representation in the senate of members from Rota, Tinian and Aguigan,^{*} and Saipan and the islands to the north. Article II, section 2(a) directs an increase in the senate composition to twelve members from nine when the northern islands reach a population of 1,000. They will then have equal representation in the upper house and will be entitled to one seat in the house of representatives.^{**}

The office of mayor is established for Rota, Saipan, Tinian and Aguigan, and the islands north of Saipan (article VI).^{***} The three chartered municipalities are abolished; new forms of local government may be created only after a five-year period (article VI, section 6). The mayors, the governor, and the executive assistant for Carolinian affairs comprise a governor's council (article VI, section 5); the mayors have a constitutional right to be consulted in the formulation of the executive budget (article III, section 9(a)). The constitution also provides for enactment of local laws and adoption of local regulations and ordinances (article II, section 6), a matter addressed in proposed rules of the senate and house (see Part II of the IPA report).

The governor may delegate administrative responsibilities for public services to a mayor. Decentralized services on Rota and Tinian on the effective date of the constitution are to be continued

* Aguigan is unpopulated but is linked under the constitution to Tinian administratively.

** The house of representatives is organized on the one-man, one-vote principle, with twelve members from Saipan and the islands north of Saipan, and one member each from Rota, and Tinian and Aguigan.

*** The northern islands as a group will elect one mayor.

check some

Not executive
unit

head
include department
units

*

on this basis ". . . unless the governor personally certifies after public hearing on the island involved that such decentralization is inconsistent with the efficient and economical delivery of services" (article III, section 17(a)). Further, public services on those islands are to be supervised ". . . by a resident department head . . . appointed by the head of the executive branch with the advice and consent of the majority of members of the legislature from the senatorial district in which the resident department head shall serve" (article III, section 17(b))* The legislature may require decentralized administrative arrangements (article III, section 17(c)).

Present Arrangements

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Most public services on Rota and Tinian are decentralized with limited controls from the resident commissioner's office, central staff agencies and from the individual central offices. The resident commissioner's representative (rescomrep), formerly the district administrator's representative, coordinates interdepartmental activities and administers personnel, budget and expenditures through delegations from the resident commissioner. The office of the resident commissioner's representative has been established on Rota and Tinian to coordinate services and to oversee administration and expenditures.** The rescomrep is less involved in policy matters such as school curriculum than in capital improvements and public works. The chartered municipalities on Rota, Tinian, and Saipan provide limited local services, particularly road maintenance and construction and business regulation.

* These arrangements are to apply to the northern islands when their population increases to 1,000 persons.

** The office is typical of island government in the territories of the United States, its precedent having been established in the Virgin Islands and widely adopted since.

Through formal and informal means, control over public services on Rota and Tinian under the former district and the present transition governments is divided five ways:

° The legislature exercises control, principally by its capacity to vote funds for scholarships, libraries, and local public improvements.

° The mayor and the municipal councils influence services principally through complaint registrations with central officials, local officials, and the rescomrep.*

° The central departments, resident commissioner, programs and budget officer, and other central officials administer federal funds, set basic policies, and approve capital improvements; and exercise oversight of personnel.

° On the islands, officials of the several departments are responsible for service delivery in such areas as education, public works, agriculture, and health. They have degrees of autonomy and discretion and report variously to the rescomrep, central department heads, and central NMI officials.

° The resident commissioner's representatives on Rota and Tinian serve as facilitators and supervise actions and expenditures by local administrative officials.

Budget-making and expenditures have changed in recent years. Funds were once allocated by program with responsibility for expenditure

* The chartered municipalities also are directly responsible for certain local public works and business regulation.

on all islands vested in central departments. The argument was made that central departments could reprogram funds to the detriment of Rota and Tinian. The present arrangement provides for quarterly allotments for operations on Rota and Tinian divided into sub-allotments to program accounts for decentralized departmental operations.^{*} The rescomrep may transfer funds within the total allotment for one activity to another provided the central budget office is notified within ten days. Generally, authorized expenditures for services on Rota and Tinian are based on population.

Personal liability for holding expenditures within the limitations established by the allotment is placed upon the rescomrep. Local finance offices under the rescomrep (not decentralized offices of the district finance office) certify all funds and verify charges to appropriate accounts prior to authorization by the rescomrep. These local finance officers maintain official ledgers for the decentralized departments and provide summarized data on requisitions and expenditures in a monthly fund-status report to the central finance office. The local department receives a fund-status report on all operations from the central finance office. The local finance office also collects revenues, reports on them each week to the central finance office, and transfers revenues collected to the treasurer in the central finance office. Finally, the local finance officers coordinate biweekly payrolls and forward them to Saipan for checks to be drawn.

Authority to expend and reallocate funds among program activities was transferred to the rescomrep to increase local control and accountability for public services. These actions were taken in response to allegations of failure on the part of the Trust Territory and

^{*} Saipan also receives allotments but these are expended through central agencies. There is no rescomrep and the mayor is not involved.

district governments to meet local needs and to allow local service control. A new layer of bureaucracy was created: sub-governments with departments that operated independently. It is by no means certain that the basic complaint of local politicians that their constituents' needs were being ignored by Saipan was remedied by such arrangements.

One consequence is a dual executive system on Rota and Tinian: the rescomrep and the local department head, the former being responsible for fiscal and budget administration and the latter for program. An additional executive exists in the local mayor, but responsibilities of the central government (i.e., the local executive department) and the municipal governments are separate. The fact that the office of rescomrep and the executive department each has responsibilities for the same public services separates program and budget functions at all stages. Program planning takes place in the executive department while budget-making for implementation of the program is the ultimate responsibility of the rescomrep insofar as he chooses to reallocate funds for the island from one activity to another. The resident head of the department is responsible for delivering services; authority to expend funds vests in the rescomrep. Lines of communication and authority are confused.

Alternatives for Improvement

To improve the effectiveness of service delivery on the neighbor islands, options available under the constitution for delivering services to Rota and Tinian--and to some extent the northern islands--are the following:

1. Vest authority in the mayors ". . . for the execution of Commonwealth law and the administration of public services in the

island or islands in which the mayor has been elected." This option lies in the governor's discretion under article III, section 17(a) (first sentence) of the constitution. Resident department heads would report to the mayor for most matters and clearances.

2. Vest authority to facilitate and oversee service delivery in a direct representative of the governor, using a system that continues the rescomrep arrangement with rigorous clarification of lines of authority.

3. Vest authority in the resident department heads to run their own units. They would report to their respective department directors. Under the constitution (article III, section 17(b), first sentence) resident department heads are to supervise public services on Rota and Tinian. They would expend funds with quarterly allotments, hire personnel with the civil service regulations, and take similar actions without intervention by the mayor or rescomrep. They would report to central department heads and be responsive to central control while having a significant degree of autonomy.

Recommendations

1. Same
2. We favor the third alternative. The scale of neighbor-island operations simply does not warrant the bureaucracy reflected in the office of resident commissioner's representative. The forced separation of resident department heads from control by their respective central departments is a consequence of the "rescomrep" role and is a debilitating factor in securing quality services, especially for education and health.

The present arrangement is neither wise nor necessary. The concern which led to transfer of budget and expenditure authority

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to the rescomrep was over the adequacy of funds for capital improvements and operations. Whatever was the role of the rescomrep, it no longer is needed. On Tinian, for example, a staff of five to seven persons oversees operations of agencies with a total of fifty employees.

- 1. Senate
- 2. mayors council
- 3. Government workbooks

Under the constitution, Rota and Tinian will have increased representation in the legislature and consequently more power to influence policy and budgetary decisions. The mayors of the islands (including a new mayor for the northern islands) will sit on the governor's council and have a constitutional right to be consulted on budget formulation. Federal assistance funds are earmarked in the covenant for capital improvements on Rota and Tinian. A possible justification for the rescomrep's authority in fiscal matters was safe-guarding against misuse of funds through control at the point of operation. There is no evidence that control has improved significantly under the rescomrep. Purchasing and procurement are local when needed items are available, and are carried out principally by department officials. There are a few restrictions on direct purchase, but agencies admit to ignoring them without intervention by either the central government or the rescomrep. Problems of procurement and of control over purchases of supplies and equipment arise as a consequence of the lack of uniform policies, tailored to conditions on the islands, and failure to enforce restrictions.*

Recommendation 116: We recommend that the resident commissioner's representative be eliminated and that no equivalent position be created in the Commonwealth government. Recommendation 117: We recommend that each resident department head have clear authority for operations, personnel and expenditures within the

* This subject is addressed in a separate chapter of this part.

quarterly allocation from his department and be responsible directly to his central director.

Requisitions for supplies and equipment should go directly to central supply without intervening endorsement and the resident department head should be authorized to make direct purchases locally. This should be done within a uniform procurement policy which accounts for the geographic separation of the islands and the special needs of departments operating on Rota and Tinian. Recommendation 118: We recommend that requests for personnel be forwarded directly to directors of departments for processing.

Question - is there any in Rota equivalent

The department of financial administration should assign one employee each to Rota and Tinian to serve as bookkeeper for local departments. The employee could be the equivalent, under the Commonwealth classification system, of the present accounting technician. The employee would receive one copy of all requisitions to central supply and coordinate biweekly payrolls. He would maintain books for the departments and submit the monthly fund-status report to central finance. He would give resident department heads information on balances remaining in accounts. He would collect revenues in continuation of present practices.

Recommendation 119: We recommend that the governor by executive order establish an administrative forum of resident department heads on Rota and Tinian. The forum would identify common problems and opportunities for cooperation, review longer-range program needs, and reduce interagency friction. No separate staffing is needed and the chief administrative officer can designate the chairman of committees and provide guidelines for their operations. The mayor should be an invited guest at these administrative forums.

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Recommendation 120: We recommend that there be appointed in the executive office of the governor a deputy chief administrative officer with professional management qualifications and with special responsibility for facilitating services on Rota, Tinian and the northern islands.* He would not have line authority. As a facilitator of services on Rota, Tinian and the northern islands, he would spot and overcome intra-agency conflicts, delays in getting results from Saipan, and related impediments to action. He would participate in the administrative forums on the neighbor islands. The job need not be full time. The deputy chief administrative officer might serve as secretary or resource person to the governor's council.

Recommendation 121: We recommend that all funds for operations and capital improvements on Rota and Tinian be included in the budgets of the central departments. This is true of personnel allocations, facilities, and supply, equipment and other nonpersonnel appropriations. The budget prepared and submitted by the governor and the appropriation acts of the legislature should identify, however, funds that will be expended on Rota and Tinian. This is necessary for accountability and to enable the resident department heads to know what funds are available and for what purposes. This subject is further addressed below.

* This recommendation also is contained in more detail in Chapter Four concerning proposed structuring of the executive office of the governor.

IMPROVING MANAGEMENT AND ADMINISTRATION

Chapter Six

MANAGEMENT CONTROL OF OPERATIONS

Scope of Management Controls

In this chapter we propose managerial controls to increase accountability and to upgrade performance, decision-making, and oversight of operations. This chapter emphasizes processes to assure delegations of clearly defined duties and responsibilities, communication, troubleshooting, remediation and control.

Management improvement proposals are designed to provide systematic reviews of agency operations and a process for remediation and action by the governor and his aides. Management control reporting systems divide tasks into component parts (the analytical framework) and assign tasks to be carried out by managers and subordinates (accountability framework). They identify tasks and responsibilities and the bases for correcting inefficiencies. Practical applications of many of the techniques proposed in this chapter are presented in Appendix E. No management system will be effective without the full commitment of the governor.

It would be self-defeating to propose complex control systems for a government of under 1,500 employees. Computerized feedback or critical path systems for plotting and controlling activities are likely to be less effective than simple reporting. The new government should be wary of solicitations to purchase elaborate word processing, communications, or other types of hardware purporting to reduce manpower outlays and aid management control. In addition prepackaged management consultation and training service programs may lead to unjustified manpower diversions or substantial outlays with minimal benefits.

Delegation

The constitution defines duties and responsibilities of the governor, public auditor, superintendent of education, and attorney general. It authorizes but does not determine the infrastructure of executive agencies or, with stated exceptions, the duties and responsibilities of agency heads, leaving these determinations to the legislature and governor. Through enabling legislation and reorganization plans (articles II and III of the constitution), administrative delegations by the governor can delimit specific distributions of functional responsibilities within the executive branch.

Functional delegations

The legislature will determine how much of the internal structure of an agency is specified in legislation and how much will be left to the administrative discretion of the governor. We have previously recommended that the enabling legislation for the government name the principal departments and agencies, establish the titles of agency heads and any policy or advisory boards, and state the functional jurisdictions of agencies. (Part V of the IPA report contains a draft enabling bill to establish the government.) The legislature should not define every facet of structure and operation.

Functional responsibilities and restrictions should be established through the combination of statutes, executive orders, agency regulation and interagency agreements. Enabling legislation will be needed to effectuate further distributions of land-use management and disposition authority, as in establishing or assigning an agency to deal with submerged lands. The Marianas Public Land Corporation, through agreement with the governor may decide

on other distributions of responsibility for operations of specified parts of public lands, such as lands around public buildings.*

Certain government functions and activities may not belong in basic enabling legislation. The governor will need flexibility in the initial management of such functions to minimize confusion or overlap of responsibilities among executive branch agencies.

Recommendation 122: We recommend that divisions of functional responsibility among the executive agencies of the Commonwealth government consistent with the constitution and statutes be promulgated through executive orders of the governor. After the government infrastructure has been established, the discretionary authority of the governor under the constitution to reorganize the executive branch and the prerogatives of the legislature to review reorganization plans must be carefully delineated.

Functional divisions of duties and responsibilities among executive branch agencies and independent boards, commissions and authorities may require special definition, especially where land-use controls and land-use operations are concerned.

While constitutional autonomy of specialized agencies must be preserved, i.e., the Marianas Public Land Corporation and Marianas Public Land Trust, responsibility and lines of control and accountability through interagency agreements should assure consonance of purpose and minimize overlap or conflict. Recommendation 123: We recommend that the governor be authorized by the legislature, subject to statutory restrictions, to enter into agreements defining areas of responsibility between executive branch departments and independent boards, commissions, and agencies.

* Under the constitution, the Marianas Public Land Corporation acquires title to the public lands on which public buildings and facilities are located. Since the corporation will probably not operate or maintain all public facilities, formal delegations of land-use management must be made to the executive branch or to departments of it.

It is unnecessary for every element of internal agency organization or responsibility to be a legislative or gubernatorial concern. Discretion should be left to agency heads, subject to basic standards set by the governor, his chief administrative officer, or his planning-budgeting officer. The governor should set criteria and require department heads to propose internal organization plans and statements of duties and responsibilities of principal staff members for review and approval. Recommendation 124: We recommend that within constitutional statutory and gubernatorial delegations of responsibility, department directors or other agency heads be authorized to make appropriate subdelegations or internal assignments of duties and responsibilities. There is no absolute way of determining lines of demarcation between gubernatorial actions on internal organization of agencies and matters that should be left to the discretion of department directors.* Basic divisions are suggested in Table III.

Decision-making delegations

Responsibilities for initiation of policy, adoption and revision of plans, budget preparation, grant applications, implementation of appropriation acts, reprogramming of funds, and personnel must be delegated within constitutional requirements. Matters substantially affecting administration-wide policy (program direction and priorities, adoption and implementation of plans, and setting of the budget) must be determined by the governor, not independently by line departments. Federal grant applications should be processed through and approved by the governor or his representative; budget submissions should conform to guidelines established by the executive

* The term "department director" is used generically for the heads of principal executive branch departments. Other titles may be used for separate executive branch units, hence the occasional reference to "agency head."

Table III

DIVISION OF RESPONSIBILITY: CONTROLLING AUTHORITY

Types of Delegation	Authority	Legal Instrument
Basic divisions of governmental authority	Constitution	Constitution
Establishment of Commonwealth departments, agencies, boards and commissions within constitutional standards	Legislature; governor's reorganization plan	Statute; reorganization plans
Standards and guidelines on division of responsibilities among executive branch agencies within constitutional and statutory authority	Governor	Executive order
Internal divisions of responsibility	Department directors and agency heads	Administrative directives
Inter-agency agreements within constitutional and statutory authority	Governor and independent agencies	Inter-agency agreements

office; and management oversight and major remediation should be a function of the chief executive of the Commonwealth. At the same time it would be a mistake to centralize all policy-making, policy initiatives, and controls in the executive office. The discretion of department directors and agency heads should be maximized whenever possible. Recommendation 125: We recommend that department directors be given latitude for operations, personnel and expenditures, within statutory definitions and executive-office standards. Requisite clearances and pro forma approvals should be minimized.

Applications for federal grants and the use of special federal grant funds should be coordinated and monitored by the planning-budgeting officer in the governor's office.* Recommendation 126: We recommend that no application for a federal grant or renewal of a grant be made by a director of a department or agency, or other agency official, without the review and concurrence of the governor or his representative. Recommendation 127: We recommend that the governor assign day-by-day responsibility for grant coordination and actions to an assistant to the governor assigned to the planning-budgeting officer.

Subject to management control and oversight by the executive office of the governor, directors should be free to implement policies, plans and procedures regulating contracts, employment of personnel, budget and plan submissions, and reprogramming of funds. Recommendation 128: We recommend that each department director initiate regular reviews of programs and policies pertaining to his department. Recommendation 129: We recommend that responsibility for decisions respecting a delivery service (type of service to be delivered, scope or magnitude of it, consumers to be served, method of service delivery) be assigned to directors by law.

Once formal administration policy has been determined and is part of the governor's program, agency heads should respect those

* There is little NMI experience in grants application directly to federal agencies since most grants have been processed by the Trust Territory government. It is our understanding that individual department heads in the TT government have established grant procedures that until recently have not been fully coordinated through the high commissioner. It has been difficult to ascertain the total impact of federal grant funds. Federal grant activities in the Commonwealth should be treated comprehensively, as a component of Commonwealth budgeting and planning.

*Review
of program*

determinations. Recommendation 130: We recommend that no department director make any official public statement, in writing or orally, on a matter of substantial policy without notifying the governor or the executive office. The purpose of this recommendation is consonance in the governor's overall program. It is not intended to stop a department director from rendering an opinion, but is intended to establish lines of responsibility on administration policy.

Control by the chief executive over policy and performance will be difficult to maintain if there is a prevailing assumption that the governor either will not or cannot dismiss senior executives. Recommendation 131: We recommend that the governor dismiss senior officials of the executive branch from positions not protected by civil service when their performance represents a serious impediment to the formulation or implementation of the policies of his administration.

Lines of control also must be established by multimembered authorities and special instruments of government and the administrative officials who implement the policies and programs of those agencies. One traditional area of conflict is the relationship of boards of education and superintendents of schools. Similarly, even though the civil service commission has constitutional responsibility to establish a merit system, the personnel officer who will be appointed by the civil service commission and report to it may clash with the commission over personnel policies.

One way to minimize conflict between boards and agency heads is to delineate divisions of responsibility through executive orders or agency regulations. Recommendation 132: We recommend that the following criteria govern the relationships between a multimembered board, commission, or authority and its chief administrative officer:

1. Setting policy means establishing the conditions under which an activity takes place. Administration means the steps taken to put policies into effect.

2. Individual actions with respect to a particular piece of land, a personnel matter, or component of a program involve the discretion of the administrator, not the policy-making prerogatives of the board, although a board may retain responsibility for a specific administrative matter of singular importance or serve as an appeals mechanism.

3. The type, scope and timing of new program activities or physical construction may involve matters of policy on which a board will wish to reserve decisional authority. Such matters as construction schedules or employment of personnel usually are matters of administration, but exceptions may warrant special procedures. It may be desirable, for example, for the superintendent of education to nominate his deputy subject to the approval of the board of education. In no instance would the board of education appoint individual teachers.

Reporting and Information

Effective communication systems within the Commonwealth government will enable the governor and the executive office to be aware of problems and progress and to take remedial action or provide assistance to line departments and agencies. Communication should provide information to the legislature and transit gubernatorial policy and directives to departments and agencies, and suggestions, policy initiatives and complaints from departments to the executive.

Effective management does not require elaborate information systems but it does need good communication. Informal communication networks can be exploited as credible management; well-structured, formal reporting systems can avoid crisis management.*

No agency of the Commonwealth government should act in secret or hide its activities from review. The constitution makes clear that this is a representative democracy and reserves considerable investigatory power to the legislature. There should be a channel for communication of administrative policies and proposals to the legislature. The Northern Mariana Islands legislature has previously requested information directly from executive agencies relative to their budget submissions. Under the constitution the governor heads the executive branch; departments do not report to the legislature. Past practice should not be a guide in establishing new legislative-executive relations. Neither the legislature nor any committee of it should give directives to an agency. The relatively small size of the Marianas

* Crisis management is described as a situation which arises when an organization grows too large to meet its qualitative measures and other forms of management are required. Crisis management will arise when near-total emphasis is put on the performance of routine functions and no emphasis is put on managing change in the organization. (See Jim Summers, "Management by Crisis" in Public Personnel Management, May-June 1977, pp. 194-201.)

government and the personal relationships that prevail among officials should not override the need for discrete areas of communication and control.

Communications should be channeled through the executive office for control and response. Recommendation 133: We recommend that legislative requests on budgets, policy and operations be forwarded by the legislature to the governor or his designees, not to individual agency officials, and that responses be cleared by the executive office.

The attorney general as a constitutional officer is the principal lawyer for the Commonwealth and should be informed of all legal activities and actions. Recommendation 134: We recommend that the attorney general be authorized by statute to require submissions to him on proposed contractual or other legal matters. This power would be independent of power vested by the governor. We have proposed in the preliminary organization plan that the attorney general act as attorney for all branches, departments, and agencies of the Commonwealth government, including independent agencies. The attorney general's authority and functions will be further enumerated in an administrative procedures act, a government corporations act, and a public contracts act.

Governor's cabinet

In Chapter Four we proposed a governor's cabinet. While we would urge that the incoming governor establish and use a cabinet as a regular communicative device, we recognize the need for flexibility. Recommendation 135: We recommend that a governor's cabinet be established by executive order of the governor, not by statute,

and that its membership, subject to the discretion of the governor, include the heads of principal departments and agencies of the Commonwealth government. The governor may wish to include in the cabinet the lieutenant governor, the attorney general, and the personnel officer; the chief administrative officer, planning-budgeting officer, and assistants. Recommendation 136: We recommend that a member of the governor's staff be designated as secretary to the cabinet to prepare an agenda for cabinet meetings, prepare and distribute minutes, and coordinate followup activities. An alternative arrangement would be to have the lieutenant governor perform this function, an option that should be left to the governor's discretion. An additional staff position is not needed. *Good alternative*

The cabinet's goal is consonance of program activities. The governor's program will deal with plans for improved public works and social and economic growth; the cabinet can be a vehicle for exchange of ideas and experiences. Recommendation 137: We recommend that the cabinet identify common problems and assure consonance of time and effort on principal programs of the Commonwealth government. The cabinet should not set administrative policy.

The cabinet can build the management capabilities of department heads. It may be appropriate to invite, on special occasions, experts to review matters or to provide insights on management techniques. Recommendation 138: We recommend that the cabinet be utilized for special training seminars for senior government officials.]

Governor's executive office

The governor should probably choose one official to coordinate executive office activities, although each governor will have his own pattern of internal control and delegation.

The governor should institutionalize communication through a weekly executive office staff meeting. No matter how adroitly divisions of duties and responsibilities are made, there will be overlap which will create conflict and competition. Recommendation 139: We recommend that the governor initiate a weekly staff meeting of the principal personnel of the executive office of the governor. The weekly executive office staff meeting should include the CAO, deputy CAO, training officer, PBO, and the principal personnel in the planning-budgeting office. The weekly staff meeting will enable the governor to exercise direct control and mediate disputes. It will allow persons who report through the CAO or PBO direct contact with the governor.

A second communicative mode is strategy sessions with the governor's principal executive office aides, especially the CAO and the PBO. Recommendation 140: We recommend that the governor meet daily with the chief administrative officer, the planning-budgeting officer, and the principal staff assistant to the governor.

Activities reports

All regular communication (cabinet meetings, forums, face-to-face exchanges, and mandatory written reports) becomes routine, which negates control. Nevertheless it will be indispensable to the governor's control over the bureaucracy.

The transition government requires submission of monthly reports of activities and problems, and summary data. On the third day of each month following the end of the reporting period, reports are forwarded to the resident commissioner by departments but not by the public authorities (less regular reports are said to be filed by the latter, particularly when reporting on a major activity). They

are first seen by the NMI executive officer who forwards to the resident commissioner any report he feels warrants his attention. Reports are filed with the public affairs department. One line department official stated that he believed the monthly reports were used in compiling a monthly NMI report to the Office of Territorial Affairs, but this is not the case. There is little feedback on the monthly agency reports. Their preparation is regarded as low priority and is unlikely to serve as a significant oversight or management control.

More creatively organized, periodic reports are necessary to serve management-control goals and facilitate communication. The chief administrative officer and the planning-budgeting officer jointly should provide guidelines setting forth the kind of information to be submitted. Reports should include a narrative in which principal accomplishments and problems, statistical data on production, services and output are summarized. Data should provide information to the governor on the state of the Commonwealth government and facilitate federal reports, developed under the leadership of the planning-budgeting officer. Recommendation 141: We recommend that each department director and other agency head submit to the governor a monthly statement of activities, progress, and problems, with supportive statistical data. Recommendation 142: We recommend that a simple form control mechanism be devised to facilitate submission of data in comparable form, to the extent feasible, among the departments and agencies of the Commonwealth government. *form*

Management control reporting system

IPA has proposed a transition scenario to track important transition activities (see Appendix F). It is illustrative of a management control system which should be institutionalized within the executive

branch for these reasons:

- ° To assure that attention is focused on each activity of the Commonwealth government,
- ° To identify and pursue special matters that require persistent executive-level action and monitoring,
- ° To identify and resolve impediments to action.

The essential element is maintenance of tickler systems in which each assignment, activity, problem or program element is entered and updated on a regular basis.

Recommendation 143: We recommend that for each principal department or agency a single individual be assigned by the department head to prepare required submissions relevant to a management control reporting system. The person assigned this responsibility should work closely with the department head, probably in a staff capacity, and have ready access to him.

An overall reporting system is proposed to keep the governor and top officials aware of unusual circumstances, special problems or delays. Department heads in the past tended to establish priorities based on their own perceptions of need. These did not always coincide with NMI priorities. This practice led to a lack of concern for areas not within the professional interests or concerns of department heads. This is especially true of large departments with multiple functions, such as public works and health. In making appointments for cabinet positions the governor should bear in mind the capacity of potential appointees to administer a variety of programs. While it is quite understandable why the director of public works, for instance, assigns high priority to operation of the power barge and

is less concerned over maintenance of schools and recreation sites or the central repair shop, a key management objective should be a reasoned pattern of attention to all assigned functions of a department. Ongoing programs should not be undermined because of perennial crises in other service-delivery areas that detract from operation of the agency as a whole.

A key recommendation in Chapter Five is that a deputy CAO facilitate service delivery on Rota, Tinian, and the islands north of Saipan. It may be appropriate for this official also to be responsible for the management reporting system.

Management Improvements

Management audits and remediation

Each department and agency of the Northern Mariana Islands operates at less than peak efficiency. Any instrument involving the interaction of persons in a political and social environment continually confronts obstacles to maximum operational performance. Consistency and persistent follow-through are prime requisites of good management.

There are other impediments to effective performance. Employees waste time or are assigned nonessential tasks; there are unnecessary delays in completing routine jobs; personnel motivation and training are seriously defective. Scheduling needs to be upgraded throughout the government. Gaps in coordination of related services among agencies and ill-defined goals handicap performance. The top structure of administration has been ineffectual in improving the total managerial capability of the government, reflecting the transitional nature of the NMI administration more than the caliber of executive and management personnel.

The governor's management team should undertake a rigorous review of agency performance and the quality of services. Recommendation 144: We recommend that the chief administrative officer schedule and conduct management audits of all agencies, on a division-by-division basis, and monitor remediation efforts. The management audit process reviews all facets of an agency's capability to do its job, starting with institutional structure, personnel, and budget. The goal is to identify impediments to efficient operation and develop precise plans to overcome deficiencies.

The CAO should provide technical assistance and monitor remediation efforts. Recommendation 145: We recommend that management audits be performed as a conjunctive process of agency personnel and the CAO's office. Recommendation 146: We recommend that implementation of action programs resulting from the management audits be the responsibility of the agency head. Recommendation 147: We recommend that the CAO, with the governor's consent, assume temporary responsibility for an agency or division if existing agency personnel are unable to improve production or to implement management audit recommendations. Recommendation 148: We recommend that each department head assign at least one person to oversee operations, supervise management audits, and implement remediation.

*Deputy
at 0505*

The Commonwealth should recruit and train a cadre of management specialists for deployment to agencies to meet particular needs, including management audits. We would urge the CAO to identify management personnel with high potential and provide them with specialized training. Recommendation 149: We recommend that selected management specialists be designated as part of a corps of management specialists. Recommendation 150: We recommend that management personnel in each agency be given special management training by the CAO.

For agencies that are responsible for construction and capital improvements, principally public works and possibly natural

resources, it may be desirable to establish units for contract management.

Project management

Project management concepts are based on the use of special teams to overcome particular obstacles or problems. One description is that ". . . [project management] is not wholly conventional in that its authority arises out of the project and its needs; it tends to emphasize planning and control perhaps more than a line operating department; it accentuates leadership and team working; it lays stress on user satisfaction through agreed performance criteria and achievement. Another aspect. . . is the accountability one can obtain when one sets up a project properly."* Project management can be a valuable tool when overlapping responsibilities or special problem resolution are involved. It has been suggested that its best use applies to one-time undertakings that are:

- ° definable in terms of a specific goal,
- ° infrequent, unique or unfamiliar to the present organization,
- ° complex with respect to interdependence of detailed task accomplishment.**

Recommendation 151: We recommend that the chief administrative officer and, as appropriate, the planning-budgeting officer utilize project management to resolve special problems that impede delivery of public services. Project management team members would be part of the CAO's

* W. J. Taylor and P. F. Watling, Practical Project Management. New York, Halsted, 1973, p. 12.

** C. J. Middleton, "How to Set up a Project Organization," in Harvard Business Review, April 1967, p. 73.

office or they may be drawn on a temporary basis from agencies. Project management can be used by the planning-budgeting officer to handle impediments to effective budget submissions or priority-setting activities. Examples where project management might be applicable involve some of the following:

- ° Determination of jurisdictional responsibilities over land-use management.
- ° Reduction or delays in supply and procurement and removal of obstacles to effective preventative maintenance and repairs of school or hospital facilities.
- ° Reduction of vandalism to public signs and public places, including historic sites.
- ° Provision of technical assistance to line agency supervision or personnel actions or payroll processes.
- ° Development of guidelines for user charges on services performed by the Commonwealth government for special consumer groups for which service charges should be made (electric power, maintenance of government housing, provision of central repair services).

There is strong similarity between the types of management control, reporting and auditing systems outlined above and the use of troubleshooting and teams that might be organized under project management. The former are techniques to identify problems and the latter is a means of remediation. Project management not only should overcome a particular problem but assist the regular streams of government for effective future performance.

Network analysis

Network analysis, program evaluation and review technique (PERT), and critical path methods (CPM) have a common goal. They are a way of "subdividing problems into small problems and identifying branch relationships between them."* Network analysis isolates the steps that are involved in getting a job done. Each task and subtask is identified and lines are drawn to show the sequence of operations from start to finish. By plotting each substep, as in the case of supply procedures (ordering supplies, cost controls, inventory control, requisitioning delivery, and accountability) management can identify and overcome obstacles and operational deficiencies better. Not only are the substeps identified but units responsible for action, time requirements, and flows are plotted. Analyses can be done for payroll functions beginning in line departments and continuing through the department of financial administration. Recommendation 152: We recommend that the chief administrative officer prepare guidelines on the use of network analysis and that he take steps to assure that analyses are undertaken of each principal service delivery or support component of the Commonwealth executive branch.

The CAO's office should develop a priority list to monitor the use and effectiveness of systems as they are institutionalized and provide technical assistance to line departments. The CAO should emphasize those areas or principal operational problems (such as supply and procurement, personnel, business accounting, repair and maintenance, power supply, central repair) that are likely to impede developmental efforts in economic growth. His goal should be to discern lines of responsibility, reduce confusion over deficiencies in service delivery

* Forrest W. Horton, Jr., Reference Guide to Advanced Management Methods. American Management Association, 1972, p. 186.

and instill cost-cutting techniques. Recommendation 153: We recommend that reports by the CAO's office be reviewed with appropriate operating officials to determine precise cost-effective remedial actions.

If disciplined management practices of this type are useful in solving problems and assuring more efficient performance of governmental services they can be expanded. To the extent required, outside consultants should assist in developing the techniques and showing how they can be used. Recommendation 154: We recommend that the mechanics of network analysis and related techniques be utilized in middle-management training sessions.

Operations and Procedures Manuals

Each department and agency of the Commonwealth government executive branch and independent agencies should develop operational procedures. Recommendation 155: We recommend that each department and agency in the executive branch, and each independent agency, be required by statute to prepare an operations and procedures manual and that these be kept up-to-date through periodic revision. Recommendation 156: We recommend that guidelines for the preparation and drafting of all operations and procedures manuals for the executive branch be coordinated through the office of the chief administrative officer. Recommendation 157: We recommend that the CAO's office provide technical assistance to departments and agencies in the preparation of operations and procedures manuals.

It is important to distinguish formal regulations over external activities or the government as a whole from procedures of internal operations. A schedule of charges levied for purchase of drugs or use of hospital medical facilities should be a matter

to be included in the operation procedures manual. Recommendation 158: We further recommend that matters that constitute rules and regulations having the force and effect of law be published by the attorney general after issuance by appropriate authority pursuant to an administrative procedures act. Recommendation 159: We recommend that operations and procedures manuals be made available to the public upon request.

The chief administrative officer should prepare policy and procedural statements governing overall operations of Commonwealth government. It is not necessary to undertake a management survey to develop such instruments of management control. A survey for the government as a whole may be useful but it should not be done until at least fiscal year 1980. Preparation of operations and procedures manuals is important for raising performance capabilities and is a logistical base for formal outside management surveys. Recommendation 160: We recommend that the governor's office prepare and publish manuals giving procedures generally applicable to executive branch operations; and that their scope, content, and format be uniform. Essential guidelines prepared by the CAO and distributed to department heads would form the basis for preparation of the manuals for each department and agency. Manuals should be as informative as possible including telephone numbers, locations of units, office hours, forms and schedules to be used, and cross references in interrelated functions.

Records management

In large government units and private companies the preparation, use, distribution, storage, and disposition of records is a major enterprise. Records management within the Commonwealth government is highly uneven despite the forms and forms-control procedures established by the Trust Territory government. It will be necessary over time to establish

systematic records management procedures and to modify the forms that are used to reflect legislative and procedural requirements, management innovations and the scale of Commonwealth government operations. Maintenance of official government documents (such as original copies of acts of the Commonwealth legislature, court records, or vital statistics documents) may require special precautions, including having original copies in a secure place or microfilming copies as backup. Recommendation 161: We recommend that the chief administrative officer establish a records management system and issue guidelines on records retention and disposition. Recommendation 162: We recommend that the CAO establish priorities of records management activities and initiate cost-savings arrangements respecting forms and copies, distribution, and files.

In light of all the management priorities confronting the new government, extensive investments of time and resources cannot be devoted in the early years to this area. It may be valuable later on to utilize a specialist in records management to install a total records management system. The chief administrative officer should inventory existing records inherited by the Commonwealth government, including records currently in the possession of the Trust Territory government. The CAO may wish to establish a preliminary records retention schedule so that obsolete materials are removed from active files and either destroyed or stored. Records of an historical or legal nature, including particularly those pertaining to the ownership of land, must be treated specially. Recommendation 163: We recommend that as part of the records management program the chief administrative officer review files of routine correspondence and memoranda, purchase orders, personnel action forms, and retain only active materials. Recommendation 164: We recommend that appropriate precautions be taken to preserve confidential data pertaining to individuals. Recommendation 165: We recommend that a schedule of records retention and disposition be included in operations and procedures manuals for each department.

Information and Reference Services

Any organization requires information. For the Northern Mariana Islands, data requirements include governmental, economic, and fiscal information; reference and archival materials and specialized information services.

Data bank system

The Northern Mariana Islands government has no central data or information center. (The Trust Territory computer facilities are used for payroll purposes.) Different departments and agencies perform data-gathering activities, although the quality and nature of them vary substantially. Data on payroll personnel may be secured through finance and personnel respectively; status of federal grants through respective grant coordinators of the Trust Territory government; vital statistics and morbidity and mortality data through the health department; data on physical facilities and equipment through public works; data on agricultural production through the division of agriculture in the department of resources and development, and so forth. Much of the data about the Northern Mariana Islands, its demography, employment characteristics, private economy, and government are being gathered by the Office of Transition Studies and Planning and its consultants for the first time. Recommendation 166: We recommend that the planning-budgeting office in the executive office of the governor have principal responsibility for maintaining a data bank system. Not only will the consultant and OTSP reports utilize data in the projections of resource and expenditure requirements, and program priorities, but they will provide a base for a strong, comprehensive data system in the future.

Reference and information sources; archives

Reference and information sources on Saipan include Congress of Micronesia Library (largely statutory and related legislative-type

documentation), the Trust Territory Educational Library (general reference materials, educational materials, specialized materials on Micronesia and the Marianas, and the Pacific area during the Second World War); the law library of the High Court; the public library (limited reference materials). Reference materials of a specialized functional nature are available in random Trust Territory and Marianas departments.

When the Trust Territory leaves Saipan, with it will go the best reference collections. The Congress of Micronesia and the High Court are scheduled to depart in 1977 or early 1978. Only the Trust Territory Educational Library will be available as a reference center.* When the executive branch of the Trust Territory leaves Saipan, that source too will be eliminated. The new government cannot invest in elaborate hardware facilities and personnel, but it should develop a reference center for the Commonwealth, serving government, the schools, and the public. Recommendation 167: We recommend that one basic reference collection be established, utilizing federal grant funds supplemented by Commonwealth appropriations. Computerized information centers and the like will remain low-priority for the foreseeable future.

Recommendation 168: We recommend that the department of education be assigned responsibility for provision and operation of a library and reference center for the Commonwealth. Recommendation 169: We recommend that a reference librarian be employed by the department of education to perform overall activities including acquisition and accession. Volunteer help should be solicited.

* Micronesian Legal Services and private law firms have copies of statutes and court reports.

Recommendation 170: We recommend that cooperative arrangements be initiated among the Trust Territory, Commonwealth of the Northern Mariana Islands, and Guam for shared information systems and reference collection. Interlibrary loans, cost-sharing on computerized information systems, special subscription savings and exchange of technical personnel should be pursued. Recommendation 171: We recommend that an official Commonwealth archive be established. The archive would house and maintain official documents, including originals of the constitution, legislation and legal opinions, court records (to the extent they are not maintained in the Commonwealth trial court), original contracts, and related items.



IMPROVING MANAGEMENT AND ADMINISTRATION

Chapter Seven

TRAINING AND SKILLS DEVELOPMENT

The Commonwealth government must emphasize upgrading the skills of its employees. It will have functional responsibilities different in scope and scale from the district and the transition governments. Support services either have been transferred or are scheduled for transfer to the Northern Mariana Islands government pursuant to memoranda of understanding. Implementation of ambitious plans requires greater technical capabilities and specialization. Advent of a new government provides a unique opportunity for upgrading the level of employee performance. The net effect is to increase the demand for more effective workers, specialized skills, and a highly developed managerial capability.

Areas in which substantial upgrading of capacity is needed include supply and procurement, inventory, contract administration, performance scheduling, developmental planning, federal grants coordination, police investigation, correctional rehabilitation, program budgeting, and productivity measurement and applications. Substantial deficiencies are present among lower-skilled, supervisory, and managerial employees.

The foremost requirement is managerial capability at all administrative levels. It is difficult to separate managerial positions in government according to class. A political leader may be an executive, as is the governor; technical personnel may supervise and manage. Recognizing that considerable overlap exists, we have identified the following categories of positions in the Commonwealth government that will require training in management-oriented skills:

- Political: those who establish policies and have the power to assure their implementation.

- Executive: those who have senior positions of responsibility for implementing public policy.

- Professional and technical: those who manage public services, specialized services such as medical supplies or equipment, or who oversee major classes of clerical, operating, and field personnel.

- Supervisory and managerial: those who directly oversee and administer service delivery and operations.

Key career executive positions must be identified and filled with highly qualified persons. Otherwise it will be difficult to manage the Commonwealth government and to assure the following:

- Efficient program determination and implementation,
- Accountability for operations and expenditures,
- Effectuation of government plans and programs,
- Identification and resolution of trouble spots and red tape.

Past and Present Training Programs

Under the district government of the Trust Territory and the transition government, efforts to train public employees in managerial and supervisory skills have been isolated and sporadic.* The Trust Territory government periodically has provided in-service training programs in departments of the district government for upgrading written and verbal English of employees. Participation occasionally was mandatory but compliance was not universal; departments rarely took disciplinary action against employees who failed to enroll or did not attend. Most officials of the present government agree that efforts have been too casual to have long-term effect.

For public-service training through courses offered at institutions of higher education, Mariana citizens must relocate, usually to Guam, Hawaii, or the mainland United States. The feasibility of a local community college is under examination. The University of Guam offers an extension program on Saipan during the summer. In 1976 nineteen courses were offered with a total enrollment of 597. The curriculum included courses in English, speech, accounting, business, planning and evaluation as well as the humanities. Total cost of the program was \$66,000. A similar extension program was held in summer 1977 which included courses in records management, personnel, and management in government service. In late 1976 the department of education, which sponsors and coordinates University of Guam programs, announced

* "Training" as a term connotes a variety of activities which overlap and are difficult to define. For purposes of this discussion training will be defined as those structured activities, either continuing or occasional, whose primary purpose is to contribute to and enhance an individual's capability to discharge his responsibilities. This discussion applies only to managerial training for employees from the level of first-line supervisors to senior executives. It does not include primary and secondary education or special education such as vocational or adult education. It also does not include special training programs of public employees needing particularized skills such as policemen and firemen.

that six extension degree programs leading to A.A. and B.A. degrees in elementary education, secondary education, and special education had been approved for Saipan. Over time, major higher education services may become a reality on the islands, but this is not an immediate prospect. Hence the feasibility of utilizing a NMI community college for governmental in-service training and career mobility is at best speculative. Off-island college, professional, or graduate school programs (whether for degree or more limited purposes) can be exploited as part of a system of upgrading capabilities of government employees. But the high costs reduce the potential to select situations. A sharp distinction should be drawn between higher education opportunities for an individual's career advantage and the specific manpower needs of the Commonwealth government. They are related but not synonymous.

The training office of the Trust Territory and NMI governments occasionally announce to government employees special courses in areas such as statistics or management in the public service that are offered by the U. S. Civil Service Commission. Because of the expense of travel and matriculation, participation is limited. In some instances, such as police, a variety of off-island training programs and seminars have been available. The police department keeps a roster of officers and courses or seminars they have attended. There is also a probationary period during which new officers receive special in-service training. As in the case of off-island higher education opportunities, specialized and on-the-job training should be viewed as of significant but limited immediate or near future feasibility. Most in-service training of government employees should be done primarily on the Northern Mariana Islands.

Scope of Future Training Efforts

Many training arrangements might be proposed to upgrade all employees and managers. Single-purpose applications of the \$250,000 annual special funds earmarked for training in the covenant should be avoided. Briefing seminars are needed to familiarize elected officials, executives and line employees with the new Commonwealth government.*

Special technical training is required to enable persons of Northern Mariana descent to perform critical jobs. Management training is needed for key executives as it is for first-line supervisors. All training must be intimately linked to systems for supervision, discipline, and performance evaluation. It should be directed by the proposed training unit in the office of the chief administrative officer.

Training Alternatives

The Commonwealth has the following training modules as alternatives:

° To provide scholarships to select individuals within the government for higher education or professional training at universities in the United States. This option would allow public employees in key positions within the government to pursue their education by seeking professional training in areas of benefit to the government. It would require the government to enter into contractual arrangements with recipients to assure that they return to the Marianas for a suitable length of time after completing their education. In the past, a substantial

* Part II of the IPA report proposes that a legislative conference be established to provide briefings for members of the legislature. In a subsequent chapter we propose that the governor's cabinet be a forum for briefing senior officers, thus fulfilling a training function.

amount of scholarship money has been made available by the Northern Mariana Islands legislature and the Congress of Micronesia for scholarships which are administered by municipal scholarship boards established by the municipal councils.* Part of a general higher education program, it affords some input to upgrading skills of government employees.

° To provide training internships in government (or private) agencies in the United States. This option requires careful selection and monitoring of candidates and of training activities to assure transferability of skills acquired.

° To establish training programs locally either in new institutions or in agencies of the Commonwealth government. This option contains two components. One is a central public-service program which would offer formal training in public management and administration and selected skills training. The costs are likely to exceed the lump sum available under the covenant for training. A second component is to create training programs within agencies and departments of the Commonwealth government, combining skills training with work experience and special briefing seminars. Training might be conducted by placing trainees in close association with senior personnel, a long-recognized technique.

We favor the latter as a general model to be followed.

Recommendation 172: We recommend that a structured program for training employees in job skills be instituted on a regular basis through the office of the chief administrative officer and made compatible with the personnel classification system, wage schedule, and general

* We recommend in Part II that the scholarship program be administered by the department of education.

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personnel practices of the Commonwealth. Programs for upgrading skills and sharpening incentives for performance are wasted if personal career goals are not supported and reinforced by the working conditions of the public sector. No employee can be expected to function productively and to work toward improving his service potential if the policies of the employer do not advance his personal goals.

Recommendation 173: We recommend that the identification of skills that require upgrading begin immediately as a companion effort to the organization of the government and formulation of personnel policies. Resources for training--both existing funds and new funding under the covenant--are scarce and will be exhausted with little benefit if decisions are made hastily. There is a risk of investing in training in areas of minimal importance or where the level of competence is reasonably adequate. The Commonwealth government will be relatively small. The skills and capabilities required to administer public services are not necessarily identical to those required in other American subnational governments.

Recommendation 174: We recommend that a multifaceted management training program be instituted for senior executives, middle managers, and supervisors on a continuing basis. This would be organized by the office of the chief administrative officer. Determination of a curriculum and of specific training modalities, however, should await identification of institutions and offices so that training for management personnel responds to the particular needs of the Commonwealth government.

Must X
Recommendation 175: We recommend that a process be instituted by the ~~resident commissioner~~ and OTSP jointly to identify key positions for which specialized input through technical training is critical. Certain skills must be brought into the new government.

(IPA has prepared for interim recruitment purposes job descriptions for key Commonwealth positions. These are attached as Appendix G.) Specialized on-the-job training may increase effectiveness of persons presently holding senior positions; for other positions recruitment of technical professionals from the mainland is essential. If appointment of local residents to government positions is an established longer-term policy goal, it may be appropriate to make appointments on a limited contractual basis of, say, two years. In select areas, mainland participant and on-the-job training may be required and should be carefully monitored to assure proper trainee selection, training situations, and evaluation.

Recommendation 176: We recommend that an intensive series of briefings and orientation seminars be instituted by the office of the chief administrative officer for senior officers and executives on organizational and administrative plans and on proposed social, economic, physical, and capital development plans.

Recommendation 177: We recommend that a permanent career class of middle managers be established within the civil service to serve as a principal managerial talent bank for all agencies of the Commonwealth government. This category of public servants will have unique purposes and special training needs. Career paths must be built for promising managers and to encourage mobility of management specialists among line and staff agencies. This corps should be distinguished from traditional classifications by permitting lateral entry and movement from one position to another and from one agency or branch of government to another. Design of the rules of the civil service commission should accommodate this important need. Individuals who are in the present government should be selected for potential appointment to this category to facilitate individualized identification of skills and training needs. A training curriculum

should be developed to include concepts in management by objective, zero-base budgeting, and so forth. The use of these concepts is addressed in Chapter Nine. Recommendation 178: We recommend that project management be included as an integral part of the training curriculum for middle managers within the office of the chief administrative officer.*

Recommendation 179: We recommend that the training officer, assisted by a representative of the board of education, survey basic tasks deficiencies common to most first-line supervisory positions and that a training curriculum be devised to be performed on-site in departments for first-line supervisors. (This task is quite distinct from specialized consultant work now underway on job classification and pay-scale revisions and training related to these traditional personnel management activities.)

A frequent observation of executives in the Northern Mariana Islands government is that much time and energy is expended on routine administration and that first-line supervisors have failed to demonstrate competence in work scheduling and planning, communication and simple report writing. This failure is attributed to the public school system and lack of basic skills among its graduates. Promotions to first-line supervisory ranks frequently are made from laborer ranks because of skill or trade competence. Basic mathematics and oral and writing skills, less important to laborers but indispensable to supervisors, often are inadequate and merit treatment as a general education need of the populace and as a particularized need of public-sector employees.** Without attempting

* It is also important to begin the process of identifying potential managers in the high schools and not limiting it to young people with above-average academic potential.

** An additional requirement is ongoing vocational and special skills training that should be examined anew in light of discontinuation of Trust Territory training services in the Marianas. We note this component as a training priority and an integral part of secondary public education curriculum.

a general re-education at the secondary level of all first-line supervisors, however, identification of specific educational shortcomings arising in working situations should be feasible, isolating recurring skills inadequacies.

A persistent problem that will confront the new Commonwealth government is insufficient job motivation to perform and to work efficiently and diligently. The problem of low motivation can be approached through a combination of supervision, discipline, and training, planned and extended in concert with efforts to upgrade the personnel classification system and to adjust the wage schedule.

Recommendation 180: We recommend that a process of determining motivational characteristics of public employees be undertaken as part of an effort to increase worker productivity. Recommendation 181: We recommend that a program of incentive exercises, including small monetary rewards for special performance be designed and instituted for all employees regardless of rank, complemented by instruction on performance expectations.

There is considerable experience with such programs in the United States private sector, and the techniques used and found to be successful can be modified and adapted to local conditions. Another approach is to condition supervisors to exercise the authority delegated to them. Because of the self-contained population of the islands, the extended family units, and the interrelation of everyone, professional relationships in government frequently compete with family interaction. Recommendation 182: We recommend that a training program for strengthening supervisory techniques be designed with exercises in communication, employee discipline, leadership, and instruction of subordinates.

Recommendation 183: We recommend that the training unit in the office of the chief administrative officer in cooperation with the civil service commission review the feasibility of incorporating competency-based testing into the system of training and placement. Testing should be closely linked to the overall evaluation of managerial training efforts.

Recommendation 184: We recommend that adaptation of existing models or development of training arrangements not be decided upon in final form until an inventory of skills available and skills required has been completed.

The proposal to establish in the office of the chief administrative officer a central training unit does not mean that all training must be conducted by that unit. It would be inappropriate, for example, for nurses' training, professional seminars for physicians and medical officers, or for teaching seminars for planners, special skills training programs on equipment repair, inventory control, energy conservation and the like to be handled by a single unit.

Recommendation 185: We recommend that the CAO's training unit be the lead agency on executive-level briefings, management training, and the upgrading of first-line supervisory communication skills and that it maintain an overall quality control of all training. Strong links are needed between the training unit of the CAO's office and the civil service commission. An alternative organizational arrangement would be to assign the training function to the commission. The proposed arrangement, we believe, assures a high degree of coordination among operations, training, and performance evaluation. Nevertheless, some aspects of training might be a part of the personnel office, such as basic instruction for new government employees and clerical staff refresher programs, such as those operated with CETA funds. Recommendation 186: We recommend that the chief administrative officer establish

an interagency task force on training and performance, to be comprised of representatives of the chief administrative officer, personnel officer, planning-budgeting officer, superintendent of education, and designated department heads.

Recommendation 187: We recommend that a professional organization be retained for a period of three years to provide detailed professional input and instruction in training, curriculum design and trainee selection; to serve as instructors and to oversee location of specialized participant training and on-the-job experience.

Recommendation 188: We recommend that the Commonwealth legislature appropriate funds for each of the first three years to supplement earmarked training funds in the covenant and that every effort be made to obtain federal grant funds to complement these investments.

Recommendation 189: We recommend that no federal grant application for funds involving training be approved by the federal grants coordinator until the training unit in the office of the chief administrative officer has reviewed the application and has an opportunity to comment on it. Special federal grants made available for training purposes should be used in ways that are consonant with the Commonwealth's training programs. It would be a mistake to use the mechanism of outside federal grant funding to build separate training institutions or programs that are not interrelated to the major training program.

Recommendation 190: We recommend that no off-island training activity be authorized without demonstrated evidence that such activity would be directly related to critical skills improvement and cannot be provided within the Northern Mariana Islands. Recommendation 191: We recommend that the consulting organization that

is retained pursuant to Recommendation 187 be assigned the job of locating appropriate training sites for any off-island training activities, assist trainees, and provide periodic general evaluation of all off-island participant training. With respect to off-island training, we have indicated a general preference that off-island classroom instruction for skills training, management training, or briefing, as well as off-island on-the-job training, should be limited to essential purposes.



IMPROVING MANAGEMENT AND ADMINISTRATION

Chapter Eight PERSONNEL MANAGEMENT

Introduction

In the Northern Mariana Islands, government is the chief employer--the employer of first and last resort. Approximately 1,130 persons are employed by the Northern Mariana Islands government. Economic and social planners estimate that Commonwealth government revenues will permit employment of approximately 400 additional workers by 1985. Skills required by the government vary considerably as do salaries, which range from 80 cents an hour to \$37,000 per annum. There are frequent assertions that most government employees do not work hard; that supervision, motivation, and training are inadequate; that many positions should be eliminated. There is substantial tardiness, nonproductivity, and evidence of poor performance by individuals and units of administration. Many of the defects reflect the absence of effective supervision. Productivity measurements--still relatively new to public administration--could assess performance but probably would only confirm what is already known.

The new Commonwealth government will have a unique opportunity and constitutional mandate for devising effective personnel management and utilization systems.

A nonpartisan, independent civil service commission charged with effectuating a merit system based on competence will be established. It will face onerous tasks, principally in overcoming debilitating past practices. It must establish a classification of job levels and staff requirements, wage scales, and discipline systems. Until a new system

is instituted the government must achieve cost-savings and other management improvements relating to personnel utilization through the Trust Territory personnel system.

Government employment should never be the right of any employee or contractor. Retention of present employees is neither required by the constitution nor consistent with the merit system principles it espouses. There should be a policy to retain good workers with appropriate reassignments and not to hire persons whose skills are incompatible with job needs.

Trust Territory Personnel Policies

The Trust Territory personnel system is based on California practices and the U. S. Civil Service Commission. It is a textbook system with well-defined components from recruitment to termination. There are regulations on examinations to determine qualifications for entry and promotion; easy-to-understand methods of recruitment, eligibility, certification and appointment; provisions on reduction-in-force, performance evaluation, incentive awards, training, adverse actions, grievances and appeals. While we would welcome more affirmative action, the formal policies set forth in Title 61 of the Trust Territory Code and the regulations under it need relatively minor adjustments for adaptation by the Commonwealth government.

In practice the system does not promote effective performance. In fact standards are not well stated or enforced; performance evaluation really does not happen. Written examinations rarely are used, and few persons are subject to adverse actions. The conventional belief, which appears to hold true, is that nobody is fired and that as long as an employee does not blatantly disregard personnel rules and practices, his job is assured.

Section 3 of the Schedule on Transitional Matters assures continuity in employment "until provided otherwise by law, regulation or ordinance," and many believe that this provision will preclude major change in personnel. Municipal employees will be transferred to Commonwealth employment. In addition, the Marianas government will feel compelled to absorb persons who will be displaced if the Trust Territory government moves from Saipan.

Two factors mitigate against efforts to tighten up the system: the paucity of other employment opportunities and the absence of a substantial welfare system for persons unable to find or hold jobs. Any major "reduction in force" of government employees would mean unemployment for most.

The political consequences of eliminating unproductive workers and the role of the extended family should not be underestimated. No governor is likely to survive re-election or to secure legislative support by promoting efficiency at any cost. An evolutionary adaptive process must occur to build productivity while preserving family traditions and practices.

Job classification system

Only up til March

The Commonwealth government will inherit the Trust Territory personnel and job classification system. Under section 16 of article III of the constitution the civil service commission has ". . . the duty to establish and administer personnel policies for the Commonwealth government." It may revise the job classification system without legislative action. Should the system be changed? The answer depends on its appropriateness to a government of the size and scale of the Northern Mariana Islands, and on the nature of positions in the public service.

TABLE IV

TRUST TERRITORY JOB CLASSIFICATION SYSTEM
CLASS SPECIFICATION BY OCCUPATIONAL GROUPS

<u>Occupational Group</u>	<u>Number of Titles</u>	<u>Percent of Total</u>	<u>Number of Titles filled in NMIG</u>	<u>Number of NMIG Employees</u>
I. Clerical and Machine Operation	80	10	35	145
II. Administration Management and Allied	195	25	43	84
III. Education and Social Services	94	12	33	259
IV. Public Health Medical and Allied	96	12	36	125
V. Agriculture and Allied Classes	42	05	14	26
VI. Engineering and Allied Classes	61	08	8	22
VII. Public Protection and Allied Classes	31	04	17	70
VIII. Labor and Custodial and Domestic	26	03	15	67
IX. Trade Crafts and Equipment Operation	<u>156</u>	20	<u>78</u>	<u>335</u>
Total Job Titles	781		279	1,133

NOTE: The data displayed here are derived from the computer print out copy furnished by the NMI Personnel Office "Master List of Class Specifications by Occupational Groups, January 15, 1977."

The present system is composed of nine major occupation groups and exempt positions under Title 61 of the Trust Territory Code. The nine major occupational groups and the number of job titles in each are shown in Table IV. Two of the nine groups account for 351 job titles or 45 percent of the total of 781 job titles.

After the effective date of the constitution Commonwealth employees, with few exceptions, can continue to be given job titles and salaries under the Trust Territory classification system. New positions established or authorized by the constitution largely are limited to principal officers of the government in the exempt classes. Article III, section 16 of the constitution provides that all positions be within the civil service commission's jurisdiction, ". . . other than those filled by election or by appointment of the governor in the departments and agencies of the executive branch and in the administrative staffs of the legislative and judicial branches." As physical and socio-economic plans are implemented, additional job titles may be needed.

Several issues must be considered relative to the long-term utility of the Trust Territory system. Can most new positions fit within it? Does division of jobs into 781 occupational titles constrain flexibility in manpower utilization? Is the system too complex? Finally (and perhaps most importantly) is there correlation among job titles, job title specifications, and actual job assignments?

By weight of numbers the TT job classification system is overextended for the Commonwealth government. Only 279 out of 781 job titles (or 36 percent) actually are used for 1,133 employees. There is an average in each job title of 1.5 employees, and 4.06 employees per title actually used. In 139 instances there is only one employee per title. More than one-half of the employees are in two occupational groups: Group III (education and social services) and Group IX (trade crafts and equipment operation).

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We see no logical basis for continuing an overextended system over a long period. It constrains utilization, increases paper work, and confuses lines of responsibility. Recommendation 192: We recommend that the Trust Territory job classification system be modified for use by the civil service commission/personnel office. Recommendation 193: We recommend that a principal objective of the civil service commission be to reduce the total number of job titles in the job classification system, to be adopted by the Commonwealth, to no more than 200 separate job titles. Generic titles should be used to the extent feasible. Such titles as clerk I, II and III could be combined; similarly clerk-typist I, II and III categories could be combined if there are no substantial differences in performance requirements.

Standards of the civil service commission

It is less important for the commission to become engrossed in the mechanics of the job classification system and the paperwork that traditionally engulfs public personnel offices than to try to improve actual job performance. Training opportunities, equity in salaries, and better discipline of public employees will improve motivation and performance and serve the constitutional requirement of a civil service system based on merit. Structured efforts to discern underlying motivation that deflates job performance may be worthwhile, subject to constraints of priorities and money.

In the absence of strong employee organizations (the political system and the extended families frequently have the same effect as unions), the civil service commission is likely to be concerned with employee rights and interests. Pressures will be brought on the civil service commission and the personnel officer, and favoritism will be a major factor in personnel decisions. Traditional American

views of nepotism in government must be modified given the realities of the Northern Mariana Islands. Recommendation 194: We recommend that the civil service commission install standards of the highest order of objectivity in hiring and promotion; that it adopt a rigorous code of behavior for itself and for the personnel office; and that it resist demands to hire persons on bases of political expediency or personal relationships. Recommendation 195: We recommend that in its code of behavior the civil service commission establish rules governing the disqualifying of a civil service commissioner or employee of the personnel office on hearings or appeals in personnel matters. Recommendation 196: We recommend that the legislature strengthen the criminal laws to discourage instances of favoritism or nepotism in the public service and to increase penalties for violations of such laws.

Productivity incentives and discipline

Under Part 10.6 of the Trust Territory regulations, annual written performance ratings are "the basis for grants or withholding annual step increases. Employees rated 'Satisfactory' or 'Exceptional' shall be eligible for a step increase within their pay level. . . ." Those rated "less than satisfactory" are not eligible for a step increase although an employee who brings his performance up to standard then is. Performance evaluation ratings also are to be considered in reduction-in-force, merit increases, adverse actions, and superior performance award reports. Part 18.4b establishes a procedure for granting merit increases "for sustained superior performance over a period of one (1) year or more."

Annual step increases are not based on performance in reality, but are automatic. According to the NMI personnel office,

in the past year three employees have been denied annual step increases. (Nine merit increases were granted in the same period.) This is a form of cost-of-living increase and should be treated as such. Separate incentive systems should be developed to upgrade performance and productivity. Recommendation 197: We recommend that the annual step increase be automatic. (We have recommended in Chapter Nine a change in the time of such increases from the anniversary date rule.)

The burden of initiating actions against ineffectual workers falls to supervisors, who are usually unwilling to act as managers in matters of employee discipline. Authority to take adverse actions-- to dismiss, demote or suspend a worker for more than three days-- falls on management officials and can be delegated to deputy department heads. (Cf. 61 TT Code 10). The statute and regulations (Part 12) are fair; provide for equitable notice, hearing and review. We believe that Part 12 should facilitate the processing of adverse actions. Recommendation 198: We recommend that the period of advance written notice of an adverse action (Part 12.5A) be reduced from thirty calendar days to fifteen calendar days. Recommendation 199: We recommend that the period of time given to an employee to prepare his defense (Part 12.5(d)) be twenty calendar days. (The existing regulation reads "a reasonable amount of official time.") Recommendation 200: We recommend that a person against whom an adverse action is initiated (Parts 12.5(f), 12.9) be suspended without pay until the matter is disposed of unless a waiver of suspension is granted by the chief administrative officer. No waiver would be granted in cases of serious misuse of the public trust. At present, final appeals on personnel matters are made to the Trust Territory personnel board, which will have no jurisdiction once the constitution is in effect. Recommendation 201: We recommend that the civil service commission replace the Trust Territory personnel board in NMI personnel appeals

and that rulings initially be made by the personnel officer or by a hearing officer.

We are of the view that some revision on adverse action procedures not only is needed but is feasible. The new governor should reject the notion that a marginally productive public work force is immutable. He should insist on a management team that is firm and fair. He should install an effective, tough chief administrative officer with independent authority to make needed personnel changes, including dismissals when necessary. Otherwise, revision of formal merit system rules and discipline is meaningless.

Part II of Title 61 TT Code of Public Regulations, Chapter I, establishes an incentive awards program comprising (1) suggestion award, (2) superior performance award, and (3) special act or service award. The top single cash award under this program is \$500. The program is used in the Northern Mariana Islands government and should be continued but needs to be closely monitored. Recommendation 202: We recommend that the personnel office in cooperation with the chief administrative officer administer an incentive awards program and that the civil service commission designate an incentive awards committee. Recommendation 203: We recommend that the civil service commission monitor the administration of the incentive awards program and its objectivity; and report on job performance and employee morale; and that it nullify or discontinue the program if it becomes unworkable or dysfunctional.

Quality of the Public Work Force

The Commonwealth government should not embark on new or enlarged ventures in service delivery without making certain that staff capability is adequate. Recruitment policies--especially at the professional, technical, managerial and executive levels, and pay-scale/benefit policies--must provide people who are competent at all levels. Formal job qualifications such as graduate degree requirements should reflect manpower resources but should not be waived in order to hire persons solely for political expediency or to reduce unemployment rolls. Federal grants require standards of performance and output and may be withheld or discontinued if these are not met.

The Northern Mariana Islands employs 267 persons in Trust Territory civil service grades 13 and up, which include most supervisory positions. Of the total, 97 percent are high school graduates at least. (See Appendix H). Only 28 percent have any college degree (A.A. or higher) and only 2 percent have graduate degrees. Of the total 54 persons with undergraduate or graduate degrees, 48 have B.A. or B.S. degrees (17.9 percent); of the 75 with A.A. degrees at least, 38 are in the education or health/medical fields. These data support the view that there is little formal training in management.

Testing and job competency

Article III, section 16 of the constitution requires that appointments and promotion within the civil service commission ". . . be based on merit and fitness demonstrated by examination or by other evidence of competence." Part 3 of Title 61, Ch. 1, Public Service System Regulations, contains detail on examinations and announcements of vacancies. It states:

Examinations shall be practical and reasonable and shall provide for ascertaining the qualifications of applicants and their relative capacity and fitness for the proper performance of duties in the class of position for which they are applying. Any accepted method of examining may be used, including verification and evaluation of education, training, aptitude and character of applicants, and any other accepted examining device deemed appropriate by the Director of Personnel.

The rules of the Commonwealth's civil service commission must be based upon merit. A weighted evaluation method also can be utilized, with points assigned to such factors as:

- ° educational qualifications,
- ° on-the-job experience,
- ° related experience,
- ° appearance and demeanor (selected areas),
- ° interviews,
- ° written examination.

All standards must achieve the overall goals of merit and competency. The Commonwealth government has a right to insist that no person enter the civil service unless he or she meets defined minimum standards of job eligibility. This requirement must extend beyond paper credentials.

Testing mechanisms are needed and installation of meaningful testing procedures for entry, training and promotion purposes should be instituted. According to members of the NMI personnel office, few written examinations or practical tests are given. Examination is viewed as a broad review of educational qualifications and training or

experience. Written examinations rarely are administered or required, although some typing tests are occasionally given. The civil service commission may utilize professional testing organizations but this does not imply exclusive reliance on written examinations to determine competency. The whole field of credentialing and competency determination is broadening.

We favor active competition for jobs. Even in the absence of competition the civil service commission should refrain from employing unqualified persons; or it should be prepared to propose extensive preparatory training.

Recommendation 204: We recommend that the civil service commission institute a series of testing mechanisms to establish job applicants' capability in skills areas, to check basic functional educational levels, and to develop motivational qualities; and that such testing mechanisms be instituted in a realistic manner consistent with manpower requirements in the Northern Mariana Islands. Testing modalities beyond entry examinations should be used as an integral part of training and supervision. Recommendation 205: We recommend that the civil service commission, at an appropriate date, undertake a thorough review of testing modalities and their utility in assuring a quality civil service. We propose that such a review not be undertaken until the civil service commission and its personnel office are well established; otherwise this is likely to be just another contracted study not fully attuned to the realities of the commission's jurisdiction.

Recommendation 206: We recommend that for senior management or administrative positions, educational qualifications, on-the-job and related experience, and interviews, be emphasized more than the

results of written examinations. Recommendation 207: We recommend that highly skilled testing and personnel specialists be employed by the civil service commission in developing its program and merit system. Initially this may best be done on a contractual basis with individuals or consulting organizations, maximizing opportunities for federal technical assistance. Recommendation 208: We recommend the purchase of standardized tests for selected skills areas, particularly for those positions in which verbal or written communicative skills are critical job elements.

Recruitment and retention of middle- and senior-level employees

Opportunities for college and graduate or professional school education are likely to increase for domiciliaries of the Northern Mariana Islands, although there is no guarantee that the quality of the public work force at the technical, professional and management levels will improve. If the pay and benefits offered by the Commonwealth government are competitive, within the next decade the paucity of professionals in the Commonwealth public sector may be surmounted. Skills shortages are likely to remain in certain professions, especially the medical and dental fields, engineering, law and public administration.

Skills shortages at higher levels in government raise the issue of continued reliance on contract personnel. For those technical and administrative positions which cannot be filled locally with persons meeting education and training standards, the use of contract personnel should continue. Indeed, it may be desirable to encourage mainland men and women to build careers and make their homes in the Northern Mariana Islands. Under the covenant and constitution, American citizens who are not of Northern Mariana descent cannot own land, but all Americans are free to enter the Commonwealth. It may

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be possible, also, over time to reduce or eliminate the special costs for contract personnel, such as dependents' educational allowances; this is unlikely to be the case, however, for the next several years. Market place differentials are real and must be recognized.

Outside personnel will be needed in management. Installation of the government required by the constitution and proposed in these and other consultant reports demands a full complement of trained technical and managerial personnel. The governor and the legislature should insist on rigorous standards of qualifications for positions in these areas at the levels of the executive office, staff agencies (including office of the public auditor), and line departments. While some special skills may be met through consultant arrangements, others may necessitate direct contract hire.

Recommendation 209: We recommend that a search be initiated to secure the services of highly qualified persons with requisite education, training, and experience in key management and administrative positions, including: judges of the Commonwealth trial court, public auditor, attorney general and deputy attorneys general, chief administrative officer, deputy CAO, planning-budgeting officer, economic and physical planners, training officer, personnel officer, principal staff officer of the Public Land Corporation, superintendent of education, director of financial administration, and senior management (or business and accounting) personnel in the public authorities, public works, and natural resources.

Recommendation 210: We recommend that professional qualifications be established for a search effort to be initiated for key professional positions in the legislature, including: legislative counsel, senior research associate, and senior fiscal analyst. Job descriptions for selected positions are in Appendix G.

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Salaries and Benefits

We have not examined in detail the present salary and wage schedule of public employees in the Northern Mariana Islands with the exception of the executive and senior administrative levels. Any proposed new salary scale should introduce real rather than pro forma merit increases.

Salary and expense allowances for elected officials

The constitution establishes the annual salary of the governor (\$20,000), lieutenant governor (\$18,000) and legislators (\$8,000). It does not establish the salaries for the representative to the United States or for the mayors of Saipan, Rota, Tinian and Aguigan, and the islands north of Saipan, but leaves those designations to the legislature. Further, as noted, the legislature is required to establish for all elected officials a "reasonable allowance for expenses." Decisions will be needed on salaries for such elected and appointed positions as:

Mayors
Representative to the United States
Judges of the Commonwealth trial court
Executive assistant for Carolinian affairs
Professional staff of the legislature
Chief administrative officer
Attorney general
Public auditor
Personnel officer
Department heads

An objective executive salary and benefits plan should be developed promptly for elected and senior executives and managers. The plan would take into account cost-of-living factors, tax impact,

X implemented

relative difficulty of duties and responsibilities, and comparable private sector and government salary schedules (including those of Guam and the Trust Territory). Recommendation 211: We recommend that an executive salary and benefits plan be established, on the basis of objective study, before final recommendations are made for the salaries and expense allowances for elected officials and for senior administrative officers.

The following factors should be borne in mind:

1. What actual out-of-pocket expenses are likely to be incurred by elected officials?
2. What salary level is likely to attract suitable candidates for the position of representative to the United States and for the positions of mayor?
3. Should housing be provided for the governor? If not, should the allowance for expenses to the governor include a sum for entertainment or housing?
4. Should allowances for expenses be on a cost reimbursement basis requiring submission of vouchers and receipts?
5. What special expenses would the representative to the United States be likely to incur in the performance of his duties in the District of Columbia? Should an allowance for special expenses for this official be in addition to sums budgeted for office and staff and rental, housing and educational allowances, medical insurance, transportation expenses between Saipan and Washington, other travel costs in the United States, and official entertainment?

6. What expenses are senators and representatives likely to incur in connection with their official duties and responsibilities? Would these include costs of communications with constituents, trips within the Mariana Islands, or official entertainment?

7. What special expenses are legislators from Rota, Tinian, and the northern islands likely to incur? Would these expenses justify additional expense allowances?

8. Are the duties and responsibilities of each of the mayors likely to be equally demanding? If not, would it be appropriate to develop different salary levels for the mayors relative to the population of the island or islands they represent? Are they expected to be full-time positions? If so, should there be a prohibition against other employment?

For discussion purposes our tentative proposal on salaries and expense allowances of elected officials are contained in Table V. These are not offered as formal recommendations.

Executive and managerial salaries

While the highest base salary under the Trust Territory salary schedule is below the constitutional annual salary set for the governor (\$20,000), a number of Northern Mariana Islands government employees (under prime contracts, in exempt positions or U.S. civil service) receive higher salaries plus allowances. A list of positions paid at higher rates than the maximum of the base TT salary schedule appears in Table VI.

The Commonwealth government will inherit the Trust Territory salary scale and benefits plan under Public Law 6-65 enacted by the

Table V

PROPOSED SALARIES AND EXPENSE ALLOWANCES:
ELECTED OFFICIALS

Office	Annual Salary	Annual Expense Allowance ^b	Special Allowances
Governor	\$20,000 ^a	\$5,000	Governor's mansion ^c
Lieutenant governor	18,000	4,000	--
Representative to the United States	18,000	6,000	Housing, transportation, educational and related
Mayor of Saipan	8,000	1,000	--
Mayor of Rota	8,000	1,500 ^d	--
Mayor of Tinian and Aguigan	8,000	1,500 ^d	--
Mayor of islands north of Saipan	8,000	1,800	--
Senators	8,000 ^a	600	(\$500 additional for
Representatives	8,000 ^a	600	(presiding officers
			(and \$300 additional
			(for committee chair-
			(men of senate and
			(house; travel and
			(per diem allowances
			(for legislators not
			(from Saipan. <u>b/</u>

a. Established by constitution.

b. Reimbursable on basis of approved vouchers and receipts.

c. Legislature should require governor to use official quarters provided for him.

d. Includes travel to and from Saipan for meetings of the governor's council and for other official purposes.

** Chapter in the air*

** Mayor of Tinian and Aguigan*

X How about Airport Authority
 Visitors Bureau -309-

18,000
 2,400 Transp
 7,200 Housing
 4,500 25 Pol Diff
 32,100
 21,000

Table VI
 NORTHERN MARIANA ISLANDS GOVERNMENT:
 LIST OF POSITIONS ABOVE \$16,000*

Title	Employment Status	Annual Salary
Resident commissioner	U.S. Civil Service	\$47,970
Acting director of general administration	U.S. Civil Service	40,545
Legal consultant	Legislature	36,000
Attorney general	Prime contract	30,000
Director of public works	U.S. Civil Service	24,528
Legislative counsel	Legislature	24,000
Executive officer	Exempt	24,000
Assistant legislative counsel	Legislature	22,500
Medical officer III	Prime contract	22,309
Construction and maintenance superintendent	U.S. Civil Service	21,608
Staff physician III	Prime contract	21,574
Land commissioner II	Prime contract	21,243
Supervisory land surveyor	U.S. Civil Service	21,039
Police specialist	Prime contract	21,000
Planning officer	Prime contract	20,242
Agriculture management specialist	U.S. Civil Service	19,901
Facility management specialist	U.S. Civil Service	19,901
Public works officer	Prime contract	19,284
Assistant legislative counsel	Legislature	18,000
Attorney at law	Prime contract	18,000
Fire fighting instructor	Prime contract	18,000
School curriculum supervisor	Prime contract	17,500
Executive director (MIHA)	Exempt	16,602

* Excludes benefits.

Congress of Micronesia in 1965. A base salary schedule is established with 30 separate pay scales and stepped increases. The minimum hourly rate is 80 cents and the maximum hourly rate is \$7.98 (annually the rate runs from \$1,644 to \$16,603). Step increases are made within grade for 52 weeks from step 1 to 2, 2 to 3, and 3 to 4; for 104 weeks from step 4 to 5, 5 to 6, and 6 to 7; and for 156 weeks from step 7 to 8, 8 to 9, and 9 to 10. (Appendix I contains an enumeration of the number of employees and job titles in each pay scale of the overall Trust Territory basic salary schedule.) The official base salary is computed on a bi-weekly basis. Step increases should be for satisfactory or exceptional performance but are virtually automatic. Special differentials or allowances are made for hardship posts, night or hazardous work, overtime compensation, holiday pay, marketplace differential, and medical practitioners. A medical differential is paid for professional positions in the medical arts. For expatriate hire, the marketplace differential is used.

*Some
about
employees*

In effect, there are three salary scales: a schedule for local hire, a schedule for local contract hire (usually non-local persons employed on contracts for under one year), and a schedule for prime contract hire. The second and third schedules are based on the first. There is evidence that the lower edge of the salary scale is below minimum or standard for the Marianas. Special differentials are used for salaries of third-country nationals, based on a percent of U. S. marketplace differentials. Some employees are paid under U. S. Civil Service Commission pay rates. There are also a limited number of exempt positions for local hire.

For prime contract employees the salary scale runs on an annual basis from \$4,959 (pay level 1, minimum rate) to a maximum of \$25,000. Allowances for housing transportation, dependents' education, and related benefits increase the costs to the government of employing non-local personnel.

To recruit capable individuals for select principal positions in all three branches of the government, competitive salaries must be offered for locals or expatriates. These appointees would not be in the Commonwealth civil service or have tenure. Recommendation 212: We recommend that a base salary schedule for designated exempt positions be established, in each instance limited to gubernatorial appointees, and that it set a maximum annual salary of \$24,000. Recommendation 213: We recommend that the base salary schedule for the exempt class be used for the salaries of the personnel officer, executive director of the Public Land Corporation, and for the superintendent of education.

The personnel officer, if he is appointed by the civil service commission, and the superintendent of education, who is appointed by the board of education under constitutional mandate, may technically be considered under civil service but should be classified in the exempt category. The executive director of the Public Land Corporation probably is exempt from civil service. None of them should be tenured offices, although terms of office may be established.

An expense allowance of \$5,000 annually for the governor would not be unreasonable. Combined benefits will exceed the maximum annual salary of \$24,000 proposed for exempt personnel. Expense allowances for other elected officials should be proportionately lower, although special expenses likely to be incurred by the Washington representative should be considered. Some expatriate personnel may receive a total pay/benefit package that may exceed the total salary and benefits paid to the governor, since the personnel involved and their families are required to relocate, often at personal expense.

Equal Opportunity

Guarantees of personal rights under the constitution (article I, section 6) must be reflected in policies and practices of the Commonwealth government. There should be developed an assertive program to assure equal opportunity in the civil service for all groups including the geographic populations, Carolinians, young people, and women. There is, however, no spokesman for women comparable to the executive assistant for Carolinian affairs. Traditionally, women have not held positions in government. The new governor should endeavor to appoint a woman to a senior position, either in his executive office or in the cabinet. Recommendation 214: We recommend that the governor appoint at least one woman to a senior position in the executive office of the governor. Recommendation 215: We recommend that the governor designate one of his staff as liaison to women and young people. (This responsibility should not be a sole duty.) Recommendation 216: We recommend that the civil service commission convene an annual conference of women in public service careers and that it provide counseling within budgetary appropriations and special career guidance to women and young people.

The Trust Territory public service regulations (Title 61, Chapter 1) do not give adequate attention to equal opportunity and affirmative action. Grievance procedures should allow for cases of discrimination, and more recognition of equal opportunity in public employment is needed. Pressure from the federal government for equal opportunity, as a condition for federal grants, may be the ultimate incentive. Positive steps to assure that no person is denied appointment or promotion in the civil service on account of race, color, religion, ancestry, or sex, and to encourage job applications and opportunities for career advancement for all groups, should be taken. Recommendation 217: We recommend that the civil service commission in its revision of public employment procedures include a special part on affirmative action.

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The desirability or need for a human rights commission, modeled on state and local commissions, also should be examined, probably by the legislature. Recommendation 218: We recommend that the legislature review the desirability and need for establishment of a Commonwealth human rights commission and issue a report on the subject no later than January 1979.

X

Of all groups in the Marianas the one least able to assert its interests through accepted channels of persuasion and discussion is the young people. This is as true on Saipan as it is in the United States generally. Persons under the legal voting age probably are the most discriminated against group in society, despite the variety of protective legislation and special interest groups that claim to represent children and younger adults. The most important thing for the Commonwealth to do with its young people is prepare them for careers and provide meaningful career opportunities. The governor and the legislature should give special attention to the role of young people in the government and, in particular, to providing good employment opportunities. Recommendation 219: We recommend that a program of internships for high school seniors in governmental positions be developed jointly by the board of education and the government, through the civil service commission and in cooperation with the chief administrative officer. It might be modeled on independent study programs developed elsewhere. It could pave the way for identifying capable young people who have both the interest and talent for career jobs in the Marianas public service.

Effective Personnel Utilization

Development of effective personnel management should lead to greater productivity; although visible cost savings will not be

short range. Specific upgrading of operating functions can be addressed almost immediately:

- ° Use of a central clerical pool;
- ° More effective use of executive time;
- ° Development of a management specialist corps.

Central typing and clerical pool

Routine filing, reception, clerical and typing activities in the civic center should be centralized in a central unit.

Productivity gains for clerical and typing staffs can be realized through improved training and first-line supervision and through establishment of a central clerical pool under supervision of the CAO's office. Recommendation 220: We recommend that a central office pool be established under the jurisdiction of the chief administrative officer. Recommendation 221: We recommend that one member of the CAO's staff be assigned to exercise supervision of all clerical-related personnel in the civic center area whether or not a part of the central pool. The central office pool would provide telephone message service and routine reproduction of documents. Key officials such as the governor will require their own secretaries or receptionists, and separate arrangements should be made for units and services that are not located in the civic center. Private secretaries should be limited. If feasible, time and nonpersonal service expenditures by the central pool should be charged to the departments.

Recommendation 222: We recommend that a central correspondence filing system be established by the chief administrative officer

so that routine office files can be maintained by the central clerical pool with a common numbering system. We see no urgency in implementing this recommendation, however, since the more pressing need is more efficient typing services.

Management Level Career Paths

There are many managerial positions in the Commonwealth government, from first-line supervisors to senior administrators at the level of department director or above. For a substantial number of managerial positions, there is considerable opportunity for mobility within the Commonwealth government. It is thus possible to assign and reassign individuals from agency to agency, increasing the opportunities for professional growth and making best use of individual and collective talents.

The civil service commission and the personnel office should begin the process, in cooperation with the chief administrative officer, of identifying those men and women who by virtue of education, training, and experience would constitute the cadre of management specialists. Opportunities exist for cooperation with the public school authorities in identifying promising young high school students as candidates for special scholarships to facilitate careers in public management. Recommendation 223: We recommend that the personnel officer in cooperation with the chief administrative officer develop a plan for a corps of managerial specialists. Recommendation 224: We recommend that this corps consist of entry level, junior and senior positions with opportunity for career growth and promotion and job mobility within the Commonwealth government. Recommendation 225: We recommend that the personnel director in cooperation with the CAO develop with the superintendent of education a program to identify promising high school

students who have an interest in and potential capability for government management careers. Recommendation 226: We recommend that federal grants and technical assistance funds be sought to facilitate development of the management specialist corps.

Use and Management of Time

Senior and middle managers should demonstrate motivation and performance. The efficiency of managers, regardless of position or skills, requires self-discipline and self-evaluation. Although each individual should develop his or her way to maximize performance, management training programs should provide guidelines and suggestions for self-improvement.

Executives should avoid routine chores and apply their talents to more challenging tasks. Several suggestions follow for executive use of time. We believe they can serve as simple guidelines on routine conduct of the public business.

1. For the person who oversees a large number of administrative units or of employees, regularly scheduled meetings may conserve resources and resolve problems. We have recommended separately that the governor schedule regular cabinet sessions of department heads and aides. It may be useful for executives and managers to convene periodically all employees under their jurisdiction for exchange of information. Recommendation 227: We recommend that directors use intradepartmental senior staff meetings convened on a regular basis to deal with problems, review progress, and facilitate communication.

Written agenda can be useful and need not be highly structured; a short statement may be all that is necessary. Recommendation 228: We recommend that at all regular and special staff

meetings convened by a department head or other management official the convenor summarize or have another person summarize what has been discussed or achieved and what follow-on activities are required. The convenor would exercise control when debate fails to move to a logical conclusion.

2. Informal meetings should be encouraged to facilitate resolution of differences, but conversations during business hours that serve no business purpose should be reduced.

3. Over time, the equipment and service standards of telephones in the Northern Mariana Islands should be improved to facilitate communication. Difficult communication problems exist with respect to the neighbor islands and the capacity of local officials to be in instant communication with central agencies on Saipan. Within Saipan telephones should eliminate unnecessary trips from one end of the island to the other. Recommendation 229: We recommend that to the extent feasible managers and executives answer their own telephones and avoid the necessity of secretaries and receptionists screening calls.

4. Each person in a supervisory position has a right to expect persons reporting to him to put in a full day on the job, and each should set a good example. Recommendation 230: We recommend that managers and executives minimize personal absences from the job except for urgent matters.

5. Much time is frequently spent by senior executives on trivial or personal matters. Careful self-evaluation may reveal that the most determined executive wastes considerable time because of the absence of equipment or staff assistants. Recommendation 231: We recommend that each manager, department head, and executive maintain

a record of how time is spent during the course of a business week and assess time inputs. Recommendation 232: We recommend that the CAO undertake an inventory of office equipment and services and develop a plan and budget proposal to upgrade inventories so as to optimize management performance.

Interpersonal Relations

Persons in supervisory, managerial, or executive positions must abide by commonsense rules for giving and receiving instructions. Each person should be made to feel that he or she is performing an important task. When reprimanding an employee who fails to perform well, or when giving instructions, a private conversation is generally preferable; only on rare occasions should an employee be disciplined before peers. It is unwise to allow an undesirable situation to linger. Prompt action is usually the best rule of thumb.

Personal differences are a fact of life and frequently it may be wise to bring in an arbitrator. At senior levels the chief political executive--the governor himself--will be called upon to resolve disputes.

No one is expected to like everyone else. The effective manager or executive must learn to deal with persons on a business basis even though he may have little regard for them personally, and persons who get along well may find themselves having to deal formally with each other in business or professional situations.

IMPROVING MANAGEMENT AND ADMINISTRATION

Chapter Nine

THE COMMONWEALTH BUDGET PROCESS

This chapter deals with the formulation of the annual budget for submission to the legislature, the schedule of submissions, controls over expenditures, the form and content of a unified budget, the relations between the budget and Commonwealth planning, and budget decision-making.* It is designed to facilitate implementation of article III, sec. 9(a) of the constitution:

The governor shall submit to the legislature a proposed annual budget for the following fiscal year. The proposed budget shall describe anticipated revenues of the Commonwealth and recommend expenditures of Commonwealth funds. In preparing the proposed budget, the governor shall consider submissions made by the mayors of Rota, Saipan, Tinian and Aguiguan, and the islands north of Saipan as to the budgetary needs of those islands and by the executive assistant appointed under section 18 of this article. The governor's submission to the legislature with respect to the budget shall state the governor's disposition of the budgetary requests contained in these submissions and may include recommended legislation with respect to taxation. If a budget is approved by the legislature, the governor may not reallocate appropriated funds except as provided by law. If a budget is not approved before the first day of the fiscal year, appropriations for government operations and obligations shall be at the level for the previous fiscal year.

* The term "budget" means the proposed expenditure plan and the authorized plan following approval by the legislature. The term "appropriations" means the legislative act authorizing funds to be expended. The constitution, article III, section 9(a) uses the terms "budget," "approved budget," and "appropriations."

Revenue estimates or proposed expenditure levels or priorities are addressed in the socio-economic report of Robert R. Nathan Associates and for capital projects, in the report of Pacific Planning and Design Consultants.* This report does not address special funding mechanisms that will be established, including a development bank, a development corporation, and public authorities. Separate fiscal processes largely outside of the governor's budget pertain to the receipt and disposition of revenues from public lands. Under article XI, section 5(g) of the constitution, the Marianas Public Land Corporation will receive" . . . all monies from public lands and shall transfer these monies promptly to the Marianas Public Land Trust. Section 6(d) provides that the trustees of the Marianas Public Land Trust are required to" . . . transfer to the general revenues of the Commonwealth the remaining interest accrued on the trust's proceeds, except that the trustees may retain the amount necessary to meet reasonable expenses of administration."

Scope of the Budget Process

Budgetary procedures should reflect the size and scale of Commonwealth operations and technical capabilities of personnel. Sophisticated techniques of budget submissions and expenditure controls may be proposed only when there is indication that such capability can be developed through recruitment and training in the executive office, and in the department of financial administration, and with persons having management responsibilities in staff and line agencies.

Part II of the IPA report proposes a planning-budgeting office in the executive office of the governor; a department of financial

* IPA participated in the formulation of the Commonwealth budget for fiscal 1978 and subsequent years, respecting costs of administrative structures.

administration that will handle Commonwealth revenue collecting, treasury, disbursement, and accounting activities; and the office, duties and responsibilities of the public auditor. A draft bill in Part V suggests the legislative process by which the Senate and House of Representatives act on the governor's budget.* The organization plan proposes that the senate and house each establish a committee on fiscal affairs. A process is suggested, designed to implement article II, section 6 of the constitution, by which purely local matters, including local revenue and appropriation bills and regulations, would be referred to and considered by committees representing senatorial districts.

Budgeting and Planning: Interactive Processes

Budgeting is integral to planning. The annual budget is the principal forecast of need, anticipated revenues and proposed allocations, it is the instrument by which plans are transformed into actions and legislative priorities. In the past budget-making relied on the last year's level of appropriations and made short-range decisions. There was no comprehensive plan against which annual budget requests could be measured. There were ad hoc legislative appropriations and substantial reprogramming of appropriated funds, but there was no way to redirect priorities toward basic goals of social and economic growth.

In Part II we have proposed the interrelation of planning and budgeting under the administration of the executive office of the governor by a chief administrative officer who also oversees day-by-day operations of the government. As a political process, budgeting will respond to pressures from a variety of sources. There should be an

*Article II, section 5(a) of the constitution provides, "Appropriation and revenue bills may be introduced only in the house of representatives." Section 5(b) provides, "Appropriation bills shall be limited to the subject of appropriations. Legislative compliance with this subsection is a constitutional responsibility not subject to judicial review." That subsection also requires bills to be confined to one subject except, inter alia, appropriation bills. An item veto on appropriation bills is given to the governor by article II, section 7.

annual planning revision paralleling the annual budget process. The legislature, after conducting hearings, should review and adopt the plans so that they may serve as formal guides to budgetary, legislative and operation actions. The technical inputs provide needs and resource assessments upon which political judgments can be based. Guidelines which govern department estimates of need should insist that estimates follow approved plans closely or, if they do not, strong evidence should be presented to justify changes from approved plans.

Present Arrangements

Divided budgetary practices

The budget process has not effectively promoted coordination of programming and resource allocation. Too many separate and uncoordinated activities are involved. Under the district and transition governments there have been two separate budgetary processes: submissions to the federal government for most public monies available to the NMI government, legislation appropriations of locally raised revenues. Monies appropriated through the federal process had more planning input than legislative appropriations. Special federal grant funds have been made available to NMI officials largely through and at the discretion of Trust Territory officials, and there has been a paucity of data on such funds. "Reimbursables" or revenues derived from service or user charges are not integrated into either. Rational pricing principles for proprietary functions of government--especially in provision of utility services--are ineffectual. It is difficult to determine cost bases or to establish equitable rates. Decisions on subsidizing proprietary-type functions should be made knowledgeably by appropriate officials, including legislators. The director of public works has asserted considerable discretionary authority in transferring funds to meet urgent problems pertaining to the supply of electric power--at times to the detriment of other agency functions. The possibility of hidden subsidies is the nature of concern over reimbursables.

The budget documents, even when combined, contain major defects. The budget instructions for departmental estimates--the basis for

any budget--do not assist in estimates or discipline department heads to provide hard supportive data.

There has been a third component of the budget-appropriations process that has to do with legislative appropriations of locally raised revenues. Most of the money has been used to pay the salaries and operating expenses of the legislature itself. Funds were also appropriated for scholarships, municipal activities (often termed grants), and limited social service programs. This budget-appropriation process is not integrated with the federal financial assistance and separate accounting mechanisms are used for expenditure control. The process is heavily ad hoc, lacks programmatic perspective or ways of ordering priorities. To its credit, the legislature in the past year has begun to pay more attention to the federal assistance budget process, but local tax revenues have been regarded as belonging exclusively to the legislature and not under the control or influence of the district administrator or resident commissioner. When one adds the municipal revenues that have been controlled by the municipal councils and the mayors, what emerges are six separate budget-appropriation processes--all for a governmental system serving 15,000 people.

Transitional practices: federal funding requirements

In 1977 the legislature reviewed the budget submissions to DOTA for fiscal year 1979 and dealt with the total budget for the first time. Prior reviews have been limited to local revenues. This comprehensive treatment is the foundation of a unified budget process, required in the analysis to the constitution.

In the past the Trust Territory government was responsible for requesting federal funds and distributing them. Requests for the Northern Mariana Islands district were combined with requests for the other five districts and submitted by the Trust Territory government to the Department of Interior for the Trust Territory, the Trust Territory government in turn made an appropriation to each district and distributed the appropriation among departments of the district.

The procedure for fiscal year 1978 has been different. The covenant guarantees a base appropriation for operations and capital improvement of \$14 million (1975 constant dollars). The government of the Northern Marianas, administered separately from the Trust Territory since April 1, 1976 by the Department of Interior, submitted its request directly to Interior in Program Memorandum for Fiscal Year 1978. Fiscal year 1978 is the first in which covenant-level funding will be in effect, but the date at which constitutional government and covenant-level funding were to begin was unknown at the time the budget process began. This request originally assumed a full twelve-month funding at covenant level. The Office of Management and Budget requested that it be resubmitted to reflect nine months of funding, or a January 1, 1978 start-up with the last three quarters of the fiscal year as the likely period for funding at covenant level. OMB, through Interior, authorized expenditures for fiscal year 1978 of \$16.1 million, of which \$2.6 million was withheld for "later transmittal" pending implementation of the constitutional government. Therefore the budget authorization for 1978 is \$13.5 million, or \$9.6 million for operations and \$3.9 million for capital improvement projects. A supplemental authorization will be made during the latter part of calendar 1978 to adjust the budget for actual inflation.

Similar procedures respecting funding for fiscal year 1979 have been initiated. Under arrangement agreed upon among OMB, DOTA and NMI certain submissions have been made to meet federal budget requirements. Funding under the covenant is at a guaranteed level and these submissions do not imply a relaxation of the full funding obligation of the federal government.

Distributing Funds Among Agency Programs

Agency spending limitations are established in accounts for departmental programs. The budget office estimates all funds available for government operations on all islands for a fiscal year. Its estimate is based on an initial authorization by the Trust Territory (since the separation, by Interior) and an estimate of the supplemental authorization or the adjustment for actual inflation of 1975 constant dollars.

For fiscal years 1978 and 1979, the budget office allocated funds among agency programs and activities in both constant and adjusted dollars. Preliminary estimates of Commonwealth revenues for the ensuing fiscal year will include a calculation of the adjusted figure for federal covenant funds. If the final allocation from the federal government is different, the budget will be adjusted.

A "budget ceiling" method is used to distribute funds among agencies. The budget office informs the agency head of the total limit (or "ceiling") for his agency. It provides a control amount and a personnel listing to each agency head and to resident commissioner's representatives on Rota and Tinian. The control amount given each agency is based on previous year's expenditures, reflecting for each agency actual expenditures, outstanding obligations (purchase orders, accrued payrolls), and commitments (requisitions, job orders), less reimbursements.*

From the personnel listing fixed costs are calculated based on the automatic increases guaranteed under the provisions of Title 61 of the Trust Territory code. Salary increases are given on the anniversary date of employment. This practice imposes the burden on the budget office which must calculate the precise amount of the increase for each employee, based on his or her actual anniversary date of employment. Additional fixed costs to be budgeted include overtime and night-shift differential and personal benefits calculated according to percentages developed separately for Micronesians, civil service, and expatriate employees who also receive additional education, housing and repatriation allowances.

The agency head makes distributions within that limit among the activities in his department. The amount assigned to each activity within it is determined by the agency head without further modification by the budget officer or anyone else in the executive branch.

* The Trust Territory government uses a balance base or more conservative method by calculating departmental expenditures on the basis of actual expenditures, obligations, less reimbursements. Commitments, which are cancelled at the end of the fiscal year, are not used.

The distributions are returned to the budget office where they are checked for computational accuracy. These become the departmental budget. The budget office does not question the basis of the distribution.

Budget work sheets divide personal services into four categories: stateside employees, Micronesian employees, personnel benefits, and recruitment, repatriation and home leave. The first two categories are calculated separately because the salary scales are different. Overtime and differentials are included in these categories but are not shown separately. Terminal leave and salary increases are included in the salary object classifications without separate designation. There are ten non-personal service object classifications: travel; freight; rent; communications; utilities, printing and reproduction, other services; supplies and materials, equipment; investments and loans; grants, subsidies and contributions; refunds and reimbursements.

During the fiscal year a department can reprogram money from personnel to non-personnel object classifications in amounts up to \$5,000. Above that amount any modification is considered to be a change in program which requires the approval of the resident commissioner. The only object classifications which are not determined by the agency head, are medical referral, medical supply and procurement, and equipment. The first two are established separately because the budget office wishes to maintain maximum control over them to assure adequate funds. Allocations are made to agencies for equipment based on departmental estimates of equipment needs during the fiscal year and the budget office's sense of government-wide priorities. Departmental requests are compared to prior-year requests to assure that the department does not submit requests for the same equipment from one year to the next.

As noted earlier, this procedure is internal to the government. It is generally unaffected by congressional and DOTA appropriation and allocation procedures and current procedures for appropriation by the legislature of locally derived revenues. In addition, federal special grant funds are not part of the budget or the budget process. Budget work sheets, that collectively constitute the budget, do not show revenues or special grants. They do not show sources of funds either for the entire government or within the department budget. With the exception of federal funds received under the Comprehensive Employment and Training Act (CETA), special grants are not part of the budget which includes only federal lump-sum appropriations. They continue to be administered by the government of the Trust Territory to NMI agencies. These arrangements circumvent the office of the resident commissioner and the budget office, and are not recorded on any budget document. Of course this will and must change.

Analysis of Present Practices

1. We see no advantage in projecting expenditures in 1975 constant dollar figures in internal budget practice. This is confusing and the benefits derived from it are marginal. Recommendation 233: We recommend that the Commonwealth government use current dollars in its internal budgeting processes when projecting revenues and estimating expenditures or allocations to departments and programs.

2. The concept of separate budgets for Rota, Tinian and the islands north of Saipan inhibits program development. For information purposes, expenditures that are proposed to be made on the respective populated islands should be identified to facilitate legislative review and review of proposals by the mayors and the assistant for Carolinian affairs under article III, sections 18(e) and 9(a) respectively of the constitution. Thus the budget for education should be

made to the department of education, not to separate educational authorities on the neighbor islands. The quality of public services on these islands is more likely to be improved by linking them closely to the central departments than by treating them as autonomous.

Recommendation 234: We recommend that expenditures on Rota, Tinian and the islands north of Saipan be projected by each agency as part of its budget as a whole; and that no separate budget be made for Rota, Tinian and the islands north of Saipan. Recommendation 235: We recommend that the Commonwealth budget show for information purposes the total sums appropriated for services on Rota, Tinian and the islands north of Saipan to the extent such separate identification is feasible.

3. There is little virtue to funneling public funds through a single administrative office on Rota and Tinian or encouraging reallocations by a resident commissioner's representative or by a mayor. Chapter Six identified the role and shortcomings of the resident commissioner's representative arrangement and proposed an institutional structure and process for more effective and timely service delivery and coordination. No substantial benefit would derive to these islands by substituting the office of mayor for the office of resident commissioner's representative. The mayors have significant opportunity under the constitution, distinct from the service delivery of the executive branch, to influence budget proposals and program priorities for their islands.

4. The present system of basing a budget upon previous year's expenditure is poor. Past expenditures provide a legitimate basis for future requirements only if they are considered within the total context of the budget process. Proposals in this report for a system of zero base budgeting provide a better basis for determining needs and priorities and promote interaction between annual budget preparation and Commonwealth planning. Recommendation 236: We

recommend that previous year's expenditure be abandoned as the pre-dominant basis for determining future allocations.

5. The practice of awarding salary increases on the actual anniversary date of employment confounds the budget process and the day-to-day operations of the finance office. It forces the government to use a plethora of dates. Recommendation 237: We recommend that salary increases for eligible employees occur at one or two intervals in the fiscal year and that the practice of giving a salary increase on the anniversary date of employment be abandoned. Recommendation 238: We recommend that salary increases be budgeted in separate categories within the major classifications of Micronesian civil service, non-civil service, and expatriate employees.

Budget work sheets do not separate either part-time equivalents or new hires within the major categories. There is one personnel benefit category for all employees despite the fact that benefits for both categories are not the same and are calculated according to different formulas. The category of recruitment, repatriation and home leave exists solely for expatriate employees and is an accumulation of fixed guaranteed amounts based on contractual agreements entered into with expatriate employees. Recommendation 239: We recommend that the following personal service object classifications be established: base salaries for expatriate employees in each step and grade established, base salaries for civil service employees in each step and grade; fringe benefits for expatriate employees; fringe benefits for civil service employees; recruitment, repatriation and home leave; overtime; night-shift differentials; terminal leave; salary increments for each personal service category established above; other employees (part-time equivalent or miscellaneous).

6. The practice of including overtime and night differential and benefits together for Micronesian civil servants and expatriates

as additional fixed costs in the budget is ill advised. Recommendation 240: We recommend that overtime, differentials and benefits be reflected separately within each major personnel category.

7. A budget should facilitate interaction of the governor and the legislature so that balanced Commonwealth-wide priorities are set. All public service and developmental activities should be included in the process but agency heads should not decide the scope and parameters of major activities within their jurisdiction, as had been the practice under the budget ceiling arrangement; certainly they should not do so unilaterally. Recommendation 241: We recommend that the "budget ceiling" method for distributing allocations among activities within an agency be abandoned.

8. Article III, section 9(a) of the constitution states that ". . .the governor may not reallocate appropriated funds except as provided by law." By implication such constraint also exists for department heads. The legislature may wish to grant selected discretion to the governor or agency heads to reprogram, but this authority should be constrained. Major reallocations should be done through legislative approval of a supplemental budget following the same process as for the annual budget. Agencies should be authorized to reprogram funds from one object classification to another within a single program or activity on a fixed percentage basis without prior approval from the planning-budgeting office to assure adequate administrative flexibility by department heads. Recommendation 242: We recommend that agencies be authorized to reprogram funds in amounts that will not increase or decrease an object classification by more than 15 percent of the amount approved in the budget, without approval of the planning-budgeting office. Recommendation 243: We recommend that the planning-budgeting officer be authorized to approve re-programming of funds within an agency, with the concurrence of the chief administrative officer, in an amount that will neither increase

nor decrease an object class by more than 30 percent. Recommendation 244: We recommend that reprogramming of funds from one program to another be authorized by the governor in amounts that neither increase or decrease the amount budgeted by more than 5 percent. Recommendation 245: We recommend that any cumulative reprogramming of 30 percent require notification of the legislature.

9. Further changes from current practice would improve control over purchases of equipment. Recommendation 246: We recommend that each agency submit in its budget request a listing of all the equipment it has purchased for the previous five years. Recommendation 247: We recommend that equipment purchases for the previous year be certified for accuracy by the department of financial administration prior to final determination of equipment object classifications in the proposed budget.

Establishing The Commonwealth Budget

Requirements under the constitution

Article III, section 9(a) of the constitution requires the governor to submit to the legislature "a proposed annual budget for the following fiscal year. . . . The proposed budget shall describe anticipated revenues of the Commonwealth and recommends expenditures of Commonwealth funds." The Analysis to the constitution (p. 75) states: "It is intended that the budget be a unified budget dealing with all revenues available to the Commonwealth, including the direct assistance from the United States under Article VII of the covenant. The legislature may approve, modify or reject the governor's budget. The budget document is a plan for collection of revenues and expenditures of funds. . . ."

WHAT IS A BUDGET?

- A budget is a financial plan for allocating resources in pursuit of the goals and objectives of public policy. It is an integral part of planning and development.
- A budget is an operating plan for each department and agency of government. It provides managers and administrators with priorities for spending.
- A budget is a control over expenditures and operations. It provides the governor and his staff with a basis for overseeing service delivery and for monitoring costs and productivity.
- A budget is a course of action for a particular period of time.
- A budget is a method to assure that expenditures are consistent with planning and legislative objectives.
- A budget is a discipline system that requires public officials to define and articulate their objectives and to justify costs for delivery of public services.
- A budget is the basis of the accountability of government to the people.

Article II of the constitution states: "Appropriation and revenue bills may be introduced only in the House of Representatives." It continues: "Appropriation bills shall be limited to the subject of appropriations." It states also that "(t)he governor shall have twenty days in which to consider appropriation bills. . . ."

Article II, section 9 states: "In preparing the proposed budget, the governor shall consider submissions made by the mayors of Rota, Tinian and Aguiguan, and the islands north of Saipan as to the budgetary needs of those islands and by the executive assistant appointed under Section 18 of this article [executive assistant for Carolinian affairs]." The governor's submission to the legislature with respect to the budget shall state the governor's disposition of the budgetary requests contained in these submissions and may include recommended legislation with respect to taxation. Once a budget is approved by the legislature, the governor may not reallocate appropriated funds except as provided by law. As we propose, the legislature can add to or change appropriations only through statutory amendment of the appropriate act.*

Interaction with federal budget processes

Section 702 of the covenant provides that "Approval of this Covenant by the United States will constitute a commitment and pledge of the full faith and credit of the United States for the payment, as well as an authorization for the appropriation of the following guaranteed annual levels of direct grant assistance to the Government of the Northern Mariana Islands for each of the seven fiscal years

* Under the constitution, if a budget is not approved before the first day of the fiscal year the appropriations for government operations and obligations shall be at the level of the previous fiscal year.

following the effective date of this section. . . ."* There is full agreement in principle that the Commonwealth government is not required under this provision to submit a detailed budget justifying these funds, nor does the United States have the right to refuse the funds. Following discussions among NMI representatives and federal officials (principally Interior and Office of Management and Budget), it was agreed that explanatory information should be submitted to the U. S. government in a manner consonant with the budget process and time schedule of OMB. Estimates of the total anticipated Commonwealth budget, by department or program category, will be submitted approximately thirteenth months prior to the beginning of the fiscal year in which these funds (and other Commonwealth resources) will be used, to enable the U. S. government, and the Congress in particular, to know how the Commonwealth anticipates using its federal support funds.

It is the understanding of the parties involved that the United States government would not have the right to deny funds authorized under section 702 or to dictate how they should be spent. The Commonwealth would have the right to use covenant funds in a different manner from that indicated in the estimates supported in explanation of the formal request for section 702 funds, so long as the covenant and constitution are respected. The first alternative with respect to the inter-relationship of the federal and Commonwealth budget processes is to dovetail their timing and scope. The governor would submit the annual budget to the legislature which would pass an appropriation act. It would then be sent to Washington as the

* \$8.25 million for government operations (of which \$250,000 is reserved for special education training funds connected with the change in the political status of the Northern Mariana Islands; \$4 million for capital improvements projects, of which \$500,000 is reserved for Tinian and \$500,000 for Rota CIPS; and \$1.75 million for an economic development loan fund, with \$500,000 reserved for small loans to farmers and fishermen and cooperatives and \$250,000 reserved for low-income housing loans to low-income families. (These are 1975 constant dollars.)

explanation for the section 702 covenant fund request. The advantage here is that the U. S. government and the Congress would have the formal approved budget of the Northern Mariana Islands rather than a preliminary estimate of expenditures that might be overturned or radically changed by the legislature. The disadvantage is that the Commonwealth would be forced to adopt a budget more than one year before its fiscal year begins.

The second alternative is to follow the arrangement for fiscal 1979: a summary estimate by major department or program would be forwarded to Washington, not a final, legislatively approved budget. The annual Commonwealth budget process would commence in the calendar year in which the fiscal year commences. The advantage is that the budgetary process would be closer in time to the beginning of the ensuing fiscal year and, further, would avoid the danger of action on a budget before legislative or gubernatorial elections. The disadvantage is that the governor and legislature might substantially deviate from the estimates submitted to Washington.

We favor the second approach. Actions that require the Commonwealth to adopt a premature budget or to follow slavishly the federal budget cycle might result in a budget that is not well tuned to emerging needs and the Marianas' own perception of those needs. A budget is a practical plan of expenditures, not a theoretical one. To be meaningful it should conform to what is anticipated in the way of revenues and expenditure priorities. A lag of thirteen or fourteen months between budget adoption and the start of the fiscal year might lead to substantial readjustments before the fiscal year begins or after it has started. The prospect of elected officials approving a budget at the end of their elected terms rather than after election makes little sense, governmentally or politically.

If the second approach is followed, it would be useful to enclose with the preliminary estimates for the next succeeding fiscal

year a copy of the budget for the new fiscal year (that is, the request for fiscal year 1980 covenant funds would be accompanied by a copy of the approved budget for fiscal year 1979). Under the covenant the explanatory statements are not a requirement. The agreement that has been reached is designed to meet the technical budget process requirements of OMB and to demonstrate to the federal government--and particularly the Congress--that the Commonwealth is acting responsibly in its anticipated expenditure of federal support funds. Good presentation of such information and adherence to defined plans and programs should encourage further financial assistance at the expiration of the seven-year period.

We believe that the Commonwealth government should not yield to the federal bureaucracy its right under the covenant with respect to making its own budgetary decisions. To do so would reverse all that was so carefully achieved in the political status negotiations and ratified in the covenant.

Requirements under legislation

Commonwealth planning-budgeting legislation should establish a budget-making process that serves fundamental objectives and criteria. Well-organized structure, schedule, and budget-making procedures should facilitate timely reviews and decisions by officials and offer participation to the business community, constituency groups, and citizens in an open process. No single public official agency or branch of the government should exercise unilateral jurisdiction over the budget and appropriation process.

The budget and appropriation process should encompass the following elements:

- ° The nature of the budget and obligations under it.

- Delegation of duties and responsibilities for budget preparation, submission and review, including public hearings.

- A timetable for its preparation and adoption, including submissions to the federal government.

- The form and content of the budget, including criteria to be used in budget submissions and their review.

- Discretionary authority of administrators and others under appropriation acts.

- Supplemental budget and appropriation processes.

There are significant budget issues that pertain to financial policy more than to process, although there are interrelationships among them. These include the following:

- Should there be separate capital and expense (or operating) budgets for the Commonwealth?

- What criteria should define charges for services performed by the Commonwealth government for any department or agency of it? What rate structures and pricing principles should be utilized where charges are imposed?

- Should particular revenue sources be limited for earmarked purposes? (This includes earmarking of revenues derived

from service charges as well as particular taxes that may be earmarked.)*

° Should the legislature authorize rebates to the territorial income tax?

° What Commonwealth taxes should be imposed, added or revised?

° What local taxes, if any, should be authorized? **

° Should the annual budget for one fiscal year appropriate funds for the full cost of design, construction and equipment for a capital project? ***

* The covenant earmarks federal assistance funds for operations, capital improvements, training and economic development. The constitution provides the basis for earmarked local taxes [article VI, sec. 3(f)]: "A mayor may expend for local public purposes revenues raised by local taxes that are designated by law for those purposes after the expenditures are authorized by the legislature or by affirmative vote of a majority of the members of the legislature representing the island or islands served by a mayor." Under the constitution, the legislature could earmark specified revenues available to it from federal assistance funds and Commonwealth tax revenues or user fees or service charges for particular purposes.

** See constitution, article II, sec. 6, and article VI, sec. 3(b) and (f).

*** The advantage of such an arrangement would be to assure that a capital project once started will have the requisite financing for its completion. The principal disadvantage is that it restrains future legislatures from revising priorities and by restricting annual income to meet current needs. The question posed is part of the broader issue of capital project financing and is related to the requirements of the covenant and the advantages of financing through general obligation and revenue bonds.

° What criteria should govern exemptions from taxes for particular groups of individuals or corporations?*

° Should prior appropriations be repealed by the Commonwealth legislature? **

Legislative base

A prerequisite to a good budget system for the Commonwealth is an enabling law within the framework of the covenant and the constitution that distributes duties and responsibilities for a unified budget and interrelation with planning. This should be a principal goal of the enabling legislation. Further, the methods by which the legislature exercises its constitutional responsibilities over the budget should be established by legislative rule or law. Recommendation 248: We recommend that the Commonwealth legislature enact a comprehensive Commonwealth budget and planning procedures act that addresses fundamental requirements for the form, content, reviews, schedules, submissions, authorizations, and restrictions on spending.

* Article X, sec. 2 of the constitution requires the governor to report every five years to the legislature on the impact of tax exemptions provided by law and recommendation by the governor on tax exemption policy or laws. The constitution does not prohibit exemptions; principles of equal protection of the laws and due process under article I of the Commonwealth constitution and under the United States Constitution must be respected.

** Section 13 of the Schedule on Transitional Matters of the constitution provides, "As of the effective date of the Constitution the Commonwealth of the Northern Mariana Islands shall succeed to all rights and obligations of the previous government of the Northern Mariana Islands." To the extent that actions by the previous legislature or by government officials constitute obligations, these should be measured against the wording of section 13. A working assumption is that a contract or a matter imposing a contractual obligation would come within the section 13 constraint, but an appropriation per se would not.

Recommendation 249: We recommend that administrative details and criteria for agency budget submissions be issued as directives of the office of planning and budgeting in the executive office of the governor based upon gubernatorial initiative and approval. Recommendation 250: We recommend that budget review requirements and procedures by the legislature and its committees be jointly adopted in rules of the senate and house of representatives respectively, or by written committee procedures.

Maximum amounts to be appropriated

The amount of federal covenant funds will be known to the governor at the time he submits the annual Commonwealth budget to the legislature. Locally derived revenues, however, including "reimbursables," are predictive by their nature but cannot be guaranteed. If receipts are lower than anticipated revenues, two problems may arise: one is cash flow and the other is a deficit before the end of the fiscal year. Cash flow will also be affected by timing of receipts from Washington and the rate of expenditure during the fiscal year. It will require the constant attention by the director of financial administration but is not as serious as deficit.

There are two alternatives: (1) appropriate less in the annual budget than the amount of funds that are estimated or (2) withhold from the total amount a specified percentage and retain it in reserve until receipts during the first quarter of the calendar year demonstrate whether anticipated local revenues will be as predicted.

We favor the first approach. The budget should authorize expenditures that are below (say, 5 percent below) the total anticipated amount of revenues. (Earmarked revenues would be appropriated

on the same basis but separate from the unearmarked revenue pool.) During the fiscal year the governor could propose a supplemental appropriation act if receipts justify additional spending. Recommendation 251: We recommend that the annual budget and appropriation act authorize spending at not more than 95 percent of anticipated revenues for all locally derived revenue sources. Recommendation 252: We further recommend that the governor be authorized to submit a supplemental budget to the legislature at the end of the first quarter of the fiscal year for the expenditure of the balance of estimated local revenues and that such supplemental budget contain evidence that the estimated funds have been or will be received.

Content of the budget

To meet constitutional requirements and to build the foundation of modern budgeting there must be a single budget--a unified budget--not a collection of unrelated spending limitations. The budget and all authorized expenditures would then facilitate the essential determination of whether the proposed expenditures will serve a public purpose--a constitutional requisite for all tax levies and appropriations (article X, section 1). Recommendation 253: We recommend that the governor prepare annually a single total expenditure plan that is a unified budget. It should not be a series of appropriations or separate federal-support and local-revenue systems. Further, article III, section 9 of the constitution refers to the governor's proposed annual budget being approved by the legislature. While the language does not bar such approval in more than a single action, the concept of a unified and balanced expenditure plan supports the view that it should be a single action. Recommendation 254: We recommend that the legislature enact a single annual appropriation act and that any additional appropriation be enacted as an amendment to the annual appropriation with a statement showing source of funds of any additional or increased appropriations.

A comprehensive budget should encompass revenues, authorized expenditures, a fiscal report, revisions of plans, a debt statement, and tax levy revisions (if any). The statement should include justification for estimates and known or potential factors which may require adjustments of estimates. For all capital projects or new programs the report would state future operating costs and anticipated revenue sources.

Recommendation 255: We recommend that the annual budget and appropriation act (approved budget) be comprised of six sections, as follow:

1. A comprehensive statement of all estimated revenues from federal assistance funds (covenant funds), projected special federal grants, the territorial income tax, Commonwealth taxes, income estimated to be received from the Marianas Public Land Trust, income from service fees and user charges, and any other anticipated revenues.
2. Authorized expenditures organized by program, or service to be provided, and by administering branch, department, agency or instrumentality for operations and capital improvements, and revenue sources for expenditures.
3. A fiscal report, plans and statement of priorities, including capital projects, and an explanation of changes from previously approved plans.
4. A revision of approved plans and projections for future years.
5. A statement and summary of past, current and projected debt.
6. Revisions of tax levies, debt to be incurred, and changes or additions in user or service charges.

* Constitution article X, section 3 requires a two-thirds vote of the members in each house of the legislature to authorize or incur debt. Section 4 contains a limitation on the amount of general obligation debt that may be outstanding at any time and a prohibition against public indebtedness for operating expenses.

Data inputs

In recent years the final budget or authorized spending plan after federal funds have been approved is in the form of a series of papers termed budget work sheets. Based on distributions by departments to the budget office, a budget work sheet is prepared for each activity. These show present-year and past-year budgets and the increase or decrease between them.

Many of the fundamental data needed to understand the specific purposes of projected expenditures are missing. The budget work sheets include data on salaries, number of employees and their ranks or titles. We would retain the object classifications with the modifications suggested earlier, but believe there should be additional information. Recommendation 256: We recommend that personal service object classifications contain the number of positions within each category, their rankings and salary ranges; and that the total number of authorized positions within each category and a recent actual count of filled positions within each category be included. Recommendation 257: We recommend that non-personal service object classifications show the specific purposes of budgeted expenditures.

The budget should also supply the reader with a clear understanding of how government operations during the projected fiscal year relate to previous years. A budget should contain historical and requisite statistical data and should analyze general trends in government services for purposes of evaluation and comparison to services in previous years and to show increased demands on government. Supporting data may include school attendance, figures, miles of road constructed or maintained, numbers of fire and housing-safety inspections, consumer complaints investigated, etc. At a minimum it should contain an organization chart and explanatory material to show how

services will be administered. Recommendation 258: We recommend that the Commonwealth budget include necessary program and historical data and related information on service delivery mechanisms through which funds will be spent.

The budget document should explain the tax rate structure, including territorial income tax and business taxes. It should also contain information respecting rates and fees charged or levied for public utilities, hospitals and the like and business licenses.

Recommendation 259: We recommend that the budget contain information respecting the structure of all tax rates, fees for utility and other public services, and charges for business licenses.

For informational and analytical purposes the budget should contain summaries of current financial position, beginning and end-of-year cash balances and revenues anticipated during the year. These data would be generated or collected by the public auditor. Recommendation 260: We recommend that the public auditor provide a statement of financial position reflecting beginning and end-of-year cash balances and that such statement be an appendix to the budget.

Apportioning costs ✓

Costs should be apportioned as closely as possible by program, use and consumer. To the extent feasible, all costs of delivering services should be charged to the budget of the benefiting program and agency. Thus allocations for repair and maintenance should be apportioned by benefiting program and agency. This same approach should be used for determining and allocating costs for power or other utility on proprietary services. Recommendation 261: We recommend that the full costs for each program or service be charged to the budget for such program and the agency responsible for it. Recommendation 262: We

recommend that user and service charges for utility and proprietary service be fully charged to the benefiting user unless an affirmative decision is made to subsidize the delivery of a program or service; and that such subsidy be identified in the budget. Recommendation 263: We further recommend that as a component of cost-accounting methods for the Commonwealth government costs be separated by function in order to ascertain the full costs for each program and service.

Earmarking revenues ✓

Earmarking is a term that means designating revenues for particular purposes. The designation is or should be done in legislation establishing the tax or other revenue source, including service or user charges for electricity, water or sewage services. Service or user charges to pay for utility or other proprietary services often are earmarked to assure that such services will be self-supporting or to cover operating expenses.

Covenant funds are earmarked only within broad categories of operation, training, economic development, and capital improvements. We favor no further earmarking. In limited instances it may be desirable to establish a special temporary Commonwealth tax earmarked for a particular purpose. Recommendation 264: We recommend that Commonwealth taxes be earmarked only in special circumstances to meet critical needs and that the earmarked designation expire no later than two years after imposition.

Earmarking tax revenues or federal assistance funds (to the extent they are not designated for specific purposes by the terms of the covenant or grant programs) constrains the governor's and legislature's capacity to establish priorities and allocate funds according to these priorities.

Federal grants

Under the covenant the Commonwealth is eligible to apply for and secure funds under most federal grant programs. These include such broad public services as human and social services, health and medical care, education, coastal zone management, transportation, criminal justice, etc. While such programs might be a significant revenue source, several cautions should be noted:

The Commonwealth may be ineligible for grants owing to the nature of the federal legislation that established them. Congressional action may be required to overcome constraints or to make program requisites more amenable to the unique conditions of the Commonwealth, such as population, etc.*

Non-statutory eligibility requirements may be difficult for the Commonwealth to meet, such as participatory boards, completed plans or established infrastructures. A continuing dialogue and negotiation process with federal officials, especially with Region IX officials in San Francisco, will be required to secure waivers. The organization plan proposes that a federal program coordinator be appointed in the executive office of the governor, but representation in San Francisco is also needed, particularly during the formative years of the Commonwealth. Recommendation 265: We recommend that a liaison officer be appointed and stationed in San Francisco to handle day-to-day grant coordination with Region IX federal officials. To reduce

* The covenant provides for a presidentially established commission to review federal laws applicable to the Northern Mariana Islands which, when fully established, might propose legislation of this nature.

costs, this might be a part-time appointment/initially, possibly a young attorney or a retired university faculty member residing in the San Francisco Bay Area.

The purpose of some federal grant programs may represent lower priority interests of the Commonwealth. It would be a mistake to develop programs merely because of the availability of federal funds. Programs should be needed and within the priorities of approved plans. Recommendation 266: We recommend that no federal grant application be filed unless the program is determined to be consonant with approved plans.

Matching fund requirements may affect financial capability or outweigh benefits. Federal grants carry a variety of matching requirements ranging from 10 percent to 50 percent. It is essential that matching fund requirements be known and identified in the Commonwealth budget. Recommendation 267: We recommend that the Commonwealth budget identify anticipated expenditures that comprise matching funds for federal grants. Recommendation 268: We recommend that no federal grant application be approved by the executive office of the governor unless it is determined that matching requirements will be met are anticipated to be consonant with approved budgets or supplemental budgets.

Spending controls

The approved budget is an authorization to expend and a prohibition against spending in contradiction with the appropriation act. Recommendation 269: We recommend that all expenditures be charged against a recognized, established object classification.

Unless there is a statutory basis for determining otherwise, neither the governor nor the department head should unilaterally determine that a program should be discontinued or curtailed. Discretionary authority not to spend funds should be contained in enabling legislation, other statutes, or an appropriation act subject to the constitutional constraint on riders in appropriations.* Recommendation 270: We recommend that appropriations constitute an authorization to expend funds and a directive to do so unless discretion to withhold expending funds is statutorily provided.

For each object classification within the budget there must be a designated official with authority to incur expenditures: hire personnel, requisition supplies, contract for services, etc. Normally this would be the head of the respective department or agency. Recommendation 271: We recommend that the department head or other official with designated jurisdiction over a program or service for which funds are budgeted be the person authorized to expend appropriated funds.**

Continuing nature of appropriations

The constitution establishes the annual budget on a fiscal

* Constitution, article II, section 5 (b), second and third sentences.

** To expend funds means to issue the necessary orders by which funds are obligated, committed or paid. The actual payments will be the responsibility of the department of financial administration.

year basis (article III, section 9 (a)). A reasonable assumption is that funds which have not been spent by that date revert to the Commonwealth treasury and cannot be spent unless reappropriated. In the past these "lingering" but unexpended appropriations have handicapped effective revenue estimation. Additional constraints are needed to preclude contract mechanisms for non-capital items to avoid fiscal-year expiration. Recommendation 272: We recommend that the legislature establish maximum expiration dates for contract authority by category and contract amount and that the governor be given discretionary authority within statutory limits.

Part of Legislature program in budget

Availability of funds

To maintain a balanced budget no funds should be appropriated unless a specific source of funding is identified and the amount to be appropriated is not already reserved. Recommendation 274: We recommend that no item be contained in the Commonwealth budget or in an appropriation act for which revenues are not identified. Recommendation 275: We recommend that the department of financial administration certify revenue receipts or anticipated revenue receipts to the legislature before budget approval. Recommendation 276: We recommend that the federal program coordinator verify the reasonableness of all projections of anticipated revenue from special federal grant sources. Recommendation 277: We recommend that the public auditor review statements on funding sources with respect to the basis for the statement and any problem that may reduce the amount of estimated funds. Recommendation 278: We recommend that no expenditure, obligation or commitment of funds be made by the director of financial administration unless funds will be available at the time payment is made.

no credit

* continuing to Sverdlov's phrase
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Capital projects

We oppose separate capital and expense and operating budgets. The problem that arises is interrelating capital improvements, which by their nature involve outlays that occur beyond a one-year period, with an annual budget. One alternative would be to adopt the contract authority approach for capital projects in which funds from one fiscal year are appropriated to cover the full costs of the capital improvement and can be used until the project is completed. The capital plan would establish a schedule of construction. This approach assures that funds are available through all stages of construction. A principal disadvantage is that it constrains the flexibility of the budget by not making these revenues available for use during the fiscal year. A preferred alternative would be to divide the funding for capital projects among fiscal years. Recommendation 279: We recommend that for capital projects only those funds that will be spent during the fiscal year or otherwise must be obligated in order to proceed with a project be continued in the budget for any fiscal year.

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Prior appropriation

Under the constitution's schedule on transition matters, the Commonwealth government assumes the obligations of the previous government. The new government, however, is not required to continue appropriations other than those obligated by virtue of contracts or the like.

Zero Base Budgeting

The zero base approach to budget-making has been widely publicized. The President of the United States introduced the system when he was governor of Georgia. Mr. Carter has committed himself to a balanced federal budget by fiscal year 1981. Zero-base budgeting for federal agencies will be operational for fiscal year 1979, a procedure the President believes will be conducive to a balanced budget.*

The budget process for the Northern Mariana Islands must recognize limited financial resources and the need to economize. Zero-base budgeting in a modified form appropriate to the scale of operations of the Commonwealth government can be a key element of efficient and economic operations. Recommendation 280: We recommend that the Commonwealth government adopt a modified form of zero-based budgeting.

Zero-base budgeting requires attention to detail and documentation which exceeds that required by other systems. It requires more precision and discipline than presently exists. The benefits to be derived, however, exceed these disadvantages. As managerial capability improves, the approach can be refined and extended. We would like to see federal personnel made available through a mobility assignment under the Intergovernmental Personnel Act on a nonreimbursable short-term basis to provide technical assistance.

I.P.A.
(Committee)

* For a thorough understanding of both the concept and position of zero-base budgeting, one should refer to Peter Pyhrr or applications of zero-base budgeting in the federal executive branch.

Decision packages
✓

There are two fundamental activities in zero-base budgeting. The first is formulating "decision packages." The second is ranking each decision package in order of priority. The ranking begins with requirement or high-priority packages funded at minimal levels and continues through lesser-priority packages and funding at higher, more desirable but eventually less practical, levels. This ranking recognizes commonsense principles:

1. Some public services are more essential than others;
2. Minimal funding, even funding at subsistence levels, is preferable to no funding;
3. Most-urgent needs must be satisfied first.

Priority

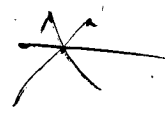
Zero-base budgeting provides a system for incorporating these principles into the process of choosing activities to be funded with limited resources.

The budget package

budget package

The most difficult step is defining and deciding what should constitute a decision package. For the purposes of the Commonwealth budget, the term budget package is preferred; alternatives are unit of expenditure, cost center, or the basic unit or basic activity for which costs are accumulated and reflected. Recommendation 281: We recommend that the basic unit of the budget for purposes of zero-base budgeting be termed the budget package.

Cost center concepts with respect to financial management and accountability may not be synonymous with those respecting budgeting



and planning. If they are, however, the budget process will be easier because previous year's costs will be accumulated in groups that are retained for projecting expenditures. Initially department heads may prefer to work with smaller units than the cost centers on activities presently used for accounting purposes.*

Recommendation 282: We recommend that budget packages be formulated in groups of common services and activities for the purpose of projecting costs for comparison and priority-ranking. When formulating budget packages, i.e., deciding what activities and expenditures should be grouped together, managers should identify the lowest common denominator among related expenditures, bearing in mind that packages will eventually be ranked by department and that all budget packages for all departments will be ranked together. They should be wary of too many budget packages and not create more than they can effectively deal with. This is a matter in which government-wide policies are required. Recommendation 283: We recommend that the planning-budgeting officer establish criteria for determining budget packages.

classified

if there any standards

Recommendation 284: We recommend that the planning-budgeting officer and department heads work closely in developing budget packages that are easy to compare and facilitate judgment regarding alternatives among programs and services.

* At present there are 70 activities against which expenditures for operations are accountable. These also serve as the basis for expenditure projections. By and large they correspond to organizational units within departments.

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Packages should not be so small as to be rendered meaningless; they must be larger than a single item. They should have sufficient components so that alternatives and choices, particularly in level of effort or expenditure, begin to emerge. There are few alternatives with respect to a single employee beyond the decision to employ him at a given level. His salary advancement is usually established by policy so that he is a fixed cost. Likewise the cost of acquiring a single piece of equipment is fixed. Maintenance and upkeep pose choices, although a limited number. To be effective, a program concept of budgeting is needed.

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Recommendation 285: We recommend that budget packages be developed around services to facilitate the development of priorities. Judgments are easier to make with respect to program packages developed according to services or programs than those which are not. Packages consisting of a single-type of expenditure may be difficult to compare with packages consisting of single but different types. Recommendation 286: We recommend that budget packages be composed of both personal service and nonpersonal service expenditures.

Recommendation 287: We recommend that decisions on the content of budget packages remain flexible and that different combinations of services and activities be incorporated into packages for experimental purposes.

Program packages crossing department lines are more difficult to develop and place in order than those contained within a single department; opinions must be solicited and weighed at corresponding levels in different agencies. Managerial control and accountability, particularly insofar as they involve expenditure control, are more difficult to achieve where more than one department is involved. If an entire unit is chosen as a single budget package, the package should

be described as a program not as an administrative unit. Recommendation 288: We recommend that budget packages be the programmatic responsibility of single administrative units in order to facilitate their development, including judgments made on them, and their administration.

One means for incorporating flexibility into the process is to require agencies to submit alternatives with each budget package. These should detail other means for achieving the same programmatic goals. Departments should be expected to explain why alternatives were rejected. Explanations may include greater costs, reduced efficiency, or unwarranted cost of implementation. In some cases there may be few alternatives to the recommended budget package. Nevertheless, at least one alternative should be required with each budget package submission as part of program justification. The alternative submission is a useful exercise at the agency level in exploring possibilities for other approaches to existing programs and services.

Recommendation 289: We recommend that all budget packages describe in full the program goals of the activities they describe.

Recommendation 290: We recommend that each package specify at least one alternative approach to the objective of the package.

Recommendation 291: We recommend that budget packages and their justifications be related to approved Commonwealth plans and that deviations from plans be set forth in detail.

*Program goals
justification*

act.

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Projecting budget packages
at different levels of effort

Once budget packages are developed they are projected at different levels of effort. The first level and the easiest to project is that of operation during the ongoing fiscal year. During the first year of zero-base budgeting this projection will require adjustment in previous-year cost centers or activities to make them compatible with budget package guidelines. Rearranging data on previous-year expenditures should facilitate the implementation of cost centers or the basis for the budget packages. Recommendation 292: We recommend that budget packages be first projected at the level of expenditure during the current fiscal year adjusted for inflation.

The second projection is the most important and also the most difficult one to arrive at. It is certainly the one which department heads and managers responsible for programs are most likely to resist. Each budget package must be projected at its minimal level, that is, the lowest amount necessary to justify the continuation of the program. The minimal level is that level below which it does not make sense to continue the program. It is assumed that this minimal level will not achieve the goals of the program described in the budget package. Funding at the minimal level is designed not to meet program goals but only to keep the program alive. It should provide for minimal personnel only, generally at a level beneath that of the previous year. It ordinarily assumes that layoffs would take place. Because of the difficulty encountered in requiring agencies to make a fair and reasonable estimate of the minimal amount necessary to keep a program alive, it is advisable to specify a percentage of the current expenditure level which is the maximum amount acceptable for budget packages projected at the minimal level of effort. This percentage should be, perhaps, 50 to 70 of the previous level.

The Department of Interior has specified 80 percent as the highest acceptable amount. The budget office of the transitional government during the summer of 1977 requested that each department project fiscal year 1979 expenditure at 90 percent of the current level as part of the budget preparation presently underway for that year. Although a minimal level of funding should not require any suggested fixed percentage, department heads, given past performance, are unlikely to approach this task responsibly if allowed that degree of independence. Recommendation 293: We recommend that budget packages be projected at a minimum level of effort not to exceed 75 percent of the amount which was expended on similar activities during the previous fiscal year.

This minimal level is the zero base--the basis of the program defense or zero-level review. Each agency must justify the minimal funding of the program by specifying in concise terms the consequences of not funding (discontinuing) the program. This review forms the basis of all incremental funding and serves as the principal justification for the program at whatever level. Recommendation 294: We recommend that the budget package at the zero base (minimal level of funding) contain a thorough explanation of the consequences of not funding the package at all and the implications of failure to fund in terms of achieving goals set forth in approved plans.

Recommendation 295: We recommend that the zero base review state the degree to which the program will fall short of goals and approved plans if funded at only minimal levels. Short-falls should be quantified in such terms as numbers of roads which will not be maintained, fewer numbers of inspections of buildings for sanitary or hazardous conditions, more students per classroom per teacher, closing agricultural stations, reductions in land surveys, or reduction in out-patient services.

The third and fourth levels of projected expenditures are made at 110 percent of the current level and at an unconstrained level. The former should specify what gains should be derived by increasing expenditures 10 percent over the current level. The fourth projection should be a modest, not an optimal, increase over the 100 percent level. It should specify the added benefits to be derived from the additional expenditures. Past attempts to use unconstrained budget requests have been unsuccessful. Requests submitted to the budget office, particularly by the resident commissioner's representatives, were out of reason and useless for budget purposes. This projection as well as the projection of minimal effort will require discipline on the part of departments. Recommendation 296: We recommend that the budget packages be projected at 110 percent of current level of effort and at an unconstrained level and that they contain descriptions and supply data on benefits to be derived from additional funding.

Ranking of budget packages

The second activity in zero-base budgeting is the ranking of all budget packages, first within the units of the department responsible for their administration, second within the entire department, and third within the entire government. The process takes place every time a budget package is delivered to the next level. First the units of a department formulate budget packages within the purview of their responsibility, according to the criteria discussed above. These are submitted to the department head where they are inter-ranked with the budget packages of other administrative units. All packages for the department are submitted in a single ranking to the planning-budgeting office where they are ranked with packages of other departments into a single, unified preferential ranking for all agencies and instrumentalities of the Commonwealth. This priority ranking is the basis for the executive budget which is

submitted to the legislature. Recommendation 297: We recommend that the ranking of budget packages be performed at three stages: (1) sub-departmental level; (2) departmental level; and, for all agencies and instrumentalities of the Commonwealth, (3) in the executive office of the governor, and made integral parts of developmental and program planning.

The minimum level of funding of a budget package should receive a higher ranking than all other levels of funding for that same package. Funding at current level must be given higher priority than 110 percent, or optimal level, funding for the same package. This assures that minimal funding of a program be a higher priority than full, 110 percent or optimal funding and also that full and optimal funding packages are eliminated first, before current and minimal-level packages. Elimination of higher levels of funding must not preclude funding of the package at a lower level.

Funding at a higher level for one package may be ranked higher than minimal funding for another package. Therefore funding of out-patient hospital services at current, 110 percent or optimum, level may be given a higher priority than even the minimal subsistence-level funding of village road repair. Recommendation 298: We recommend that different budget packages be freely inter-ranked as long as the ascending ranking of like packages is preserved.

As each ranking is submitted to the next levels for inter-ranking with the budget packages of other divisions or other departments, the same principles apply. A department head may change the priority ranking of budget packages prepared by his division chiefs but lower funding must be ranked higher than higher funding of the same budget package.

Schedule and Participants

Budget-making is a continuing process. Preliminary work for one fiscal year will be underway as appropriations are enacted on the budget for the previous year. The process and schedule are complicated by federal requirements, but submissions to the federal government should not inhibit development of a schedule for Commonwealth officials. A principal starting point for an orderly process is early January. Sufficient time should be allowed between the start of the calendar year and the start of the fiscal year to move the budget from preparation to approval. A Commonwealth fiscal year which corresponds to the federal fiscal year would be advantageous and would be consistent with many subnational governments that have adopted the federal fiscal year as their own. Recommendation 299:
We recommend that the Commonwealth adopt an October first-September thirtieth fiscal year.

The process of making a budget can be divided into several stages: revenue estimates and submissions to the federal government in connection with current funding; preliminary assembly of data and preparation of budget instructions to be followed by departments; preparation of department requests; preparation of the executive budget and its submission by the governor to the legislature; deliberation by the legislature on the executive budget leading to adoption of an appropriation act. The schedule and the activities under it are as important as the document itself because of the discipline imposed upon public administrators and managers, and the planning, deliberation, and inter-action between the branches and instrumentalities of government which it requires.

The budget process begins in the planning-budget office within the executive office of the governor. A forecast of anticipated revenues under the arrangements of the covenant, yields from the

territorial income, business taxes and license fees, and funding under special federal grants must be made before departmental and programmatic requirements can be considered. After completion of estimates, projections of departmental activities should be made by the planning-budgeting office at different levels of effort. Standard forms and documents must be developed and assembled, and budget instructions must be sent to agencies and departments.

Recommendation 300: We recommend that there be a pre-budget preparation period to be completed by January 15 of the fiscal year prior to the fiscal year for which the budget is being made.

Recommendation 301: We recommend that the pre-budget preparation period be coordinated by the planning-budgeting office and include the following activities: projection of covenant-level funding for the fiscal year in question; projection of territorial income tax receipts in cooperation with department of financial administration; projection of other receipts from fees and licenses in cooperation with department of financial administration; projections of other tax receipts; preparation of an executive policy statement by the office of the governor; assembly of budget instructions for departments which include suggested levels of expenditure during the fiscal year in question.

Following transmittal of budget instructions to departments, the planning-budgeting office should coordinate and advise the departments on their projections for the next fiscal year and the internal procedures by which they arrive at them. Recommendation 302: We recommend that a review of agency requirements for programs for which any agency is responsible, followed by submission of budget requests or expenditure projections to the central budget office be completed by the end of February and that budget proposals by mayors and by the assistant for Carolinian affairs be submitted by this date.

Recommendation 303: We recommend that the planning budgeting office review agency requests for mathematical accuracy, consonance with approved plans and the governor's program, reasonableness and merit, and prepare a proposed executive budget before the end of March.

Recommendation 304: We recommend that the executive office of the governor consider the requests of agencies, that a preliminary executive budget be prepared by the planning-budgeting office, and that the governor conduct hearings to be open to the public on agency requests during the month of April of the fiscal year prior to the beginning of the fiscal year in question. During this period the executive office would conduct hearings with department heads and determine whether their requests are in keeping with goals, objectives and policies of the administration, particularly as established in the executive policy statement. These hearings should be open to the public. Budget hearings provide an opportunity for the administration to hear the agencies justify their requests. They give the governor an opportunity to review the content and implications of requests, assess and question the objectives of the administration, review the soundness of requests and develop, revise and refine the objectives. In addition, opportunity should be made for testimony by private citizens and civic and business leaders.

This stage of the budget process provides timely opportunity for assuring the governor's leadership role and promoting widespread input and communication. It should be viewed as a forum to be used by administrators to present their own preferences with respect to the directions the administration is taking and to articulate problems they are encountering.

The final decision with respect to the executive budget must be made by the governor. He should convene a meeting of the governor's council to secure inputs by its members. He should call

for advice from staff members and administrators. Executive review of budget requests should not be a group decision, however. It is the responsibility of the governor to set objectives and policies and to allocate resources necessary for fulfilling those objectives in the proposed budget. Recommendation 305: We recommend that the executive budget be submitted by the governor to the legislature no later than May 15 of the fiscal year prior to the beginning of the fiscal year for which the budget is being prepared. Recommendation 306: We recommend that the governor present the budget before a joint session of the legislature and that the proposed budget be published forthwith.

Adoption of a budget and the deliberations that precede it provide the principal arena for legislative influence on executive policy. A legislature can exercise no greater power than it does in approving a budget and appropriation act. The legislature must undertake its review critically and thoroughly, including in its schedule analysis of the executive budget and public hearings, which should be open. Recommendation 307: We recommend that legislative consideration of the executive budget begin no later than May 15 and include a schedule for legislative deliberations, public hearings, and enactment of an appropriation act no later than July 15. This recommendation cannot be given the force and effect of law since the constitution (article III, section 9(a)) allows the legislature to act up to the beginning of the fiscal year. If not, the previous year's appropriations determine the level of operations. A complete schedule for the budget cycle appears in Table VII.

Administrative Capability

The full implementation of budgeting for the Commonwealth imposes requirements of skilled budget and financial management technicians. Without such capability the system of planning and budgeting activities cannot be accomplished. Recommendation 308:

TABLE VII

BUDGET CYCLE

<u>Date</u>	<u>Activity</u>
January 15	Pre-budget preparation by PBO completed by this date
February 31	Review agency requests
March 31	Planning-budgeting office reviews agency requests. Prepare proposed executive budget.
April	Executive office of governor reviews agency requests. Governor considers preliminary executive budget; conducts public hearings with agencies on agency requests.
May 15	Executive budget sent to the legislature. Legislature reviews budget; conducts public hearings.
July 15	Budget approved.

We recommend recruitment of professional personnel for key positions of planning-budgeting officer, budget analyst, fiscal analyst (legislature), director of financial administration and public auditor. Copies of proposed job descriptions are attached (Appendix G).

Recommendation 309: We recommend that a technical panel of outside budget and financial analysts be made available during the early years of the Commonwealth to assist Commonwealth officials.

Recommendation 310: We recommend that training in middle management and specialized budgeting be a top priority of the Commonwealth government and that training sessions begin during the pre-inaugural period.



IMPROVING MANAGEMENT AND ADMINISTRATION

Chapter Ten

PLANNING AS A COMPONENT OF POLICY FORMULATION

Planning is indispensable to the provision of public services, efficient use of resources, economic and social growth, and the public's comprehension of alternative courses of action. Planning provides an orderly way of projecting trends, revenues, needs and costs for public facilities and services. Important questions on devising a mechanism for planning are: how to institutionalize planning, how to secure timely action on plans at the lowest feasible cost, how to assure citizen participation in planning, and how to evaluate past performance. Planning guides, but does not substitute for ~~decision making~~ by the governor and legislature. Planning reveals actual costs and expenditures and the long-range effects of decisions. Planning is closely related to budgeting; both activities reinforce each other.

Present Arrangements

Planning has been a modest part of the Trust Territory and Northern Mariana Islands district governments until a comprehensive planning effort was initiated in the Office of Transition Studies and Planning. In the late nineteen sixties a small planning office was created in Trust Territory headquarters. Three assistant planners were responsible for planning in the six Trust Territory districts (one assistant planner was responsible for Truk and the Northern Mariana Islands). The Congress of Micronesia in April 1974 created the Trust Territory planning office in the office of the high commissioner, headed by a territorial planner.* A district planning

* P.L. 5-78. According to the statute, the primary purpose of the planning office ". . . shall be to formulate a comprehensive program statement for the Trust Territory, including functional goals, policies, priorities and programs and to provide for the coordination and supervision required for the development and implementation of a comprehensive planning program which will include the physical, social and economic aspects of comprehensive planning procedures throughout the Trust Territory."

office for NMI was established in the early seventies. The NMI organization chart issued in September 1976 continued the planning office, essentially a one-man shop.* Most planning remained centralized in Trust Territory headquarters. Planning units exist in some NMI departments, such as the planning and estimating division of the department of public works, which is involved principally in site planning.

A comprehensive land planning act enacted by the Congress of Micronesia for the Trust Territory effective April 1972 (P.L. 4C-76, 51 TCC, Ch. 1) authorized one or more planning commissions within ". . . each administrative district of the Trust Territory. . . through the enactment of appropriate legislation providing for such commission or commissions by the district legislature." Master plan areas also were authorized, and the district planning commissions could propose a master plan for adoption by the district legislature. District legislatures were authorized under 51 TCC, section 6 to enact zoning and land-use laws for the master plan areas. The Northern Marianas district legislature created the Rota planning commission.** No Northern Mariana Islands planning commission has been created. The Saipan planning commission no longer exists.

Master plans were prepared for Saipan (1968) and Rota (1972) by a consulting firm,*** and economic studies were made by Robert R. Nathan Associates**** but there was no institutional framework to assure sustained action on the proposals. Neither a

* The office is budgeted for a planner, a planning trainee who is on educational leave, and a secretary.

** District Law 4-58, Ch. 3.20, Mariana Islands district code.

*** Saipan: Hawaii Architects & Engineers, Inc., Honolulu, Trust Territory Physical Planning Program, Final Report, Saipan, Mariana Islands District, November 30, 1968. The report refers to discussions with the "Saipan Planning Commission." Rota: Trust Territory of the Pacific Islands, Planning Division, Department of Public Works, Rota Master Plan (undated).

**** Economic development Plan for Micronesia, 1966. See, also, The Posture of Saipan, 1972, prepared by the Saipan Chamber of Commerce.

land-use plan nor a zoning law exists. Responses to demands for capital improvement have been ad hoc, and incremental to earlier military development of harbors, airstrips, roads and public buildings, including much of Capitol Hill. The civic center in Susupe, proposed in the 1968 Saipan master plan, was a product of the Typhoon Jean reconstruction effort. Capital improvements have been included in annual budget submissions to the Office of Territorial Affairs (U. S. Department of the Interior) with the local legislature playing a minor role until this year in the approval process of major capital improvements and funding of operations. The legislature is now beginning to understand how it can influence major allocations and is beginning to demand detailed support data from the budget proposers. While there is still a tendency to regard local revenues as the private turf of the legislature, the legislature has begun to comprehend the value of integrated budget-making of all program and capital needs.

Overall, however, planning of capital improvements largely has been reactive and incremental with minimal structured citizen involvement. Consequences of inadequate planning systems and institutions are marked deficiencies in the scope and quality of essential public services and uninspired stimulation of private investment capital.

Plan ✓
Reactive ✓
Incremental ✓

Planning Tasks

Planning is required by the provisions of the constitution and as a prerequisite to the receipt of special federal grants. Planning efforts of OTSP begin the process of identifying problems of public concern and delineating the magnitude of available resources, choices of developmental patterns, and the costs and alternatives for upgrading the quality of services and public facilities. Coordinated planning and development can be achieved through intragovernmental agreements and public-private sector agreements on major industrial or utility development plans involving private investments, public

subsidies, and employment of foreign labor. Among the areas in which intensive planning is needed are: land use; agriculture and fishing; problems of the aged, economically disadvantaged, juveniles, and physically and mentally handicapped; fire protection and criminal justice services; historic and landmarks preservation and cultural development. An effective strategy is needed to conserve energy, particularly in the case of electric power, to assure an adequate water supply and good sewerage, and to optimize effective use of the ocean and its resources. Economic planning will be a continual task because much of the burden of stimulating private investment will fall on government.

Constitutional requirements

The constitution requires comprehensive public land planning by the Marianas Public Land Corporation (article XI, section 4). The executive budget provision (article II, section 9(a)) creates a process for determining and allocating resources for all Commonwealth social programs and capital improvements. It is the executive budget and legislative appropriations that ultimately determine which plans will be implemented, not the plans alone. Master plans may be useful in establishing goals, but commitment of funds turn ideas into decisions.

Federal grant requirements

Planning is a crucial investment in the quest of more than 100 available federal programs of which the Northern Mariana Islands have been involved in about one-third.* Federal regulations typically

* A study prepared for OTSP by the Institute of International Law and Economic Development has estimated that the Marianas may become eligible for as much as \$7.6 million in nondefense federal economic assistance. This amount would be in addition to the lump sum monies available under the covenant.

- precondition grant support on highly structured planning processes. Programs funded by the Law Enforcement Assistance Administration, for example, require a criminal justice planning commission. Likewise planning systems are needed to meet eligibility standards for medicare and medicaid, coastal zone management funds, public and mental health care, environmental quality and protection, and urban renewal.

Meeting federal grant requirements, including "A95" reviews,* in an ongoing government process which poses structural and procedural issues that confront every state and local government. In many cases federal eligibility requirements may be difficult for the Northern

* "A95" is a circular issued by the U. S. Office of Management and Budget. It is based on statutory requirements of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and Title IV of the Intergovernmental Corporation Act of 1968. It is also related to section 102(2)(c) of the National Environmental Policy Act of 1969. Involved is the use of clearinghouse mechanisms with respect to applications for federal assistance respecting a wide variety of public facility-type projects inter alia, and to assure consonance of local and state plans. The OMB July 1976 handbook on A95 states "At the State level, Governor's abilities to manage are not only. . . circumscribed by State Constitutions but administratively frustrated, with respect to federal programs, by functional bureaucracies" (p. 3). There are four parts to A95. Part I of the A95 process involves project notification and review system pertaining to applications for federal assistance. It is an early warning system to identify potential issues or problems. Involved are both obligatory referrals (projects requiring environmental impact statements to state and local environmental agencies), and to state and local civil rights agencies, and coastal zone management agencies. Part II involves direct federal development. The circular states, "Where [federal] projects are not in conformity with State, regional, or local plans the Federal agency will be required to justify any departures." Part III involves preconditions of federal formula grant programs on submission of state plans. Part IV involves coordination of planning in multijurisdictional areas.

Marianas Commonwealth to meet.* Often they were drawn for the mainland states or for smaller governments that operate as political subdivisions of a state. The grant provisions as they pertain to Guam will be in effect for the Commonwealth, but some adaptation to the smaller population will be required. Under district government NMI officials had little experience in federal grantsmanship and related activities. The Trust Territory government controlled grants' management with principal discretion vested in Trust Territory department directors. There has been little local experience with projecting fund availability under programs such as CETA and community action, and local officials are frequently unfamiliar with formulas and criteria. In fact precise dollar amounts of federal grant funds for NMI have been unknown in many instances, according to OTSP economic planners.

Federal grant programs for special services and activities reflect decisions made through political processes at the national level. They are established through interaction of the federal executive and legislative branches and hence reflect consensus of opinion on nationwide priorities at a given point in time. Priorities are implicit in the relative levels of funding and in the favorability of terms and conditions for receipt of funds. The prospect of grant receipt will require the governor and the legislature to decide whether matching fund requirements imposed as conditions on federal grants are prudent uses of limited resources.**

* Under the terms of section 504 of the covenant a presidential commission on federal laws is to be established "to survey the laws of the United States and to make recommendations to the Congress as to which laws of the United States not applicable to the Northern Mariana Islands should be made applicable and to what extent and in what manner, and which applicable laws should be made inapplicable and to what extent and in what manner." At least four of the seven members of the commission will be Trust Territory citizens domiciled in the Northern Mariana Islands. This commission has not been established as late as May 1977 and is long overdue, a matter discussed at the March 1977 meeting of the Joint Commission on Transition.

** A consultant review of 65 federal programs for which the Marianas will probably become eligible has estimated that \$1.9 million in matching funds will be required annually.


Scope of planning

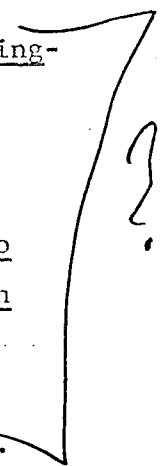
The budget of the government will increase greatly if many of the special federal programs for which the Commonwealth is eligible are instituted. It will be impossible to make prudent use of revenues without establishing priorities well in advance of the influx of funds under the constitutional government. Institutional arrangements for planning must be streamlined and commensurate with the size of the constitutional government. In Part II we proposed establishment of a central planning-budgeting office in the executive office of the governor. Planning is a support activity and should not claim an undue portion of the energy and human and financial resources of government. There is a danger that the planning function will become overbureaucratized--especially in light of federal grants' requirements--and that the government will be dominated by planners. In a community of 15,000 people, planning units for public enterprises can overwhelm the government. It is conceivable that at least 25 persons may be employed, regardless of title, in planning functions in the Commonwealth government. Recommendation 311: We recommend that federal grant coordination activities at the agency level be assigned to the person responsible for agency planning, to minimize separate administrative staffs at the agency level for planning and grants' coordination. Recommendation 312: We recommend that the Commonwealth request modifications of federal planning requirements when they necessitate creation of additional governmental entities or otherwise burden the bureaucracy.

It would be inconsistent with the constitution to reduce the power of elected officials by isolating planning and developmental decisions. The legislature and the governor set basic policies; objective inputs from planners improve their capability to render sound, cost-effective decisions. However, the professional integrity

of planners and planning units must be respected so they do not become the handmaidens of politicians. Throughout the process of developing and committing taxes and other funds, the public must be well-informed of content and participate in decisions on new programs and facilities. As a part of this process there should be central government control over economic development corporations, public authorities, and environmental and health planning entities. Recommendation 313: We recommend that federally funded planning and operating units be organized as integral parts of the Commonwealth government, and that federal grants be pursued as a part of the process of improving Commonwealth services and facilities within the scope of accepted plans and budget practices, not as independent actions. This will require: (1) identification and incorporation of federal grant projections into the Commonwealth executive budget; (2) supervision of federally funded planning and operating units under the direction of agency heads and the governor; and (3) inclusion of persons employed on programs whose salaries are from federal grant funds in the Commonwealth civil service.

An Agenda for Institutionalizing Planning

 Recommendation 314: We recommend the enactment of a planning-budgeting act to guide the essential resource allocation processes of the Commonwealth. Recommendation 315: We recommend that the plans presented by OTSP be reviewed by the new governor under the basic planning-budgeting act and submitted with his modifications, if any, to the legislature; and that after a public hearing they be endorsed, with or without statements of reservation, as official budget and policy guidelines. The governor's annual report to the legislature should contain a clear statement of policy and direction for the Commonwealth. A principal job of the governor will be to build consensus among citizens and community groups on Commonwealth goals. Action on comprehensive plans and seven-year budget projections should be coordinated not separate operations. The annual budget becomes the



principal decision-making vehicle for governmental actions, with the budget projections and approved plans guiding annual appropriations and assuring continuity of financial commitments for projects already under way.

Recommendation 316: We recommend that a central planning-budgeting office be established in the executive branch of the Commonwealth government to coordinate all Commonwealth planning efforts and that it have "A95" review authority. The planning-budgeting office should be located in the executive office of the governor to assure close coordination among legislative programming, executive budgeting, operations, and grants' management. These are interrelated functions that sustain the governor's executive authority and leadership. Recommendation 317: We recommend that the planning-budgeting office be headed by a senior professional, assisted by at least one development economist and one physical or land-use planner and a senior budget officer.

Recommendation 318: We recommend that planning units be established in each principal operating agency. This does not require in each instance that a formal planning office be created or that it be headed by a professional planner. Planning units would be charged with analyzing past performance, identifying future needs, and projecting costs of improved services and facilities. Where planning councils or commissions are established, as in the health and criminal justice areas, they can be useful instruments to review but not approve annual budget requests. The formal organization, staffing patterns, use of advisory, technical and participatory bodies, relationships with department heads will vary by agency. We stress, however, that planning be located within departments, not isolated from them. Smaller action-oriented agencies may lack full capability to institute creditable planning units initially. If necessary the central planning unit can perform planning for an agency until it can do so itself.

In the case of education, more than one planning unit may be required to accommodate capital improvements and planning in such areas as reading capacity, guidance, vocational education, problems of the handicapped, curricula development, higher and adult education, and teacher training. Recommendation 319: We recommend that planning and assessment activities be organized under a deputy superintendent of education, with close supervision by the superintendent and board of education.* The deputy superintendent would not be a statutory position and would be within the civil service.

Recommendation 320: We recommend that a single planning unit be established in the department of public works to continue and to implement OTSP recommendations on public works facilities, public utilities, roads, harbor and dock facilities and related transportation needs.** A critical task is to identify the full costs of services provided by the department and to effectuate better controls. This implies too the need to identify subsidies for power and other services rendered by the department of public works. Utilities and repair services should be provided on a cost-for-service basis except where a decision has been made to subsidize services for particular user groups. Business and engineering management capability is needed in the department of public works to effectuate efficient operations and plans implementation. The department would not have direct responsibility for comprehensive land-use planning and zoning; these functions are reserved to the central planning unit and the Marianas Public Land Corporation.

Recommendation 321: We recommend that the governor establish an interagency housing planning task force under the supervision of the

* The board, a constitutional office, will not be involved in day-to-day operations but will establish educational policies.

** The financing and control of utility operations is separately addressed.

planning-budgeting officer. At least three agencies are involved: the Mariana Islands housing authority secures loans and loan guarantees for private residential construction, has initiated public housing construction under section 8 of the public housing act and has undertaken community facilities improvements (e.g., sewage facilities) under the community development act. A separate housing-related activity exists under the homesteading provisions of the constitution, article XI, section 5(a) and (f).^{*} Since homesteading is a government subsidy to encourage homebuilding and farming, cooperative programs should be developed between the housing agency and the Marianas Public Land Corporation under a written memorandum of understanding. In Part II, IPA has recommended that MIHA be reestablished within the Marianas housing and village homestead agency. Recommendation 322: We recommend that proposals of MIHA or any new housing-village homesteading agency for housing or urban renewal projects be approved by the central government before being undertaken. The new housing-homestead agency should not be a wholly independent agency. Its separate corporate status is needed to optimize federal support and to operate its housing loan program. Its enabling legislation should assure effective control by the governor and legislature and financial accountability.

Police, fire protection and corrections program planning should strongly emphasize establishment of standards of professional capacity, behavior, and management. Substantial upgrading of services, facilities, equipment and professional capacities and standards are essential. Traffic control and vehicle safety must

^{*} Subsection (a) requires the Marianas Public Land Corporation to ". . . make available some portion of the public lands for a homestead program. A person is not eligible for more than one agricultural and village homestead." Subsection (f) requires the corporation to ". . . adopt a comprehensive land-use plan with respect to the public lands including priority uses."

become priority concerns. The incentive of federal funding through the Law Enforcement Assistance Administration should not be the sole activating force for change, although every effort should be made to garner funds from LEAA.

In the case of health planning, NMIG receives approximately \$400,000 annually in federal grants through the Trust Territory government; this amount may increase substantially. Funding is available for facilities improvement, medicare, medicaid, home (domicillary) health care, emergency medical services, public and environmental health programming. Recommendation 323: We recommend that a health planning agency under requirements of the National Health Planning and Resources Development Act be designed to assure full integration of all health and environmental health planning efforts;* that this entity be located within the health department and not be an independent agency; and that its activities be supervised by the planning-budgeting office to assure consonance with comprehensive Commonwealth-wide planning.

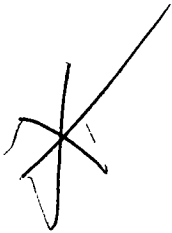
Recommendation 324: We recommend that the Commonwealth legislature enact a comprehensive land-use planning act. This would be designed to assure consonance with the constitutional mandate for comprehensive planning of public lands by the Marianas Public Land Corporation. Recommendation 325: We recommend that a zoning law for Saipan be enacted and basic zoning standards be adopted for Rota and Tinian. We are not fully persuaded of the need to institutionalize a separate planning commission, despite their popularity among American local governments. An interagency planning advisory board might be established by the governor. A formal board structure to handle variances and other appeals related to land use, zoning, or code

* Under P.L. 93-641 the formal titles under the federal act are the Statewide Coordinating Council and the State Health Planning and Development Agency. The requirements for a local health system agency has been or will be waived in the case of the Trust Territory and should not be a roadblock for the Commonwealth government.

enforcement matters might be desirable and should not be foreclosed despite our reservations on the need for a planning commission.

Recommendation 236: We recommend that the central planning-
budgeting office be responsible for master plan activities, urban
land-use plans and zoning, and developmental matters that are not
principal foci of agency planning operations: inter-island trans-
portation, transportation on Saipan, recreational and historic site
preservation and development. A major task of the Commonwealth government is to collect and maintain basic data that can be used to project revenue needs, expenditures, programs, and capital improvements. Data related to revenue and expenditure projections, demography, government employment, and industrial, agricultural and fisheries production should be drawn insofar as possible from data collected by the financial administration, natural resources and economic development departments. Data bases of appropriate quality also are essential in connection with grantsmanship; 11 categories of data must be maintained as a prerequisite to the receipt of special federal funds. Some tasks might be contracted to consultant firms or delegated to line agencies. Recommendation 327:
We recommend that all capital improvement and major program plans
proposed by line agencies be reviewed by the central planning-
budgeting office to assure conformity with basic plans and the
governor's plans.

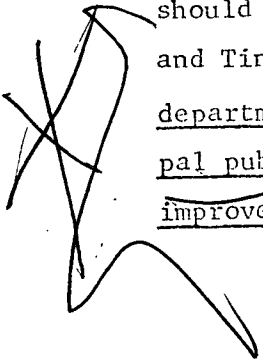
Recommendation 328: We recommend that the Marianas Public
Land Corporation participate on a cooperative basis in land-use plan-
ning activities for the government as a whole. This is necessary if there is to be a rational integration of planning for undeveloped and developed areas in the populated islands, principally Saipan, Rota and Tinian.



Recommendation 329: We recommend that each department head be required by executive order of the governor to prepare annually a summary statement of ongoing and needed programs. The purpose would be to encourage agencies to review formally where they are and where they are going. The planning-budgeting office should collate submissions, which should be coordinated with annual budget preparation activities and preparation of the governor's annual report.

Recommendation 330: We recommend that the Office of Transition Studies and Planning be integrated into the executive office of the governor. The major planning efforts under OTSP should be regarded as beginning a basic function of the Commonwealth government. The structure and expertise of OTSP are needed as the new Commonwealth begins to operate. This recommendation is designed to assure continuity of effort. Otherwise, the dynamics and products of OTSP will be dissipated.

Recommendation 331: We recommend that planning for Rota, Tinian and Aguigan, and the islands north of Saipan be conducted principally by the individual central departments and the central planning-budgeting office. The resident department heads on Rota and Tinian should participate in these efforts. The scale of operations and the efficient use of resources for planning preclude establishing separate technical planning offices on or for the neighbor islands. The central planning-budgeting office and the planning units of individual agencies should be required to develop data base and planning systems for the Commonwealth as a whole and for the individual islands and groups of islands. In this process there should be a strong involvement of resident department heads on Rota and Tinian. Recommendation 332: We recommend that the resident department head for public works on Rota and Tinian and the principal public works official on the northern islands monitor capital improvement needs in their respective areas.



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Walter Meyer

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Recommendation 333: We recommend that citizens advisory planning task forces be established for Saipan, Rota, Tinian and Aguigan, and for the northern islands; that the task force for Rota replace the Rota planning commission; and that each mayor chair the respective task force. The task forces should be used to secure citizens' views and impacts on public service programs, capital improvement plans, and land-use and zoning proposals. Through this mechanism the resident departments, and the governor can be cognizant of the needs of the individual communities.

Recommendation 334: We recommend that the governor appoint a task force of business leaders to assure inputs of business leaders in the central planning-budgeting process. This recommendation is designed to capture the experience and views of persons outside of government, including particularly, leaders of the private economy.

limited to Saipan

Recommendation 335: We recommend that an interagency planning conference be organized under the leadership of the planning-budgeting office comprising representatives of all agency planning units, including those of boards and commissions and the Marianas Public Land Corporation, to assure consonance of effort. Planners would utilize sessions of the conference as a surrogate peer review and professional development forum. This entity can serve as a vehicle for harmonizing technical planning activities and to assist the governor, senators and representatives. No separate staffing is required.

Recommendation 336: We recommend that an annual Commonwealth planning conference be held with governmental, business, and community participation. This would be viewed as a communicative mechanism so that plans are made known throughout the Commonwealth as an integral part of civic life in the islands. No additional staff is required.

IMPROVING MANAGEMENT AND ADMINISTRATION

Chapter Eleven

SUPPLY AND PROCUREMENT

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* Supply and procurement practices will affect the government's capability to deliver services efficiently. It is not now well managed and is a source of chronic complaints from Saipan and the neighbor islands. Improvements should not be deferred. Review of the system should be painstaking and should emphasize experimentation with new policies and procedures before a system is permanently instituted.

The goal should be a complete system overhaul. Supply and procurement was a responsibility principally of the Trust Territory government prior to April 1976. The present structure and staffing of the activity in the Northern Mariana Islands government is insufficient for the needs of the Commonwealth. Trust Territory supply and procurement manuals continue to be in use, and the regulations which governed procurement in the district are still applied, albeit casually. Many of these practices are inappropriate and need to be revised or replaced. Recommendation 337: We recommend that the chief administrative officer and the principal supply officer revise and update supply and procurement procedures concomitant with establishment of the new governmental structure. Recommendation 338: We recommend that new or revised rules and procedures for procurement be developed and modified during a period of experimentation.

The supply and procurement system should be developed with these goals in mind:

- ° Acquisition of needed goods and services quickly and inexpensively.
- ° Maximum deployment of goods and services when and where needed.

- ° Control over acquisition so that goods and services can be channelled to productive use by the government.
- ° Minimum loss of goods and services which the government procures at its expense or for which it is accountable.
- ° Flexibility to respond to pressing needs and emergencies.

The system will be effective if it is structured to serve expediency and accountability. Supply and procurement policies and rules should not be developed and instituted faster than they can be absorbed by the employees who must use them. A simpler system should be initiated at first; any system which is overwhelming in its complexity will be self-defeating.

The principal impediment to an effective system of supply and procurement is not institutional or even procedural. Goods and services are procured from a limited number of vendors with whom the government regularly does business. An elaborate structure of procedures is unnecessary for purposes of insuring accountability and ready access to the goods and services required by the government. The supply and procurement function does not work because management does not make it work. There is unwillingness on the part of management, particularly senior management, to impose and enforce a system which both facilitates and controls purchase. There is inadequate pressure from the top for maintaining adequate stock and inventory controls. The system, even as presently constituted, will work better and more efficiently when the administration decides to make it do so. Disregard for standardized procedures will continue until that commitment is made.

Delegation of Basic Responsibilities

The department of public works uses approximately three-quarters of the supplies and equipment purchased by the government. We have recommended in Part II of the IPA report that the supply function be located institutionally within the department of public works due to its heavy supply needs and superior inventory and storage capacity. Other line agencies would prefer to see the function decentralized or located within a staff agency, notably the finance office. Decentralization of purchases has the advantage of expediency but sacrifices economies derived through bulk purchasing and government-wide control of inventory levels. It is difficult to decentralize purchasing and simultaneously increase accountability.

Many deficiencies in the supply and procurement system are traceable to the flow of paper between the departments of public works and finance. The prospect of an institutional alliance of supply and procurement with the proposed department of financial administration seems attractive but would be ill advised because it would consolidate potentially conflicting responsibilities. Actual procurement should not be assigned to the same agency which controls and policies spending. Improved accountability in supply management is served if the financial aspects are institutionally distinct. Better coordination of the paper flow between the two departments can be achieved without structural ties. Reccomendation 339: We recommend that a junior finance officer employed by the department of financial administration be located in the supply office to facilitate flows and interpret financial management policies and procedures.

Reliance on cash for procurement in Saipan is excessive and confounds stock and inventory controls as well as financial audits. It is important however, to distinguish between local and decentralized

purchasing. Although we recommend local purchasing on Rota, Tinian and the islands north of Saipan we would vest the ultimate responsibility for use of public funds in the central government and its executive departments.

There is a substantial volume of financial transactions in the form of cash due to lack of banking facilities on Rota and Tinian. Local purchase of supplies and equipment for units of administration on Rota and Tinian is the only feasible means, in many instances, for filling agency needs expeditiously on these islands. An inevitable consequence is looser controls over local procurement, but the same rules and procedures cannot be applied on the other islands that are applied in Saipan. Recommendation 340: We recommend that the operating units of administration on Rota, Tinian and the northern islands have no responsibilities or prerogatives for purchasing other than those specifically delegated by the central agencies.

Policies and Procedures

The supply office should fulfill responsibilities respecting the needs of agencies and instrumentalities of the Commonwealth government. Recommendation 341: We recommend that the supply office in the department of public works be responsible for procurement of all supplies, commodities and equipment purchased at a cost of twenty-five dollars or more; maintaining records of all purchases; maintaining an inventory of all equipment (office equipment, desks, typewriters, vehicles, machinery); stocking, warehousing and distributing standard, commonly used supplies to agencies and providing them with a list of all such supplies; and enforcing all regulations with respect to procurement by verifying and certifying all vouchers prior to submission to the finance office for payment.

The supply office should be used only for the procurement and warehousing of commodities which are for government use and consumption. It should not sell or procure on behalf of the general public. It should not make its services available to private enterprises, except in emergencies. In these same cases, it should be reimbursed. Recommendation 342: We recommend that the supply office, its services and facilities, be restricted to use by the Commonwealth government. Recommendation 343: We recommend that the authority of the supply office and the policies established with respect to supply and procurement extend by legislative mandate to all agencies and instrumentalities of the Commonwealth, including public authorities and quasi-independent agencies.

A significant but common problem in enforcing supply and procurement regulations is the "split purchase order." The term means dividing orders into small groupings so that each falls beneath the monetary amount established as a requirement for submission to the supply office. The practice is widespread in the present government. Until it is arrested there can be no meaningful enforcement of procurement regulations. This matter should receive the early attention and action of the chief administrative officer. The limit for agency purchases by cash should be twenty-five dollars (as noted earlier, the same rule should not apply to Rota, Tinian and the islands north of Saipan). Where cash purchases are allowed there should be reimbursement only on the basis of "paid" receipts or other valid evidence of purchase. Recommendation 344: We recommend that the chief administrative officer prohibit the practice of splitting purchase orders or otherwise avoiding and escaping the restrictions imposed by supply regulations. Recommendation 345: We recommend that purchases on Saipan in amounts of twenty-five dollars or less with cash, either personal cash or cash withdrawals from imprest funds be allowed; and that all such purchases be reimbursed in amounts not exceeding the amount of purchase. Recommendation 346: We recommend

that no reimbursement be made either to an individual or to an im-
prest fund without written proof of purchase signed by purchaser to
verify amount and receipt of purchased item.

The chief administrative officer, working with the supply order, should redefine the process for purchase orders, including provisions covering purchases over twenty-five dollars and under one hundred dollars and those over that amount. The procedures should include designation of the appropriate agency official to sign purchase orders. The combination of proposed recommendations, if adopted and enforced, would assure timely purchase of supplies and services and necessary accountability and control. Recommendation 347: We rec-
ommend that a written purchase order be required for each purchase in
excess of twenty-five dollars. Recommendation 348: We recommend that
a copy of all authorized purchase orders be filed with the supply office,
including those authorized only by an agency.

Purchase orders would be issued by the requesting agency to the vendor directly with a completed copy to the supply office when the purchase is under one hundred dollars. Recommendation 349: We
recommend that each agency head or his designated representative be
the authorized official for purchases under one hundred dollars. Recommendation 350: We recommend that the number of individuals au-
thorized to sign a purchase order be limited. Recommendation 351:
We recommend that each agency head submit to the supply office a
written list of any individuals who can authorize a purchase order
and that the supply office approve the list. An alternative would be to have the chief administrative officer's office approve the list.

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Purchase orders for commonly used items with a small unit price (or items normally procured in small quantity) may not exceed one hundred dollars. The supply office will have no automatic check against an agency purchase of a stock item prior to the purchase. If an agency needs two staplers it can purchase them directly from a vendor for less than twenty-five dollars and ramin in compliance with regulations respecting direct purchase under a specified amount. Staplers are a common enough commodity to be stocked in advance of need and be provided to the agency by the supply office. No purchase should be made by an agency when an item is available from inventory. The list of standard, commonly used items that are maintained in the inventory or warehouse should be updated frequently and provided on a regular basis to agencies, reducing the need for agencies to buy such items.

Recommendation 352: We recommend that agencies be permitted to purchase only those items not maintained in the supply office stock. Recommendation 353: We recommend that the supply office review all purchase orders forwarded by agencies directly to vendors for the purpose of identifying agencies which do not first avail themselves of centralized stock and to identify items used frequently which might be purchased in bulk. If agencies violate the requirement that they first determine the availability of an item from central stock before purchasing, their privilege of direct purchase should be withdrawn.

Purchase orders exceeding one hundred dollars should be signed by the supply officer or his authorized representative prior to presentation to the vendor. The requesting agency would initiate and initial a purchase order, leaving blank the authorizing signature, and would forward it to the supply office where it would be signed. The supply office would verify that the item is not available from stock before signing and issuing the order. Recommendation 354: We recommend that the supply officer or his representative be the only person authorized to sign and issue purchase orders in excess of one

hundred dollars. Recommendation 355: We recommend that the supply officer designate a single representative in the supply office to act in his behalf. Recommendation 356: We recommend that the supply office review each purchase order it receives for more than one hundred dollars and that if the requested item is available from stock the supply office provide the item to the agency, cancel the order with a stamp, and file the cancelled request.

Recommendation 357: We recommend that all agencies be charged for items supplied from stock. Recommendation 358: We recommend that the supply office notify both the agency and the finance office when an item is supplied from stock and that the finance office treat the notification as an authorized charge against the agency's account.

A purchase order in an amount exceeding one hundred dollars should require the additional approval of the department of financial administration prior to presentation to the vendor. This can be done in a manner that reduces delay in securing needed supplies or services. Recommendation 359: We recommend that all purchase orders in excess of one hundred dollars be forwarded by the supply office to the department of financial administration for authorization. Recommendation 360: We recommend that the department of financial administration forward to the vendor any purchase order in excess of one hundred dollars. Recommendation 361: We recommend that the department of financial administration authorize only those purchase orders for which adequate funds are available in an appropriate account of the requesting department. Recommendation 362: We recommend that funds be encumbered in the appropriate departmental account at the time a department authorizes a purchase and prior to forwarding the purchase order to the vendor.

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In addition to these procedures, a ceiling (dollar limit) should be established for purchases that do not require the signature of the chief administrative officer--probably two thousand ~~thousand~~ five hundred dollars. Recommendation 363: We recommend that an amount not to exceed two thousand five hundred dollars be established as the amount of a purchase above which the signature of the chief administrative officer is required unless the CAO sets a different ceiling.

Equipment and Inventory Control

We recommended earlier that the supply office maintain an equipment inventory. This should discourage theft and inappropriate use of supplies and build opportunities for economies by predicting the useful life of a piece of equipment and anticipating replacements. Recommendation 364: We recommend that equipment be defined as any single item purchased at a price of one hundred dollars or more with an anticipated life of two years or more. Recommendation 365: We recommend that the equipment of inventory contain for each item the minimal following information: type of equipment, date and amount of purchase, department or agency to which it is assigned, and serial number. Recommendation 366: We recommend that each piece of equipment have stamped, stencilled or otherwise indicated on it in a visible and permanent place the following identification: "Property of the Commonwealth of the Northern Mariana Islands," followed by the serial number assigned to it. Special procedures may be required for equipment acquired under federal grants.

Internal Agency Organization

Coordination of supply and procurement activities between the supply office and the user agency would be facilitated if there are iden-

tifiable individual contacts in the user agency and if there is routine communication with the supply office. Recommendation 367: We recommend that each agency head assign one individual within the agency as supply clerk or principal contact for the supply office. Recommendation 368: We recommend that all activities within an agency relating to supply and procurement be channelled through the person named by the agency head as supply clerk or principal contact, and that the person so designated monitor the supply needs of the agency and maintain an internal inventory of supplies and equipment.

Agencies should endeavor to make as many as possible of their requests for standard items on a set date each month and limit intermediary requests to unforeseen needs and emergencies. There is no justification for an agency submitting more than one request per month for pencils or rubber bands. Recommendation 369: We recommend that the supply office establish for each agency a monthly date on which the requisition list of supplies for the agency will be submitted to the supply office.

One contact should be assigned in each department with responsibility for and controls over supply use and procurement activities of sub-units. A central office either would manage all supply and procurement for the entire department, or would supervise it. This arrangement is suitable for most agencies, the most notable exception being the department of education. We believe it should be attempted, however, even for education on an experimental basis. If central supply and procurement proves unworkable, supply activities could be decentralized to each school. Recommendation 370: We recommend that supply and procurement activities be centralized within each department, that one central office procure for all departments and agencies unless the chief administrative officer authorizes a different arrangement. Special requirements for Rota and Tinian have been noted above.

Procurement

Although standardized and uniform procurement procedures do exist, most agencies purchase goods and services independently, both in the central government and in extension operations on Rota and Tinian. Consequently, economies of bulk purchase frequently are lost. Recommendation 371: We recommend that the Commonwealth government institute and enforce uniform procurement procedures.

There is a ceiling amount up to which agencies may purchase directly from vendors. Above that amount direct purchase should be limited. Only a situation where a single agency has a special service or supply need not shared with other agencies, such as the department of health in the case of medical supplies and pharmaceuticals, should a department deal directly with a vendor. Even then, procedural controls should be exercised by the supply and finance offices, and the privilege of direct purchase should be restricted.

All governmental procurement systems have requirements for competitive bidding. The Trust Territory government imposed such requirements upon the district and they continue in force. Isolation of the Northern Mariana Islands from sources, and the inadequacy of shipping and transport, limit access by the government to vendors. Within these constraints the government still can benefit from an appropriate policy on competitive bidding. Recommendation 372: We recommend that the government strengthen requirements for competitive bidding by vendors in cases of large purchases, as appropriate. Recommendation 373: We recommend that the requirements of competitive bidding be enacted into law as part of a Commonwealth contracts act. The government can serve its own interest by rotating

vendors as much as possible. Preference should be given to local manufacturers and vendors, so long as this does not markedly affect the price paid for goods and services. In those situations where goods or services are produced in the Marianas, giving rise to local private-sector employment, the rule of lowest bidder might be modified, perhaps to no more than a 10-percent preference for local purchases. This preference, however, would not apply for most goods manufactured off-island. Recommendation 374: We recommend that preference be given to local vendors under rules to be established by the chief administrative officer.

In a community such as the Northern Mariana Islands where family relationships are extended and where public employees are frequently engaged in private enterprise, there will be attempts to influence the government to do business with favored local vendors. This subject must be confronted directly and standards devised in the codes of conduct and ethical behavior mandated by the constitution. A public disclosure procedure should be adopted. Recommendation 375: We recommend that the supply office publish no later than one month after the close of the fiscal year a list of all vendors with which it has done business in excess of one thousand dollars and the total dollar amount of business.

Forms

Recommendation 376: We recommend that the forms used by the Trust Territory government be replaced as soon as possible. There is consensus among all who have contact with the supply office that the amount of paper which must be processed in order to obtain even the most ordinary item is excessive. In spite of the paper volume, the legitimacy of a request cannot be readily determined. Requests may be delayed in-

definitely and agencies are compelled to resort to unofficial and un-sanctioned means. One school of thought holds that such practices were intended as a deliberate policy to discourage spending. The basic requisition form (TT Form 27) has nine sheets, and twenty-two categories of information are required in the current manual on use of the form. Another basic form, TT Form 1017, was instituted to replace five forms in prior use in such a variety of situations as transferring property between governments, authorizing shipments of cargoes, verifying receipts of goods and services ordered. The standard purchase order (SF 44) is used on all local purchases, even those below \$100 which are made from petty cash. The APV (accounts payable voucher) is mentioned in instructions on the use of other forms, but were provided with no instructions on its use.

Purchase Orders Invoices and Vouchers

The method by which a vendor is paid depends on the amount of the purchase and the terms of delivery. A basic requirement of any cash payment is that there be valid evidence of receipt or possession--that the item in question has been or will be received. Recommendation 377: We recommend that the department of financial administration not authorize payment unless presented with a signed and completed original purchase form. Recommendation 378: We recommend that the department of financial administration withhold payment until satisfied that all requirements have been met. Recommendation 379: We recommend that no payment be made until there is written evidence that the purchased item is in possession of the government or will be possessed upon delivery.

As noted, purchases on Saipan in amounts under twenty-five dollars can be in cash, either from imprest funds or out-of-pocket. For authorized cash purchases a cash-purchase receipt showing the item, amount, appropriate signature and the words "Received by [name]" should be required.

When an item is purchased, the vendor can use his copy of the purchase order for an invoice or bill to be presented to the department. A vendor can note on the purchase order "Please remit payment" or "Payment requested" followed by his signature, which would verify his agreement with the descriptions, costs, and numbers of items. If the vendor chooses he could attach his own bill. In cases where the transaction is not face-to-face or where the vendor wishes to present the bill in accordance with his own billing cycle, he can forward the purchase order to the requesting department.

Recommendation 380: We recommend that the purchase order serve as the invoice. Recommendation 381: We recommend that at the time goods are supplied the vendor sign the purchase order requesting payment in the amount shown for the items described; and that the vendor forward the purchase order/invoice to the requesting department or agency.

The form which serves as the purchase order and invoice also can serve as the voucher, or can be used as verification by the purchaser that the amount is correct and that the goods have been received and payment is approved. Recommendation 382: We recommend that the requesting department verify receipt of goods before forwarding to the department of financial administration for payment. Recommendation 383: We recommend that the department of financial administration make no payment for any item for which written proof of purchase has not been supplied. Recommendation 384: We recommend

that all signatures be actual on all official documents and that no rubber stamp or other reproduction of a signature be accepted by any officer or government employee as justification for a purchase, an order, or a payment.

Vendors frequently demand payment in advance of delivery in cases where delivery of the purchased item is costly or the vendor questions the purchaser's credit record. Many vendors demand advance payment as soon as they are presented with a government purchase order. Local vendors in the Northern Mariana Islands with whom the Commonwealth will do business for standard items should feel secure and allow payment subsequent to delivery. This in turn means that the government must maintain a good record for timely payment. The supply officer, department of financial administration, heads of agencies and senior executives should be aware of the time element in financial transactions and adopt procedures to expedite the paying of bills. It is likely, however, that vendors from the United States and abroad will require advance payment for goods they supply. Recommendation 385: We recommend that any purchase accompanied by an advance payment have noted upon it words to this effect: "Payment in full attached--warrant number [to be filled in]" followed by the signature of an authorized employee of financial administration.

Forms and Documentation

A frequent complaint is that an inordinate number of forms is required for supply and procurement. We concur. Opportunities for simplification exist by eliminating some of the forms presently in use and consolidating others. More effective controls can be instituted in the supply and procurement system. Recommendation 386: We recommend that documentation on all purchases provide the following

categories of information: description and number of items purchased; total amount of the transaction and the unit price; name and address of the vendor; signature of the receiver and name of the receiving agency; date of transaction. Recommendation 387: We recommend that all signatures on documents be accompanied by the date of signature. A document is virtually worthless if it is not fully dated at each point where an action of significance occurs.

A single standard purchase form can suffice in a large number of circumstances. It should be as simple and versatile as possible. A United States government form used within the Trust Territory (SF 44, June 1964) serves as a model in many respects. It is a combination purchase order, seller's invoice, and voucher. It also contains instructions to the vendor on his use of the form as an invoice. It instructs the purchaser to sign in a certain place when the transaction is "over-the-counter" in order to verify receipt. Recommendation 388: We recommend that a single standard purchase form be used for purchasing in amounts exceeding twenty-five dollars and that it serve as purchase order, seller's invoice and voucher. Recommendation 389: We recommend that the standard form have printed at the top the words "Commonwealth of the Northern Mariana Islands" and that it have printed also at the top "Commonwealth Purchase Order-Invoice-Voucher."

Recommendation 390: We recommend that the standard purchase form have printed upon it instructions regarding the conditions under which signatures are required. Recommendation 391: We recommend that the form instruct the seller on use of the form as an invoice. Recommendation 392: We recommend that the form have a statement upon it which invalidates it unless specific requirements, including requirements for signatures, are met. Recommendation 393: We recommend that applicable provisions of Commonwealth laws on purchase

and procurement, bidding and contract purchases be printed on the reverse side. Recommendation 394: We recommend that the standard purchase form have five non-interchangeable sheets: one original to become the eventual property of the department of financial administration, one agency copy, one supply office copy, one vendor copy, and one miscellaneous extra copy.

Manual of Policy and Instruction

The success of the supply and procurement system will depend upon its acceptance by the people who use it. It is likely to be accepted if it proves effective in practice and if it does not impose unreasonable requirements. Oral instruction and interpretation of policy cannot be relied on predominantly. Policies and procedures for purchasing or otherwise procuring the goods and services necessary for conducting government business must be detailed in writing and made available to each department and agency. Recommendation 395: We recommend that all rules and procedures for procuring goods, supplies, equipment or any item or commodity necessary for operating a government agency or providing a service to the public be described in detail in writing and provided to all departments and agencies of the Commonwealth government.

The policies and procedures for procuring supplies should, like all official documents and statements, be available to the public. Recommendation 396: We recommend that all official policies and rules and procedures for procurement be made public as they are enacted. Recommendation 397: We recommend that the government provide the major enterprises and individuals with whom it does business with the same written statements of policy and procedures it provides to its employees.

A review of procedures initiated by the Trust Territory and continued after the separation of the Northern Marianas is useful in understanding the deficiencies of the supply and procurement operation. Equally revealing are the written instructions on rules and policies which Trust Territory headquarters provides to employees in each district. The supply and procurement manual provided by the supply office consisted of five memoranda and letters of instruction issued separately between 1970 and 1973 by the high commissioners, the finance office, and the procurement and supply division of the TT government. Certain subjects contained in them are irrelevant to the present Northern Marianas government, such as procurement from other districts. There are ordinary situations that occur daily in the operation of any agency which are not addressed at all. The instructions bear little relationship to each other. It is impossible to determine in which instances and under which conditions each of the four basic forms discussed--TT Form 27 (requisition), SF 44 (local procurement/purchase order), APV (accounts payable voucher), or TT 1017 (all-purpose transfer and receipt verification)--is intended to be used. There is no orderly presentation of contingencies which confront agencies and the response or action to be taken to meet each. To develop a complete understanding of the rules and procedures which govern supply and procurement one must also have the Trust Territory Manual of Administration for cross-reference. There is no single, comprehensive source of information on supply and procurement practices.

The written procedures for supply and procurement should be incorporated in a form and manner which facilitate their use by government employees. Recommendation 398: We recommend that there be one supply and procurement manual for the Commonwealth government that contains official instruction on government policy and procedures for procurement. Recommendation 399: We recommend that the sequence

used in numbering policy statements and procedures be flexible and expandable to allow for additions within the sequence. Recommendation 400: We recommend that the procurement manual be adequately indexed and have a detailed table of contents which can be frequently revised. Recommendation 401: We recommend that the binder of the manual have dividers with labelled tabs to enable the user to turn immediately to each major subject.

The manual should not require cover-to-cover reading to be understood. One should be able to locate any subject of interest and find the appropriate response without scanning or thumbing through the entire binder. Recommendation 402: We recommend that the procurement manual be organized so that the most common occurrences are most prominent. Instructions for requisitioning stock supplies from the warehouse should appear before instructions for ordering textbooks or medical equipment under contract. Recommendation 403: We recommend that a full statement of the text of statutes on supply and procurement, contracts, and so forth be appended to the manual.

If English is not the user's native tongue he or she would be intimidated by their length and complexity as well as vocabulary. The word "rescissions" [sic]-is likely to be misunderstood by many.* There are stilted and unnecessarily legalistic sentences. For example:

That part of Budget and Finance Policy and Procedure Letter No. 8. relating to local procurement in districts is hereby cancelled and is superseded by policies and procedures prescribed herein.

The Trust Territory issued instructions which do not fulfill the fundamental need of an easy-to-understand and useful manual. The

* See Finance Policy and Procedure Letter No. 24, Trust Territory of the Pacific Islands.

current directions of the federal government to simplify its regulations should be required reading for TT bureaucrats. They should be informed that "herein," thereof" and the like never are needed.

Recommendation 404: We recommend that instructions and procedures be written in simple language at the reading levels of their users.

The English portion of the manual must be written for those whose knowledge of English is limited. Recommendation 405: We recommend

that the procurement manual be written in simple sentences of easy-to-understand words and that it avoid lengthy narratives. Recom-

mendation 406: We recommend that the procurement manual, particularly those portions which provide basic instructions on procedure, be written in Chamorro as well as English.

IMPROVING MANAGEMENT AND ADMINISTRATION

Chapter Twelve

FINANCIAL ADMINISTRATION

Introduction

The fiscal affairs of the Commonwealth government include: raising money, deciding how to spend it, and controlling expenditures. Chapter Nine dealt with the budget process. This chapter deals selectively with the management of funds after appropriations have been made. The report of Robert R. Nathan Associates provides substantial input into how much money the Commonwealth will need to finance programs of social and economic growth and how funds should be allocated.

The basis of financial management is the approved budget. The budget does not guarantee prudent application and management of public resources, but neither can occur without it.

The financial management system should provide these essential services to the executive branch:

- Processing payments for goods and services and revenue receipts;
- Controlling of public funds and property by minimizing opportunity for malfeasance or misfeasance;
- Providing financial information needed for responsible operation of the government;
- Insuring that budget limitations are observed.

This chapter outlines a foundation for a financial management system. It is not a detailed technical financial systems report. Most of the proposed controls relate to organization and relationships among executive agencies and procedures for responsible and efficient spending. The chapter does not address principally cash flow, accountability, the system of accounts, or post audit. Most of the detailed tasks of financial management and the institution of good accounting and auditing systems will command substantial attention of Commonwealth officials and special advisors.

Deficiencies of the Present System

Two critical areas of financial management confronting the Commonwealth government are cash flow and federal grants. Federal officials have cited accountability as a major concern with respect to special federal grant monies for which the Northern Mariana Islands become eligible under terms of the covenant. The present financial administration system provides insufficient assurance to federal agencies that funds can be responsibly managed and it is not a sound basis for managing Commonwealth government resources.

Fundamental impediments to improved financial management are institutional and procedural. Foremost is the inadequate jurisdiction of the present fiscal department over institutions that spend public monies. A second is the relationship of the central government to the operating extensions of agencies in Rota and Tinian. The latter emerges as a recurring problem in service delivery, but nowhere is the relationship of central and decentralized operations more important than in financial management. Broadening of the authority of the central finance agency and the line departments with respect to operations on the neighbor islands must precede other changes.

Scope of authority

Financial administration under district and transition governments has been fragmented by type of revenue and administering institution. Prior to separation from the Trust Territory, revenue collection, other than collection of locally raised revenues, was centralized in the Trust Territory government. A revenue division was created within the department of general administration subsequent to separation for all collection of delinquent taxes, customs tax, and income tax (except for business income reported directly to the financial office). The finance office, also located within the department of general administration, is responsible for disbursements, such as the base appropriations made to the Northern Marianas by the federal government. The finance office does not manage appropriations of revenues raised either by the legislature or the municipalities. Most special federal grants continue to be administered through the Trust Territory government with the exception of community action and Comprehensive Employment and Training Act (CETA) funds. This will change in January 1978 as the Commonwealth becomes directly eligible for federal grants and becomes a delegated state agency. The finance office is responsible for disbursement of disaster relief, although it does not determine relief beneficiaries. The finance office also includes the treasury.

Some steps toward a unified system for collecting and depositing all revenues and processing all expenditures of the Commonwealth are underway or will come about on the effective date of the constitution. Transfer of responsibility for accounting records for special federal grants to the Commonwealth is in progress as the Northern Marianas becomes a designated state agency under federal grant procedures.

The constitution abolishes the chartered municipalities which receive revenues from business licenses and hotel taxes. Municipal

taxes may continue to be collected until otherwise provided by the legislature and may be expended locally if approved by the legislature or a senatorial delegation (article VI, section 6(a)). To compound the fragmentation, appropriations by the legislature are separately controlled.

The system is intolerable and contradicts the unified budget concept of the constitution. It contradicts too the concept of separation of the executive and legislative branches. The Commonwealth financial management system should integrate all revenues and expenditures activities regardless of source, purpose, or administering unit. Recommendation 407: We recommend that all revenues, including federal support under terms of the covenant, special grant monies, and locally raised revenues, including those presently authorized and expended by the chartered municipalities, be paid into a single treasury and expended under integrated procedures and controls. Recommendation 408: We recommend that the department of financial administration be responsible for all collection, treasury, expenditure, and accounting functions. Recommendation 409: We recommend that there be one unit of the department of financial administration responsible for all collection and other activities associated with the receipt of revenues regardless of source. We see no justification for continuing two separate offices under separate supervision within the executive branch both of which have responsibilities for collecting revenues.

The public authorities and other quasi-independent agencies which may be created under the Commonwealth pose special problems with respect to financial management. In addition to the airport and housing authorities, the constitution establishes the Public Land Corporation and the Marianas Public Land Trust. A development corporation, development bank, and power authority are likely to be established. The finance office at present forwards payroll information for the housing authority to the Trust Territory for processing.

It does not verify the data independently. The payroll of the airport authority is handled directly with the Trust Territory. This type of arrangement could be used as new public benefit corporations are established. Some arrangements may be inescapable but should not be made a general rule.

Autonomy of quasi-independent agencies from the central Commonwealth government need not be as great as it is in other sub-national governments. Close working relationships and shared responsibilities for common technical services can be allowed without sacrificing or weakening the autonomy of agencies not located within the executive branch. This practice can be applied even to the Marianas Public Land Corporation without disturbing its unique constitutional status. Cooperation between the Commonwealth government and quasi-independent agencies can be of mutual economic advantage. Limitations on manpower may place the same individuals in positions of responsibility in both. The same treasury can serve both the Commonwealth government and the quasi-independent agencies. The department of financial administration can serve as the principal control agency over expenditure processing. The policy-making authority of the quasi-independent agencies would not be undermined. Recommendation 410: We recommend that the treasury, bill paying and expenditure control authority of the department of financial administration extend to the quasi-independent agencies, including public benefit corporations. Recommendation 411: We recommend that all revenues of quasi-independent agencies be deposited to accounts controlled by the treasury within the department of financial administration. Recommendation 412: We recommend that the procedural rules applied by the department of financial administration to executive agencies, the legislature, and the judiciary for expenditure and receipt of revenue be applied equally to the quasi-independent agencies.

Institutional arrangements within the Commonwealth government must facilitate both internal audit by the public auditor

and federal audit. An advantage to centralizing all revenue and disbursement functions within a single office is unified record-keeping for all categories of revenues. The revenue office in the transition government has a record-keeping system which is distinct from the system used in the finance office. Recommendation 413: We recommend that financial records for all departments and agencies of all revenue receipts, tax and nontax, and all expenditures be maintained by a single administrative unit. In special circumstances it may be necessary to modify this arrangement; the principle should be rigorously reflected in the internal structure of line departments of the executive branch. This recommendation does not inhibit and may facilitate cost identification activities, as in the case of determining costs of Saipan electric power.

Nature of responsibilities

The department of general administration has served as omnibus support agency for the executive branch. It has provided the staff services, supply and procurement, personnel, budget and finance, and centralized files and mail. Additional responsibilities unrelated to these support services, such as consular service and disaster relief, have also been assigned to the department. The department of general administration has combined potentially conflicting functions: policy-making responsibilities in personnel management and in establishing budget priorities and public service needs largely should be divorced from the enforcement responsibilities of financial administration. The administrative unit with responsibility for collecting and depositing revenues, processing payroll and all vouchers, and accounting for all financial transactions of the Commonwealth should not have substantial policy-making responsibilities.

In the description of the "Table of Organization for General Administration, November 9, 1976, "the responsibilities of the departments of finance and accounting are summarized as follows:

This Division is responsible for all financial accounting and treasury operations and management for the Northern Marianas Government. (NMG) it is headed by a Chief of Finance and Accounting. The major sub-division (Subsections) within the Division of Finance and Accounting are (1) Finance and Accounting; (2) Treasury. Basic functions include, but are not limited to: (1) Collections of monies due to the NMG, including invoicing; (2) accounting, including allotment accounts, special accounts, general ledger, etc.; (3) disbursing of payments, including vouchering; (4) payroll management; (5) banking of NMG funds (both general and special) in appropriate depositories; (6) preparation of financial statement and analysis, etc.

The department of general administration also includes a separate division of revenues and customs. Its responsibilities are assessment and collection of all revenues, taxes, fees and duties levied by the present legislature and deposited for appropriation by the legislature. This division is also responsible for customs, including inspection of incoming baggage and cargoes.

As proposed in Part II of the IPA report, we see no virtue in continuing this arrangement and propose to establish a central department of financial administration and distribute the miscellaneous functions in a more logical fashion, including a personnel office under the civil service commission. We would place the functions of revenue and customs in the department of financial administration.

Recommendation 414: We recommend that the department of financial administration be responsible for accounting for financial transactions of all instrumentalities of the Commonwealth government; customs and tax revenue collections; processing of all expenditures and payments; and financial accountability of the Commonwealth.

Commonwealth treasurer

The internal structure of the department of financial administration must be arranged as to minimize opportunities for fraud or other misuse of the public trust. This can be done without splitting into wholly separate departments financial management functions (other than post audit and budgeting). The banking or treasury function of the department should be separately organized from collection and disbursement activities. Recommendation 415: We recommend that a single individual be designated treasurer of the Commonwealth. Recommendation 416: We recommend that the treasurer be located institutionally in the department of financial administration but be removed from non-treasury departmental operations.

A fundamental principle to be observed is that the authority for banking receipts should not be vested in the individuals with authority for disbursements. The treasurer should be an authorized signatory on all checks or warrants, but approval to pay should be separately determined. Further, all deposits to each bank account maintained by the Commonwealth should require authorization of the treasurer. Generally, deposits should be made by him directly. Recommendation 417: We recommend that the treasurer and the chief administrative officer be the two signatories on all Commonwealth checks and warrants. Recommendation 418: We recommend that every expenditure be supported by a demand or voucher. Recommendation 419: We recommend that each demand or voucher be authorized by someone other than the treasurer. Recommendation 420: We recommend that the treasurer authorize all deposits to the bank accounts maintained by the Commonwealth.

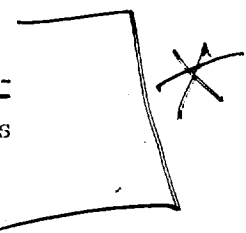
Centralized administration of
financial management system

A principal impediment to efficient conduct of financial transactions of the district and transitional government has been the

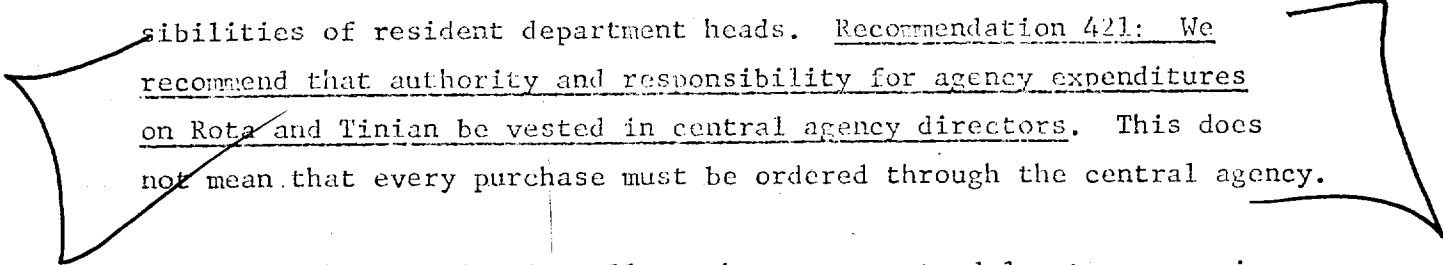
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casual manner in which the system has been administered, especially failure on the part of management to exercise effective control over agency spending and to enforce the established procedures. More vigorous enforcement of financial transaction procedures is a fundamental requirement.

The financial administration of agency operations on Tinian and Rota has posed particular problems. The finance office has been unable to maintain substantial control over the conduct of agency business on the neighbor islands. Responsibility for approval of agency expenditures has been vested in resident commissioner's representatives who have been more responsive to local political pressures for action than to central government pressure for restraint. While these representatives have authority to approve all agency expenditures within their jurisdictions, they rarely are a check on the actions of local agency managers. They are not serving as part of the central government management.



There is a fundamental error in the delegation of authority for agency financial operations on Rota and Tinian. The responsibility of an agency head should not be mitigated with respect to the operation of his department on islands other than Saipan. This principle is one we have applied widely in our analyses of operations on the islands to strengthen the role of the department vis-a-vis that of locally elected politicians. It is not inconsistent with constitutional provisions in decentralization, including the responsibilities of resident department heads. Recommendation 421: We recommend that authority and responsibility for agency expenditures on Rota and Tinian be vested in central agency directors. This does not mean that every purchase must be ordered through the central agency.



The constitution allows the governor to delegate responsibility for agency operation to the mayors (article III, section 17(a)).

If this option is exercised by the governor, the mayor necessarily should be delegated a commensurate authority to expend funds. The constitution also allows the legislature to authorize local taxes that may be expended by the mayor (article VI, section 3(f)). Unless the governor or the legislature chooses to vest operating authority or revenue spending in the mayors through exercise of the constitutional provisions on decentralization, they should not have unilateral capability to assume agency responsibilities or become surrogates for the former resident commissioner's representatives.

Recommendation 422: We recommend that the mayors have no unilateral authority or responsibility with respect to expenditure of funds appropriated in agency budgets delegated to them unless formal authority has been delegated by the governor.

The authority of the department of financial administration should extend to and be fully exercised throughout the Commonwealth. The department should be fully in charge of the fiscal affairs on Saipan and the neighbor islands. Recommendation 423: We recommend that the authority of the department of financial administration be fully exercised on Rota and Tinian. As separately proposed, a representative of that department should be stationed respectively on Rota and Tinian to facilitate the orderly transaction of fiscal affairs. The arrangement, together with other administrative arrangements proposed for service delivery on the neighbor islands should remedy much of the bureaucratic snarls that have infuriated residents and officials of those islands.

Use and control of cash receipts
and disbursements

The government of the Northern Mariana Islands operates with a substantial number of cash transactions, especially on Rota and Tinian. The Commonwealth should minimize the occasions on which the

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use of cash is necessary. Precautions should be taken to make certain that appropriate controls are maintained.

The finance office at present consists of two individuals each on Rota and Tinian who collect local revenues, process expenditures, including the bi-weekly payroll, and manage a cash imprest fund which amounts to \$6,000 on Rota and \$5,500 on Tinian. There are no banking facilities on either island, and a large cash reserve is maintained in order to carry out business locally, collect local revenues and to allow employees to cash their payroll checks. The report of the federal comptroller for Guam identified flaws in the procedures for collecting and depositing receipts on Rota and Tinian and for managing the imprest funds. Its recommendations include more frequent deposit of receipts, including payroll checks cashed for public employees, and tighter controls over access to the imprest funds. Both funds are too large. While a considerable amount of agency business on Rota and Tinian must be conducted with cash transactions, it seems unlikely that six or seven agency extensions would require such large sums. Recommendation 424: We recommend that the imprest funds on Rota and Tinian be reduced and that more frequent replenishment of funds be instituted. Recommendation 425: We recommend that all uses of imprest funds on Rota and Tinian be approved in advance by the resident department head of the user agency and by the local finance office, subject to final approval of the department of financial administration on Saipan.

A volume of financial transactions on Rota and Tinian are made with personal cash that is later reimbursed from the imprest fund. This reduces capacity to maintain viable controls over expenditures. Recommendation 426: We recommend that the department of financial administration establish and enforce restrictions on the use of personal out-of-pocket cash for agency financial transactions.

The use of imprest funds on Saipan also should be restricted, more so than the two neighbor islands. Initially, a single imprest fund in the central government should suffice for all agencies located in the civic center. Agencies located elsewhere, such as the department of education and the department of public works, might maintain small imprest funds, closely controlled by the department of financial administration. Recommendation 427: We recommend that a single imprest fund be maintained by the department of financial administration for all agencies of the Commonwealth with the option of other small funds established for agencies located outside the civic center.

The federal comptroller's audit noted that huge amounts of cash receipts frequently lie around. This is a distinct weakness in the control of funds. If necessary, cash should be deposited by the collecting agency with proper deposit slips turned over to the department of financial administration. Recommendation 428: We recommend that all cash received on Saipan be deposited no later than the day following receipt.

Utility billing and collection present special problems. They are carried out by the utilities division of the department of public works. This function probably should be transferred to financial administration. If necessary, bills can be collected at different points in the government but it is important that collections not be received by individuals who are responsible for billing. Recommendation 429: We recommend that government employees with responsibility for collecting revenue receipts not be the same individuals who mail billings.

When cash deposits are made they should be recorded by the treasurer. Deposit slips should be cross-checked by the treasurer and the department of financial administration to cash receipts provided by the collecting agency. Recommendation 430: We recommend that the treasurer cross-check all cash turned over to him with the

receipts provided by the collecting agency, record all cash deposits and deposit them immediately in a bank account of the Commonwealth. Recommendation 431: We recommend that deposit slips be cross-checked with cash receipts by the department of financial administration.

All financial transactions including all cash payments and receipts by agencies should be fully documented and recorded in the department of financial administration. This principle should apply also to all purchases, however small, from imprest funds on Rota and Tinian. Recommendation 432: We recommend that the department of financial administration require all expenditures be fully and properly documented as to user department, item or service procured, vendor, amount of purchase, account charged, method of payment, and other data necessary for a complete accounting and justification of the transaction. Recommendation 433: We recommend that all financial transactions in the operating extensions of agencies on Rota and Tinian be recorded with the central department on Saipan and the department of financial administration on Saipan.

The finance office does not require an extensive staff on either Rota or Tinian. The local representative should be a facilitator who processes requisitions and vouchers, checking them for adequacy of information, a collector of local fees and revenues, and an overseer of the cash fund. Until port facilities are expanded, the responsibility for customs could be fulfilled by the same individual, or through a cooperative arrangement with the department of public works, immigration or police. Recommendation 434: We recommend that a single representative of the finance office be stationed on Rota and another on Tinian to implement all responsibilities of the department.

Commonwealth Accounts

The transition government maintains 85 expense accounts. There are 19 accounts for capital improvement projects. The finance office has been revising the system of accounts and making recommendations for new ones under the Commonwealth government. We are advised that the present number of accounts is insufficient for the complexity of public finance. At present accounts are divided according to the island on which the expenditure within the account is to be made. A better arrangement is to group accounts by revenue source, i.e., federal appropriation under the covenant, special federal grants, income tax, and other local revenue. Recommendation 435: We recommend that all Commonwealth accounts be grouped by funding source and that no separate accounts be established for particular islands or groups of islands.

Dissemination of Financial Information

A principal responsibility of the department of financial administration should be dissemination of financial data to agencies. It is a responsibility which is presently shared with the budget office. Changes in the responsibilities of agencies in financial reporting and in the nature and presentation of data should be made immediately. Recommendation 436: We recommend that the department of financial administration be the disseminator of all expenditure data. Recommendation 437: We recommend that the department of financial administration provide all operating agencies and instrumentalities of the Commonwealth government, including authorities and quasi-governmental agencies, with periodic data on expenditures, encumbrances, commitments and the balance of available funds in all accounts which are within their spending authority.

Summary data on government-wide expenditures are provided at present to the resident commissioner by the budget office on the "Budget Analysis Sheet" and the Summary of Operations". Summary expenditures data should satisfy the needs of the governor and the chief administrative officer if controls on spending, which are maintained by the department of financial administration, are adequate. Recommendation 438: We recommend that the department of financial administration provide summary data on government-wide operations to the governor, the chief administrative officer and the budget-planning officer. Recommendation 439: We recommend that the governor and the chief administrative officer have ready access to all information on operational expenditures of agencies and that additional financial information needs to be provided on a priority basis by the department of financial administration.

Each month the treasurer should file with the governor and the legislature a monthly report showing changes in cash in each fund of the Commonwealth and the status of any investments. The treasurer's report should be certified by the director of financial administration who will independently verify all of the cash balances reported by the treasurer. Recommendation 440: We recommend that the treasurer file each month a report to the governor and the legislature on the balance in each fund of the Commonwealth and changes which have taken place during the reporting period. Recommendation 441: We recommend that the treasurer's monthly report include a complete report on the status of any investments. Recommendation 442: We recommend that the director of financial administration verify the cash balances in the treasurer's monthly report and certify them to the governor and the legislature.



APPENDIX E

APPLICATION OF MANAGEMENT TECHNIQUES

The problem confronting the new government are financial and managerial. Better techniques of management, new government organization, and effective administration cannot compensate for basic resource requirements or motivational and learning inadequacies.

Maintenance of educational
equipment and facilities

Problem. The Robert Nathan preplan program in education (RNNA 3/31/77) notes:

The department of public works can scarcely keep up with regular maintenance, and nearly always demands special reimbursement for any major maintenance or repair work that is other than routine. Buildings are generally littered at points where the students tend to congregate.

This statement implies that the department of public works pays less attention to its maintenance responsibilities for departments and agencies other than those directly operated by DPW. The department has done a generally poor job on maintaining informational signs, upkeep of recreational sites and general repair of public buildings. It operates with a crisis orientation, heavily focused on the problems of the power barge and the condition of Charlie Dock. It is feared that to the extent the department assumes routine sanitation and road maintenance responsibilities from municipalities, particularly Saipan, it will assign a low order of priority to these additional duties and responsibilities.

Analysis

An immediate problem is posed by the division of responsibility among governmental agencies. A second is budgetary allocations, and a third is establishment of schedules for orderly handling of ongoing rather than special problems. The condition of school facilities and secondary roads is predictable, although seasonal in nature, and both are susceptible to systematic scheduling of repairs. Fourth, technical capacities of personnel and adequacy of equipment, including inventory procedures, are involved. Remediation by the resident commissioner's office has not been effective in securing basic systems changes.

The social, economic and physical planning consultants will provide an inventory of deficient physical plant and an ordering of improvement priorities. The physical planners will note which roads

are susceptible to relatively minor improvements and which require major reconstruction or new investments to finance improvements. They can also determine whether an existing school or other public building is structurally sound and whether it should be subject to heavy renovation or replacement. Basic maintenance requirements will establish the magnitude of annual appropriations for supplies, equipment and personnel expenditures.

Solution

In general we favor vesting the public works responsibility in DPW rather than dividing it among operating agencies. The scale of operations of the Commonwealth government and the relatively easy management problems that are involved suppose the retention of the public works maintenance function in DPW. To allow the department of education to have its own maintenance crews, which has the advantage of ease of supervision, will duplicate equipment inventory.

Within the department of public works there should be a division charged with maintenance and repair of public facilities. It should be separate from other public works operations, such as road building (aspects of which will be done by private contract in any event).

A good manager, with special training in the function involved, should be appointed to head this division. It may be appropriate to utilize special on-the-job training opportunities to improve the capability of the person assigned to that post.

A review of preventive maintenance and repair schedules should be undertaken and new schedules should be established with a flexible program for emergency repairs distinct from major emergencies that may result from a typhoon. A complaint registration system should be established.

The costs for work performed by this division should be charged against the budgets of individual departments and agencies of the government. Some flexibility should be recognized in the Commonwealth budget for costs that cannot be fully allocated on an agency-by-agency basis. Within the budget allocations the department of financial administration would advise both the individual departments and agencies and DPW of the rate for work of a particular kind and the balance remaining in the account to be charged. If a major repair program is undertaken, it may be appropriate to reserve a portion of the annual appropriation for the quarter in which it will occur rather than divide the allocation evenly among the four quarters.

An ongoing inventory of facilities should be maintained, as a continuation of the physical planning process started through OTSP.

Discretion should be given to the person in charge of individual facilities for minor emergency or neglected repair work. This is particularly true for facilities on Rota and Tinian. The Rota school principal, for instance, should not have to rely exclusively on repair services by DPW. Within his quarterly allotment the principal should be free to use his own resources or private vendors, where routine requests to DPW have been ignored or an emergency situation arises.

The DPW director should not have authority to reprogram funds intended for improvement of secondary roads for major reconstruction of, for example, a primary road. The legislature, by statute or under a term or condition of the annual appropriation act, should specify the discretion given for reprogramming of funds among units of expenditure (a) at the discretion of a department director and (b) at the discretion of the governor or his representative. Reprogramming in excess of authorized amounts should require legislative action through a budget amendment. The same principle should apply regardless of funding source, such as special user charges or "reimbursibles."

Additional use of
management control devices

An inventory of supplies is subject to external forces that Commonwealth officials cannot entirely predetermine, particularly supplies that are imported from long distances. Considerable negotiation, and patience, are needed to readjust priorities so that substantial sums spent on maintenance of the lawns on Capitol Hill take a lower priority than repairs to school facilities. Management control techniques that have been suggested elsewhere in this report can be used to good advantage.

A project management team might be assigned by the chief administrative officer to develop schedules for routine repairs and preventative maintenance for school, hospital, public recreation, and related facilities on Saipan. One advantage is the "clout" of the chief administrative officer, who is part of the executive office of the governor and therefore can speak with considerable authority to convince competing department directors and to secure working agreements between or among them.

Activity reports can furnish important information to the CAO in his regular oversight of functions, including maintenance and repair. If individual departments complain of lack of progress or unnecessary delays on the part of DPW there may be sufficient evidence for the CAO to initiate inquiries. It may develop that in fact the fault lies not with the division charged with responsibility for maintenance and repair but in the inadequacy of the quarterly allotments for such purposes, or external factors.

Use of the projected reporting system on agency activities combined with the project management audits will assure that the entire subject is reviewed periodically by the CAO or a person designated by him. It might be appropriate, for example, for the CAO to propose that repair and maintenance be placed on the agenda of the governor's cabinet in order to air matters that might not be identified.

Network analysis techniques can be useful in assuring good operations. The task of outlining all the steps and substeps involved in assuring secondary road maintenance, for example, may help determine points of delay. Scrutiny of what appears to be unnecessary obstacles in meeting stated goals and objectives (which in the case of secondary roads improvement can be qualified) might help identify the need for stronger supervision of repair crews. It may develop, on the other hand, that the problem is not with personnel but with equipment breakdowns. This may lead to review of the program of the central repair shop, or the necessity for investing in new equipment.

APPENDIX F

TRANSITION SCENARIO

The effective operation of the Commonwealth government requires the institution of practical management control systems. These are needed to ascertain and oversee areas of responsibility and performance; management controls involve use of such techniques as tasks analysis, performance schedules and evaluation and methods to assure remediation in troubled areas. As an initial activity, it is important that a precise Transition Scenario be formulated and agreed upon as soon as possible. The purpose is to assure that essential actions are not neglected as the new government comes into being. The Transition Scenario should cover a period starting no later than July 15, 1977 and continue for the first nine months of 1978, with emphasis on the period through the first three months of 1978. The Scenario should be a concise and highly informative format with wide distribution and uses. It will serve as a reminder of what tasks need to be performed, by whom, and when. It is a critical and comprehensive element of transition planning. It also should serve as a model on a continuing basis of systematic management operations feedback and control for the new government, especially in the executive branch. The proposed Transition Scenario, under different names and formats, is well used in business and government; here it has been modified and simplified for the needs of the Commonwealth of the Northern Mariana Islands.¹

1. Cf. Task Analysis, project management, and critical path.

Scope of Scenario

It is proposed that as the basic structure of the Transition Scenario, the following information be developed to be contained in topically organized and cross-referenced 8 1/2" x 11" loose leaf notebooks.

1. Major subject area of task to be performed

- Examples: 1.1 Budget formulation
1.2 Personnel contracts

2. Specific tasks

- Examples: 2.1 Agency funding requests FY '78
2.2 Determination of management level contract expiration dates

3. Assignments

- Examples: 3.1 Prepare specifications of agency budgeting criteria (guidelines) to be submitted to agency heads
3.2 Locate current management level contracts

4. Responsible official for implementation of tasks

- Examples: 4.1 Acting program budget officer
4.2 Acting personnel director (?)

5. Employee(s) to be assigned

- Examples: 5.1 [to be determined]
5.2 Same as 4.2 (?)

6. Required approvals, concurrence or review

- Examples: 6.1 Resident commissioner or designee (approval)
Director OTSP (review)

6.2 ° None for NMI contract employees

° TTPI personnel director for NMI personnel under TTPI contracts (concurrence)

7. Method(s) for task completion as applicable and appropriate

Examples: 7.1 ° Summarize constitutional and covenant budgeting requirements

° Adapt (as proposed or with modifications) OTSP plans on unified budget content (e.g., program goals and funding levels) and format, e.g., modified zero-based budget system)

° Design revised funding request form

° Propose funding request instruction sheet and covering memorandum

7.2 ° Collect (or make copies of) contracts

° Prepare summary of needed information (e.g., expiration dates, salary levels (if relevant) and report and recommendations

8. Target dates for task completion

Examples: 8.1² ° Preliminary drafts 8/1/77

° Revised drafts 10/1/77

° Final drafts 11/15/77

8.2 ° Collection of contracts 6/20/77

° Review and draft of report 7/20/77

° Submission of report and recommendations 8/15/77

2. Assumes that fiscal '79 budget will be submitted by new governor to new legislature in calendar 1977.

9. Special costs

Examples: 9.1 None

9.2 None

10. Companion and follow-on tasks

Examples: 10.1 ° Federal special funding requirements and submissions

° Collection and analysis of agency budget requests

° Preparation of Commonwealth fiscal '79 budget

10.2 ° Temporary extensions of expiring contracts as appropriate

° Early search process for key positions in Commonwealth budget

Coordination and Control

In all likelihood the Transition Scenario through the end of calendar '77 should be initiated and coordinated by OTSP. Considerable portions of the implementation process require direct action by the NMI government. The following division of responsibility is proposed.

1. The director of OTSP should appoint an OTSP official to direct the OTSP parts of the Transition Scenario. These parts include:

1.1 Develop the format for the Transition Scenario, after consultation with officials of the NMI government designated by the Resident Commissioner.

1.2 Review and modify, as required and appropriate, within available time and resources, the final designation of the Scope of Scenario (supra).

1.3 Prepare a suggested list of tasks and assignments to be included as part of the Transition Scenario.

1.4 Complete on a selected basis those portions of the Scope of Scenario within the functional expertise of OTSP.

1.5 Develop a summary status table for each task and assignment included in the Scope of Scenario. This should be designed to facilitate monitoring of progress and completion target dates. This is also designed to identify special problems and matters requiring special attention.

1.6 Develop procedures for regular submission of progress reports, in simplified form, by responsible officials.

1.7 Brief responsible officials and others involved on goals and specifications of Transition Scenario.

2. The Resident Commissioner should assign a senior officer to direct the NMI parts of the Transition Scenario. These parts include:

2.1 Assign tasks to designated responsible officials and oversee completion of tasks and assignments and submission of progress reports.

2.2 Approve the final designation of the Scope of Scenario and tasks and assignments (see 1.2 and 1.3 supra).

2.3 Maintain and complete the Summary Status Table.

2.4 Take or propose remedial action on special problems and those requiring coordination among agencies or between the executive branch and legislature.

Topical List of Transition Tasks

The following list is intended to facilitate the orderly and complete transition of the Commonwealth government, not to monitor performance of routine government operations (that would be appropriate for a permanent operations control system for the Commonwealth government). It is important to stress the principal goal of this activity: to identify and overcome impediments to the installation of the new government. Some of the tasks may appear to be obvious, such as approval of the Constitution. Indeed, a selective process is envisioned, not rigid conformity to an exercise. But within each major task particular requirements may be embodied, which could cause delay or divert attention from other activities. It is also a good learning experience in effective management of government operations.

The list that follows is illustrative, not exhaustive. A final list of particularized tasks and assignments should be prepared as proposed supra.

1. Covenant

1.1 Determination of procedures for release of covenant federal assistance funds.

1.2 Installation of territorial income tax.

1.3 Establishment of commission to review federal laws and proposed appointees.

1.4 Establishment of U. S. District Court for Northern Mariana Islands.

1.5 Identification of early actions by Commonwealth government relevant to option on Tinian and memorial park on Saipan.

1.6 Agreement on continuing trusteeship responsibilities by U. S. government.

1.7 If required, clarification of responsibilities on federal grant eligibility.

2. Constitution

2.1 Approval by U. S. Government.

2.2 Proclamation by President and determination of effective date. Proclamation ceremony in Washington.

2.3 Deposit of certified copy of Constitution in National Archives.³ Deposit of original signed copy in Northern Mariana Islands.

2.4 Printing of Constitution with table of contents and index and President's Proclamation in form suitable for incorporation in Code of Laws of Commonwealth of the Northern Mariana Islands.

3. Installation of Commonwealth government

3.1 Setting of date, time, and place for inauguration of governor, lieutenant governor; representative to U. S., senators, representatives, and mayors.

3. It may be desirable, at the time of the President's action, for the text of the Constitution to be published in the Federal Register and U. S. Congressional Record.

3.2 Establishment of Inaugural committee, appointment of members, and appropriation of funds.

3.3 Invitations (informal as appropriate followed by formal) to attend inauguration to President and Vice President, members of Congress, judiciary, governors, mayors, foreign officials, Pacific Basin officials, and other dignitaries.

3.4 Action to secure favorable consideration of a U. S. postage stamp in commemoration of historic ties of political union between U. S. A. and N. M. I. to be issued in Saipan on Inauguration Day.

3.5 Proposed concurrent resolution that Congress request President to proclaim Inauguration Day as "Commonwealth of the Northern Mariana Islands Day."

3.6 Plans for civic and religious observances on Inauguration Day,

3.7 Arrangements to secure U. S. flag flown over Capitol on date of President's Proclamation.

3.8 Preparation of media package to be issued in connection with President's action and Inauguration Day.

3.9 Ceremony to honor Resident Commissioner.

4. Election

4.1 Enactment by NMI Legislature of election code for first election and appropriation.

4.2 Appointment of any elections board that may be established.

4.3 Conduct of registration of voters, designation of candidates, preparation of ballots and appointment of voting committees.

4.4 Plans to inform voters of registration requirements and to vote.

5. Finances

5.1 Availability of transition-related funds in fiscal '77 and supplemental fiscal '77 budgets (including training funds).

5.2 Transfer of development loan funds.

5.3 Transfer of federal grant funds.

5.4 Revisions of fiscal '78 budget.

5.5 Fiscal '79 budget.

5.5.1 Criteria for agency budget requests

5.5.2 Agreement on timing of submissions to governor and legislature.

5.5.3 Federal financial assistance under covenant.

5.5.4 Legislative standards on appropriations; programming.

5.6 Federal grants applications and coordination.

5.7 Requirements for federal audits (?)

5.8 Inventory of outstanding obligations of transition government.

5.9 Establishment of pricing system for proprietary functions of government.

5.9.1 Electric power

5.9.2 Water and sewerage services

5.9.3 Equipment repairs

5.9.4 Lawn Mowing and other miscellaneous services

5.9.5 Hospital and drug services

5.9.6 Others

5.10 Exploration of transferring government operations (selected) to private sector (contract, franchise, sale, or withdrawal as government function).

6. Plans

6.1 Process for review of plans prepared by OTSP

6.2 Agreement (legislative) on approval of plans

6.2.1 Action on plans as a whole

6.2.2 Implementation through legislative actions and budgets

6.2.3 Agency review of parts of plans

6.2.4 Program actions

6.3 Updating of data and plans

6.4 Additional special planning efforts, including federally-funded planning activities

7. Government organization and structure

7.1 Preliminary consensus on form of government under constitution.

7.2 Timing of enactment of legislation

7.3 Transfer of functions from existing agencies to new ones.

7.4 Exploration of feasibility of gubernatorial discretion on timing and internal agency organization.

8. Personnel

8.1 Early search process for key personnel

8.2 Review of existing wage and benefits plan

8.3 Contracting for personnel classification and pay plan

8.4 Program for transfer of displaced employees

8.4.1 TTPI employees

8.4.2 Employees of chartered municipalities

8.4.3 Employees of resident commissioner's representative

8.4.4 Others

8.5 Determination of job status of NMI employees under Commonwealth government.

8.6 Status of contract employees carried over to Commonwealth government.

8.7 Recruitment for new Commonwealth government positions (see also 8.1 and 8.5).

8.8 Development of lists of potential nominees for boards, commissions.

9. Legislation

9.1 Legislation to establish Commonwealth government

9.2 Review and approval of additional legislation

9.3 Adoption of contents of Commonwealth Code of Laws

9.4 Contracting of assignments on substantive review
of existing statutes and proposed revisions

9.5 Adoption of administrative procedures act and
actions under it

9.6 Publication of Commonwealth Register

9.7 Adoption of legislative rules

9.8 Adoption of judicial rules and procedures

9.9 Adoption or continuation of agency regulations

10. Construction

10.1 Agreement on urgent pre-Commonwealth public
works priorities

10.2 Decision on energy source (power plant)

11. Orientation, Briefings, and Training

11.1 Summer '77 orientation on proposed plans

11.2 Pre-legislative conference

11.3 Permanent legislative conference

11.4 Orientation for governor-elect and aides

11.5 Orientation on new forms of government and
processes for agency heads, management personnel, and
specialists.

11.6 Middle management training program

11.7 Selected OJT and other training opportunities for key specialists .

11.7.1 Selection process (agency, position, individual)

11.7.2 Training opportunity

11.7.3 Logistics and support

12. Taxation

12.1 Excise tax (conversion)

12.2 Installation of territorial income tax

12.3 Municipal taxes

12.3.1 Determination of policy with respect to continuation

12.3.2 Collection responsibility

12.3.3 Earmarking of revenues derived from

12.4 Development Bank

13. Land Use Policy

13.1 Initial policy on responsibility for active land use activities

13.2 Transfer agreements from Public Land Corporation to operating agency

13.3 Land preservation programs

13.4 Zoning plan

13.5 Homestead program

13.6 Constitutional requirements for special land uses (historic sites, uninhabited places, protection of natural resources).

APPENDIX G

JOB DESCRIPTIONS FOR KEY POSITIONS
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Job Description

NAME OR TYPE OF POSITION: Chief Administrative Officer (Executive Office of the Governor)

CONSTITUTIONAL BASIS: Constitution, Article III. Section 15 provides, in part: "The functions and duties of the principal departments and of other agencies of the Commonwealth shall be provided by law."

PROPOSED
APPOINTING AUTHORITY: Governor with the advice and consent of the senate.

PROPOSED
TERM OF OFFICE: Pleasure of the governor and terms of contract for personal services.

CONSTITUTIONAL
QUALIFICATIONS: Not applicable.

ADDITIONAL
PROPOSED QUALIFICATIONS: Master's degree in public or business administration plus at least five years experience as a city or county manager or other senior administrative position in local or state government; or equivalent combination of training and experience in the governmental sector.

The CAO should be well skilled in management and fiscal administration, with demonstrated leadership and interpersonal capabilities. He will be expected to assure maximum productivity of governmental functions, help establish management control systems, and be the principal management aide and problem-solver for the governor.

PROPOSED
NUMBER OF POSITIONS: One

PROPOSED
NATURE OF POSITION: The chief administrative officer would handle the day-by-day management and oversight of the executive branch, reporting directly to the governor. He would have such specified duties and responsibilities as established by law or delegated to him by the governor, including appropriate responsibility over department heads and officials in the executive office of the governor.

It is anticipated that there will be approximately 1,200 persons in the executive branch, which will be organized within no more than fifteen principal departments and agencies, including education, public works, natural resources, etc. Staff agencies and units within the executive office of the governor will handle planning, budgeting, law, personnel, program development

NOTE: Quotations are from the Constitution of the Northern Mariana Islands.

Proposed items are unofficial and will be reviewed by the new Commonwealth government and may be acted upon, modified, or rejected.

June 13, 1977

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Job Description

NAME OR TYPE OF POSITION: Public Auditor

CONSTITUTIONAL BASIS: Constitution, Article III, Sec. 12

APPOINTING AUTHORITY: Governor with "... advice and consent of each house of the legislature ... In the event that there is a vacancy ... the presiding officer of the senate shall appoint a temporary public auditor to serve until the vacancy is filled."

PROPOSED QUALIFICATIONS: A certified public accountant with at least three years significant experience in public finance or municipal or state government accounting or auditing; or equivalent experience in the private sector and extensive familiarity with governmental accounting and auditing practices.

NUMBER OF POSITIONS: One.

NATURE OF POSITION: "The public auditor shall audit the receipt, possession and disbursement of public funds by the executive, legislative and judicial branches of the government, any instrumentality of the Commonwealth or an agency of local government, and shall perform other duties provided by law. The public auditor shall report to the legislature and the governor at least once every year and this report shall be made public promptly."

PROPOSED TERM OF OFFICE: Six-year term with a limitation of two terms. "The public auditor may be removed only for cause and by the affirmative vote of two-thirds of the members of each house of the legislature."

NOTE: Quotations are from the Constitution of the Northern Mariana Islands.

Proposed items are unofficial and will be reviewed by the new Commonwealth government and may be acted upon, modified, or rejected.

June 29, 1977

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Job Description

NAME OR TYPE OF POSITION: Attorney General

CONSTITUTIONAL BASIS: Constitution, Article III, Sec. 11

APPOINTING AUTHORITY: "The governor shall appoint an attorney general with the advice and consent of the senate."

PROPOSED TERM OF OFFICE: Pleasure of the governor and terms of contract for personal services. The attorney general would be subject to removal from office by the governor after notification of reason for such proposed action and after an opportunity to respond to the charges."

PROPOSED QUALIFICATIONS: At least thirty years of age, a citizen or national of the United States; graduation from an accredited law school in the United States; admission to practice before the bar of the Trust Territory of the Pacific Islands or admission to practice before the bar of a state, territory or possession of the United States and eligibility for admission to the bar of the Trust Territory; active practice for a minimum of five years as a trial attorney or a combination of legal practice, research, court administration, or service as a judge, or law school teaching for a minimum of six years. No person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States may be eligible for service as attorney general.

NUMBER OF POSITIONS: One.

NATURE OF POSITION: "The attorney general shall be responsible for providing legal advice to the governor and executive departments, representing the Commonwealth in all legal matters, and prosecuting violations of Commonwealth law." The office of attorney general would be responsible for providing legal services for all instruments of government in the Commonwealth of the Northern Mariana Islands and have the following functional responsibilities: immigration, emigration,

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naturalization, alien property; publication of laws, a code of the Commonwealth, rules, regulations and executive orders of the governor and of agencies of the Commonwealth; maintenance of the seal of the Commonwealth; registration of private business corporations and not-for-profit corporations; certification of notaries public; and administrative responsibility for implementation of the administrative procedures act and a contractual services act. A constitutionally authorized board of parole would be located in the office of attorney general.

NOTE: Quotations are from the Constitution of the Northern Mariana Islands.

Proposed items are unofficial and will be reviewed by the new Commonwealth government and may be acted upon, modified, or rejected.

June 29, 1977

COMMONWEALTH OF THE NORTHERN MARIANAS

Job Description

NAME OR TYPE OF POSITION: Commonwealth Trial Judge

CONSTITUTIONAL BASIS: Constitution, Article IV

APPOINTING AUTHORITY: Governor with advice and consent of the senate

TERM OF OFFICE: Six years ". . . and may be increased by law to not more than twelve years for judges who have served at least one term."

CONSTITUTIONAL QUALIFICATIONS: "A judge shall be at least thirty years of age, a citizen or national of the United States and possess other qualifications provided by law. . . A full-time judge may not hold another compensated government position or engage in the practice of law . . . The compensation of judges shall be provided by law. The salary of a judge may not be decreased during a term of office."

ADDITIONAL PROPOSED QUALIFICATIONS: Graduation from an accredited law school in the United States. Admission to practice before the bar of the Trust Territory of the Pacific Islands or admission to practice before the bar of a state, territory or possession of the United States and eligibility for admission to the bar of the Trust Territory. Active practice for a minimum of five years as a trial attorney or a minimum of two years of service as a judge of a court of record with jurisdiction at least comparable to either the civil or criminal jurisdiction of the Commonwealth trial court or a combination of legal practice, research, court administration, or law school teaching for a minimum of ten years. No person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States may be eligible for service as a judge of the Commonwealth trial court.

PROPOSED
NUMBER OF POSITIONS: Two full-time judges.

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NATURE OF POSITION:

"This court has original jurisdiction over actions involving land in the Commonwealth and other civil actions except those in which the value of the matter in controversy exceeds five thousand dollars. The court also has original jurisdiction over criminal actions except those in which the defendant, if convicted, may be fined an amount that exceeds five thousand dollars or be imprisoned for a term that exceeds five years. For at least five years after the establishment of the court, actions involving land shall be considered by a special division of the court . . . The legislature may vest additional civil and criminal jurisdiction in the court after this constitution has been in effect for at least five years or at an earlier date if no United States District Court for the Northern Mariana Islands is available. . . to exercise jurisdiction over causes not vested in the Commonwealth trial court."

NOTE: Quotations are from the Constitution of the Northern Mariana Islands.

Proposed items are unofficial and will be reviewed by the new Commonwealth government and may be acted upon, modified, or rejected.

June 13, 1977

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Job Description

NAME OR TYPE OF POSITION: Senior Fiscal Analyst, Legislature

CONSTITUTIONAL BASIS: Constitution, Article III. Section 16 provides in part that the civil service commission's authority ". . . shall extend to positions other than those filled by election or by appointment of the governor in the departments and agencies of the executive branch and in the administrative staff of the legislative and judicial branches."

APPOINTING AUTHORITY: Civil service commission. It is anticipated that the legislature would be consulted on appointments of members of its professional staff.

PROPOSED TERM OF OFFICE: Rules of the civil service commission and terms of contract for personal services.

PROPOSED QUALIFICATIONS: Master's degree in municipal finance or economics, or a combined background in public finance and public administration, and at least three years' experience in municipal or state government financing with at least one year's experience working for or closely with a legislative body; or an equivalent combination of training and experience in the governmental or nongovernmental public sector. The senior fiscal analyst for the legislature shall be capable of analyzing the governor's proposed budget for the Commonwealth, reviewing financial reports prepared by the public auditor and others, and assisting in the preparation of appropriation acts and in the conduct of hearings or investigations by legislative committees.

PROPOSED NUMBER OF POSITIONS: One.

PROPOSED NATURE OF POSITION: The senior fiscal analyst of the legislature would be a key professional member of the office of professional services serving both senate and house of representatives of the Commonwealth. The person holding this position should be well equipped to provide objective assistance to members of the legislature and to its committees and respective bodies

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in analyzing anticipated revenue needs and resources, expenditures and necessary revisions of plans for physical, social and economic development of the Commonwealth. He would have daily contact with the presiding officers and committee chairmen of the two houses and with other government officials in the executive branch.

NOTE: Quotations are from the Constitution of the Northern Mariana Islands.

Proposed items are unofficial and will be reviewed by the new Commonwealth government and may be acted upon, modified, or rejected.

June 29, 1977

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Job Description

NAME OR TYPE OF POSITION: Superintendent of Education

CONSTITUTIONAL BASIS: Constitution, Article III, Sec. 13

APPOINTING AUTHORITY: Board of Education

PROPOSED TERM OF OFFICE: Three years (renewable) and terms of contract for personal services with provision for earlier removal for cause after notice and hearing.

PROPOSED QUALIFICATIONS: Doctoral degree (Ph.D. or Ed.D.) in education or educational administration or related fields and at least five years senior responsibility in the administration of a local school district or equivalent position in a state educational system or within the United States office of education or other related federal office; or equivalent combination of education, training and experience (a master's degree with significant senior educational administrative responsibility may be considered part of the equivalent combination). The superintendent of education should be well equipped by virtue of formal education, training and experience to administer a complex public education system that will include elementary and secondary schools, provision of public and educational library services and related functions, and development of college-level training and a scholarship program for high school graduates seeking post-secondary education in colleges and universities on Guam or the American mainland. Although this position is a constitutional office appointed by and reporting to the board of education, it is anticipated that the person holding it would have continual relationship on a daily basis with the governor and members of the executive office of the governor, as well as line and staff departments of the executive branch, and with members of the legislature.

PROPOSED NUMBER OF POSITIONS: One

PROPOSED NATURE OF POSITION: This is a key post in the Commonwealth government. Education has been and will continue to be one of the principal programs of the new government on which much of the future of the people of the Commonwealth hinges. The person holding this position must be capable of developing objective and professional relationships with the board, including division of responsibilities between

the board of the office of the superintendent, and between the educational establishment of the Commonwealth and other branches and divisions of the new government. He will be responsible for continued upgrading of teacher qualifications and the quality of the public school system. He will be expected to develop cordial cooperative arrangements with other educational systems and with federal Office of Education officials. He will be expected to develop similar cooperative arrangements with parochial schools on Saipan. An important task of the superintendent is to assure the adequacy and quality of elementary and secondary education for young persons residing on Rota, Tinian and the islands north of Saipan as well as on Saipan itself. Federal grant applications and programs will be a large part of the duties and responsibilities of the superintendent. Among key decisions that will be made by the new board and superintendent are those related to the basic objectives of the educational system including general preparatory instruction and training for careers in public and private employment. The superintendent of education must be a compassionate yet thoroughly objective professional fully capable of understanding the needs, aspirations and traditions of the Chamorro and Carolinian populations. He must encourage healthy community involvement in school affairs and participate in such activities.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Job Description

NAME OR TYPE OF POSITION: Director of Personnel

CONSTITUTIONAL BASIS: Constitution, Article III, Sec. 16: "The legislature shall provide for a nonpartisan and independent civil service commission with the duty to establish and administer personnel policies for the Commonwealth government."

PROPOSED APPOINTING AUTHORITY: Civil service commission. Under the terms of the above-cited section of the constitution the civil service commission's authority extends to positions other than those filled by election or gubernatorial appointment. Unless the decision is made that this position shall be by appointment of the governor, under the terms of section 16 this would be a civil service commission position. The cited section provides, "Employment and promotion within the civil service shall be based on merit and fitness demonstrated by examination or by other evidence of competence."

PROPOSED TERM OF OFFICE: Rules of the civil service commission and terms of contract for personal services.

PROPOSED QUALIFICATIONS: Master's degree in public personnel administration or in public or business administration or related field and at least three years progressively increasing responsibility in a municipal or state government civil service commission or other public-sector merit system, or an equivalent combination of training and experience (the master's degree requirement would not be waived except for a person offering a doctoral level or law degree and extensive public personnel management experience). The person holding this position must be capable of developing proposed rules and regulations for the civil service commission and be responsible for overseeing the day to day responsibilities of the personnel office.

PROPOSED NUMBER OF POSITIONS: One.

PROPOSED NATURE OF POSITION: The personnel director would be the administrative head of the Commonwealth personnel office, which would be established by and report directly to the independent and nonpartisan civil service commission. The civil service commission is a constitutional board and to

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maintain its independence it is anticipated that the personnel office would not be a staff agency directly under the governor. The personnel director would be responsible for instituting a wholly new personnel management and utilization system for the Commonwealth government, building and as necessary changing existing personnel practices under the former transition and district governments of the Northern Mariana Islands. Much of the existing rules and personnel practices, including pay and benefits scale, are derived from the government of the Trust Territory of the Pacific Islands of which the Northern Marianas were a part. It is anticipated that new and innovative systems of recruitment and classification, testing and evaluation, and pay and benefit scale will be instituted by the new government and that the personnel director will be expected to oversee technical work and preparation of proposals in these and related areas. The personnel director would be expected to participate in efforts to increase productivity of the Commonwealth government and to work closely with the chief administrative officer, a principal in the executive office of the governor, in assuring effective supervision and training and necessary incentive and discipline systems under merit system principles. This is a key position in the new Commonwealth government. The person holding it must blend characteristics of compassion and concern for career and personal development with the need to conserve public funds. In so doing he must be aware and fully conversant with traditions in the Northern Mariana Islands and the desires and aspirations of its people.

NOTE: Quotations are from the Constitution of the Northern Mariana Islands.

Proposed items are unofficial and will be reviewed by the new Commonwealth government; they may be acted upon, modified or rejected.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Job Description

NAME OR TYPE OF POSITION: Legislative Counsel, Legislature

CONSTITUTIONAL BASIS: Constitution, Article III. Section 16 provides in part that the civil service commission's authority ". . . shall extend to positions other than those filled by election or by appointment of the governor in the departments and agencies of the executive branch and in the administrative staff of the legislative and judicial branches."

APPOINTING AUTHORITY: Civil service commission or governor. In the event that the position is placed under the civil service commission, it is anticipated that the legislature would be consulted on appointments of members of its professional staff. Similar consultation is anticipated in the event the position is by appointment of the governor. The official Analysis of the constitution states, "The commission's authority also extends to the administrative staff of the legislature . . . It is the convention's intention that the commission define 'administrative staff' in the legislative and judicial branches of government and that the legislature defer to the commission's judgment on this matter."

PROPOSED TERM OF OFFICE: Rules of the civil service commission and terms of contract for personal services or pleasure of the governor (or legislative leadership) and terms of contract for personal services.

PROPOSED QUALIFICATIONS: Graduation from an accredited law school and admission to practice before the bar of the Trust Territory of the Pacific Islands or admission to practice before the bar of a state, territory or possession of the United States and eligibility for admission to the bar of the Trust Territory; active practice for a minimum of five years as an attorney or as a legislative draftsman, legislative counsel or legal research associate for a legislative body or other governmental or private organization doing extensive work with a legislature; or an equivalent combination of education, training and experience (the requirement for admission to the bar would not be waived in any event). No person convicted of a felony in the Commonwealth or in any area under the jurisdiction of the United States may be eligible for service as legislative counsel. The person

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holding this position also should be well qualified in legislative organization and procedure, possess excellent drafting capabilities and have good qualities in writing legal memoranda and legislative or investigatory reports. It is anticipated that the legislative counsel would be required to conduct legislative hearings or investigations under the chairmanship of the appropriate committee or subcommittee of the senate or house of representatives.

PROPOSED NUMBER OF POSITIONS: One.

PROPOSED NATURE OF POSITION: The legislative counsel would head the office of professional services of the Northern Mariana Islands Commonwealth legislature. Under him will be a small, expert team of attorneys, research associate and senior fiscal analyst. (A position of administrative officer of the legislature would be responsible for administrative and logistical functions and staff of the legislature.) The person holding this position would have daily and continued relationship on a confidential and professional basis with the presiding officers of senate and house and with other members of the legislature as well as with principal officials of the executive branch. He must perform in a thoroughly objective professional way the heavy duties and responsibilities that will confront the legislature of the new Commonwealth government. He must be prepared to undertake a very heavy legislative drafting agenda and may have a significant role in the development of a Commonwealth code of laws. The person holding this position must be prepared to assure both a timely and a quality production of a mass of bills and analysis of bills submitted by the governor. This is a key position in the new Commonwealth government. The range of researchable and investigatory areas is broad and may encompass such diverse subjects as corrections, programs for adult and juvenile offenders, consumer protection legislation, marine resources, establishment of public authorities and a utilities commission, labor and immigration policies, among others.

NOTE: Quotations are from the Constitution of the Northern Mariana Islands and the Analysis to the Constitution.

Proposed items are unofficial and will be reviewed by the new Commonwealth government; they may be acted upon, modified or rejected.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Job Description

NAME OR TYPE OF POSITION: Senior Research Associate, Legislature

CONSTITUTIONAL BASIS: Constitution, Article III. Section 16 provides in part that the civil service commission's authority ". . . shall extend to positions other than those filled by election or by appointment of the governor in the departments and agencies of the executive branch and in the administrative staff of the legislative and judicial branches."

APPOINTING AUTHORITY: Civil service commission. It is anticipated that the legislature would be consulted on appointments of members of its professional staff.

PROPOSED TERM OF OFFICE: Rules of the civil service commission and terms of contract for personal services.

PROPOSED QUALIFICATIONS: Master's degree in public affairs or public or business administration or economics, and at least three years experience in responsible research position on government and public policy issues, preferably for a local or state legislative body or for a member of the U. S. Congress, or an equivalent combination of training and experience in the governmental or non-governmental sectors. The senior research associate shall be capable of analyzing program or policy issues and preparing research reports for members of the legislature or for committees of the Senate or House of Representatives. The person holding this position must be capable of working swiftly with minimal supervision and as part of a team effort. He or she must have excellent writing ability, particularly in reducing complex issues to succinct and readable reports.

PROPOSED NUMBER OF POSITIONS: One.

PROPOSED NATURE OF POSITION: The senior research associate to the legislature would be a member of the office of professional services, serving both senate and house of representatives of the Commonwealth. The person holding this position should be well equipped to provide objective assistance to members of the legislature and to its committees and respective bodies in analyzing issues pertaining to anticipated legislation.

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Job Description - Senior Research Associate, Legislature

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The range of researchable areas is broad and may encompass such diverse subjects as corrections program for adult and juvenile offenders, consumer protection, marine resources, labor and immigration policies, and public utility services. The person holding the position would have daily contact with the presiding officers, committee chairmen, and individual members of the legislature, and with governmental officials in the executive branch.

NOTE: Quotations are from the Constitution of the Northern Mariana Islands.

Proposed items are unofficial and will be reviewed by the new Commonwealth government; they may be acted upon, modified or rejected.

APPENDIX H

EDUCATIONAL QUALIFICATIONS OF NORTHERN MARIANA ISLANDS EMPLOYEES

SAIPAN

Title	(No.)	Secondary	Under Graduate			Field
			AA/AS	BA/BS	Graduate	
1. (Executive Officer)	2	2	-	2	-	1. Political Science 2. Civil Engineering
2. Budget Analyst	3	3	-	-	-	<u>Jesus</u>
3. Personnel Specialist	4	4	-	2	2	1. Pub. Administration (BA) 2. Health Ed. (BA) 3. Education (MA) 4. Personnel Adm. (MA)
4. Social Security Representatives	2	2	-	-	-	-
5. Immigration	2	-	-	-	-	-
6. Accountant	8	5	-	-	-	-
7. Tax Officer	5	3	-	-	-	-
8. Supply Specialist	1	1	-	-	-	-
9. Public Affairs Officer	1	1	-	1	-	1. Agriculture
10. Legislature Liaison	2	2	-	1	-	1. Political Science
11. Employment Officer	1	1	-	1	-	1. Math
12. Tourism	1	1	-	-	-	-
13. Economic Dev. Specialist	2	2	-	2	-	1. Agriculture Econ. 2. Economics
14. Community Dev. Specialist	1	-	-	-	-	-
15. Federal Prog. Coordinators	3	3	-	-	-	-
16. Administrative Specialist	6	6	-	3	-	1. Business Adm.(2) 2. Psych/Sociology
17. Realty Spec.	5	2	-	1	-	1. Business Adm.

SAIPAN

Title	(No.)	Secondary	Under Graduate		Graduate	Field
			AA/AS	BA/BS		
Surveyor	2	1	-	-	-	-
Planning Officer	2	2	-	-	-	-
Agriculturist	4	4	2	1	-	1. Animal Husbandry & Agric. Econ. 2. Tropical Agric. (2-AA's)
Secretary	1	-	-	-	-	-
Construction Inspector	5	3	-	1	-	1. Civil Engineering
Chief of Police	1	1	-	1	-	1. Political Science
Fire Chief	1	-	-	-	-	-
Police Captain	3	1	-	-	-	-
Police Sergeant Lieutenant	10	4	-	-	-	-
Prosecutor	1	1	-	-	-	-
Medical Officer	7	1	-	7	1	1. Medicine (7) 2. Public Health (1-MA)
Hospital Admin.	1	-	-	-	-	-
Nurse	21	11	12	-	-	1. Nursing
Medex	2	1	1	-	-	1. Nursing
Sanitarian	2	1	-	-	-	-
Dental Officer	3	1	-	1	-	1. Dentistry
Laboratory Tech.	1	-	-	-	-	-
Education Adm.	2	2	-	1	1	1. Speech/Sociology (BA) 2. School Adm. (MA)
Principal	11	11	-	2	-	1. Education (2)

SAIPAN

Title	(No.)	Secondary	Under Graduate			Field
			AA/AS	BA/BS	Graduate	
Classroom Teacher	26	54	6	10	1	1. Education (6 - AA's & 7 - BA's) 2. Philosophy (BA) 3. Chemistry (BA) 4. Math/Educ. (BA)
Education Specialist	18	18	-	3	1	1. Trade&Tech. Ed. 2. Biology 3. Secondary Ed. 4. Counseling (MA)
Librarian	1	1	-	-	-	-
Public Works Supervisor	10	3	-	1	-	1. Civil Engineering
Boat Captain	1	-	-	-	-	-
Public Works Foremen	16	-	-	-	-	-
Coordinator	2	-	-	-	-	-
ResCom Rep.	1	-	<u>ROTA</u>	-	-	-
Adm. Officer	3	3	-	2	-	1. Public Adm. 2. Political Science
Tax Officer	1	1	-	1	-	1. Business Mgmt. and Accounting
Project Inspector	1	-	-	-	-	-
Agriculturists	2	2	-	-	-	-
Police Captain and Lieutenant	2	2	-	-	-	-
Med. Officer	1	1	-	1	-	1. Medicine
Medex	1	-	-	-	-	-
Teachers	6	6	-	2	-	1. Chemistry 2. Sociology
Education Spec.	2	2	-	-	-	-

SAIPAN

<u>Title</u>	<u>(No.)</u>	<u>Secondary</u>	<u>Under Graduate</u>			<u>Field</u>
			<u>AA/AS</u>	<u>BA/BS</u>	<u>Graduate</u>	
54. School Counselor	1	1	-	1	-	1. Sociology
55. School Prin.	1	1	-	-	-	-
56. Public Works Foremen	2	-	-	-	-	-
57. Surveyor	1	1	-	-	-	-
			<u>TINIAN</u>			
58. ResCom Rep.	1	1	-	-	-	-
59. Administrative Assistant	1	1	-	-	-	-
60. Agriculturists	2	-	-	-	-	-
61. Police Lt.	1	-	-	-	-	-
62. Head Nurse	1	-	-	-	-	-
63. Teacher	1	1	-	-	-	-
64. School Prin.	1	1	-	-	-	-
65. Public Works Officer	1	-	-	-	-	-
TOTAL	267	184	21	48	6	

Number of employees in PL-13 and up	=	267
Number of high school graduates	=	184
Number holding AA/AS degrees	=	21
Number holding BA/BS degrees	=	48
Number holding Masters degrees	=	6

APPENDIX I

NUMBER OF EMPLOYEES IN EACH PAY SCALE

<u>Pay Level</u>	<u>Occupational Group</u>	<u>No. of Employees</u>	<u>Position Class</u>
1	Clerical, Machine Operations	1 10 2	Clerk I Clerk Typist I Library Aide I
1	Labor, Custodial & Domestic	17 4 4 16 1	Custodial Worker I Farm Laborer Laborer II School Custodian I maid
1	Trades Crafts & Equipment Operations	8	Equipment Operator I
2	Clerical & Machine Operations	8 6	Clerk II Meter Reader
2	Public Health Medical & Allied	3 4	Dental Assistant Trainee Practical Nurse Trainee
2	Labor & Custodial & Domestic	6 2 2 1	Cook I Custodial Worker II Deckhand Nurseryman
2	Trades Crafts & Equipment Operations	15	Trades Helper
3	Clerical & Machine Operations	19 1 2 8	Clerk Typist II Library Assistant - Mobile Services Radio Announcer I Stores Clerk
3	Administration Management & Allied	5	Immigration Inspector I
3	Education & Social Services	4	Community Development Aide
3	Public Health Medical & Allied	4	Practical Nurse I
3	Agriculture and Allied	1	Agriculture Extension Aide I
3	Engineering & Allied	1 9	Draftsman I Surveying Aide II

<u>Pay Level</u>	<u>Occupational Group</u>	<u>No. of Employees</u>	<u>Position Class</u>
3	Labor & Custodial & Domestic	2	Warehouseman II
3	Trades Crafts & Equipment Operations	3	Auto Serviceman
		2	Truck Driver I
		19	Equipment Operator II
4	Clerical & Machine Operations	9	Account Clerk I
4	Agriculture & Allied	5	Agriculture Quarantine Inspector I
4	Public Protection & Allied	5	Fireman I
4	Labor & Custodial & Domestic	3	Cook II
		1	Farm Foreman
		2	Labor Foreman
4	Trades Crafts & Equipment Operations	1	Boiler Plant Operator
		11	Bus Driver
		3	Sewage Treatment Plant Operator I
		24	Tradesman
		6	Water Plant Operator I
5	Clerical & Machine Operations	20	Clerk Typist III
		3	Radio Announcer II
		1	Realty Technician I
		2	Supply Tech. I
5	Education & Social Services	1	Instructional Media Asst.
5	Public Health Medical & Allied	2	Dental Assistant
		1	Medical Lab. Asst. II
		1	Sanitation Tech. I
5	Agriculture & Allied	2	Agriculture Extension Aide II
5	Engineering & Allied	2	Surveying Aide III
5	Public Protection & Allied	8	Police Officer I
		1	Security Guard II
5	Trades Crafts & Equipment Operations	3	Boat Operator II

<u>Pay Level</u>	<u>Occupational Group</u>	<u>No. of Employees</u>	<u>Position Class</u>
6	Clerical & Machine Operations	2	Clerk III
		1	Dispatcher
		1	Election Registrar
		2	Library Asst. I
		1	Medical Supply Tech.
		1	Personnel Clerk
6	Education & Social Services	28	Classroom Teacher I
6	Public Health Medical & Allied	1	Pharmacy Asst.
		38	Practical Nurse II
		2	X-Ray Tech. I
6	Agriculture & Allied	1	Entomology Tech.
6	Public Protection & Allied	5	Fireman II
6	Labor & Custodial & Domestic	3	Warehouseman III
6	Trades Crafts & Equipment Operations	21	Equipment Operator III
		16	Power Plant Operator
		1	Truck Driver II
		2	Water Plant Operator II
		9	Painter
7	Clerical & Machine Operations	7	Account Clerk II
		1	Safety Inspector
7	Education & Social Services	3	Classrom Teacher I
7	Labor, Custodial & Domestic	3	Cook III
7	Trades Crafts & Equipment Operations	18	Auto Mechanic
		2	Boat Mech. II
		3	Building Maintenance Man
		19	Carpenter
		6	Electrician
		9	Plumber
		5	Power Plant Mech.
		1	Refrigeration Mech.
		5	Sheet Metal Worker
		4	Welder
8	Education & Social Services	8	Classroom Teacher I

<u>Pay Level</u>	<u>Occupational Group</u>	<u>No. of Employees</u>	<u>Position Class</u>
8	Agriculture & Allied	5	Agriculture Extension Agent I
		1	Agriculture Quarantine Insp. II
		3	Animal Industry Tech.
8	Public Protection & Allied	14	Police Officer II
8	Trades Crafts & Equipment Operations	13	Equipment Operator IV
		17	Heavy Equipment Mech.
		8	Lineman
		2	Machinist
		1	Med. Equip. Repair Tech.
		2	Painter Foreman I
		1	Upholsterer Foreman
9	Clerical & Machine Operations	2	Library Asst. II
		1	Medical Records Tech.
		1	Realty Tech. II
		1	Supervising Dispatcher
		1	Vital Statistics Tech.
9	Administration Management & Allied	1	Immigration Inspector II
		16	Land Title Investigator
9	Public Protection & Allied	3	Fire Crew Supervisor
9	Trades Crafts & Equipment Operations	1	Auto Mech. Foreman I
		1	Boat Operator Foreman I
		1	Building Maintenance Foreman I
		5	Carpenter Foreman I
		2	Electrician Foreman I
		1	Electrician Inspector I
		6	Power Plant Foreman I
		2	Refrigeration Mech. Foreman I
		8	Roads & Grounds Maint. Foreman I
		1	Sheet Metal Worker Foreman
		2	Water Systems Foreman I
		3	Plumber Foreman I
3	Welder Foreman I		

<u>Pay Level</u>	<u>Occupational Group</u>	<u>No. of Employees</u>	<u>Position Class</u>
10	Clerical & Machine Operations	3 1 4 1 2	Accounting Tech. I Graphic Artist Secretary I Statistics Tech. Tax Tech. I
10	Education & Social Services	12	Classroom Teacher I
10	Public Health Medical & Allied	4 1 1	Medical Lab. Tech. I Pharmacy Tech. X-Ray Tech. II
10	Trades Crafts & Equipment Operations	1 3 2 1	Building Maint. Coord. Heavy Equip. Mech. Foreman I Lineman Foreman I Sewage Treatment Plant Foreman
11	Clerical & Machine Operations	13	Administrative Asst.
11	Administration Management & Allied	1 1 1	Chairman Land Registration Team Personnel Asst. I Supply Representative
11	Education & Social Services	9	Community Development Specialist I
11	Public Health Medical & Allied	4	Sanitation Tech. II
11	Agriculture & Allied	1	Livestock Inspector II
11	Engineering & Allied	1 5	Draftsman III Surveyor I
11	Public Protection & Allied	4	Police Officer III
12	Clerical & Machine Operations	3 4	Accounting Tech. II Tax Tech. II
12	Administration Management & Allied	1	Radio Program Director

<u>Pay Level</u>	<u>Occupational Group</u>	<u>Employees</u>	<u>Position Class</u>
12	Education & Social Services	81 1	Classroom Teacher I Librarian I
12	Public Health Medical & Allied	2 1 11	Dental Lab. Tech. Dental Nurse II Staff Nurse I
12	Public Protection & Allied	1 5 6	Asst. Fire Chief Detective Police Sergeant
12	Trades Crafts & Equipment Operations	1 1 1	Machine Shop Spec. Painter Foreman I Trades Tech. I
13	Administration & Allied	2 2	Federal Programs Coord. I Public Service Interne (Prof.)
13	Education & Social Services	9	Classroom Teacher II
13	Public Health Medical & Allied	8	Staff Nurse II
13	Agriculture & Allied	1	Livestock Inspector III
13	Trades Crafts & Equipment Operations	2	Boat Captain
14	Education & Social Services	44 2	Classroom Teacher II Curriculum Writer Researcher
14	Public Health Medical & Allied	1	Dental Nurse III
14	Public Protection & Allied	2 9	Detective Sergeant Police Lieutenant
14	Trades Crafts & Equipment Operations	1 1 1 1 1 3 1 1 1 1 1	Auto. Mech. Foreman II Carpenter Foreman II Construction Insp. I Electrician Foreman II Plumber Foreman II Power Plant Foreman II Refrigeration Mech. Foreman II Refrigeration/Air Con. Supervisor Roads & Grounds Maint. Foreman II Trades Tech. II Water Systems Foreman II

<u>Pay Level</u>	<u>Occupational Group</u>	<u>No. of Employees</u>	<u>Position Class</u>
15	Education & Social Services	5	Classroom Teacher II
16	Administration Management & Allied	4	Accountant I
		8	Administrative Spec. I
		1	Asst. Dist. Immigration Officer
		1	Budget Analyst I
		1	Equipment Utilization & Control Coordinator
		1	Legislative Liaison Officer I
		2	Realty Specialist
16	Education & Social Services	5	Classroom Teacher III
		1	Instructional Media Spec. I
		1	Scholarship Coord. I
		1	School Counselor III
16	Public Health Medical & Allied	8	Head Nurse
		3	Medex I
		1	Medical Lab. Tech. II
		2	Specialized Nurse
16	Agriculture & Allied	1	Agriculturist I
16	Engineering & Allied	2	Surveyor II
16	Public Protection & Allied	1	Detective Lt.
		1	Fire Chief
16	Trades Crafts & Equipment Operations	1	Heavy Equip. Mech. Foreman II
		1	Lineman Foreman II
		1	Roads & Grounds Maint. Foreman III
17	Administration Management & Allied	1	Assistant Social Security Representative
18	Education & Social Services	9	Classroom Teacher III
		5	School Principal I
		1	School Counselor III

<u>Pay Level</u>	<u>Occupational Group</u>	<u>No. of Employees</u>	<u>Position Class</u>
19	Administration Management & Allied	1	Accountant II
		1	Dist. Tourism Officer
		1	Supply Specialist II
		1	Radio Station Manager
19	Education & Social Services	12	Education Specialist I
		1	Librarian II
		1	Vocational Rehab. Coord.
19	Public Health Medical & Allied	1	Dist. Mental Health Coord.
		1	Sanitarian I
		2	Supervising Field Nurse (Public Health)
		5	Supervising Nurse
19	Agriculture & Allied	1	Agriculture Extension Agent II
		2	Agriculturist II
		1	Animal Industry Specialist
19	Engineering & Allied	1	Asst. Planning Officer
19	Trades Crafts & Equipment Operations	1	Power Plant Maint Asst. Supv.
		1	Utilities Agency Mgr.
		2	Building Maint. Asst. Supv.
20	Administration Management & Allied	1	Legislative Liaison Officer II
		1	Dist. Prosecutor II
		2	Economic Development Spec.
20	Education & Social Services	4	Asst. Principal
		1	Classroom Teacher IV
		2	School Principal II
20	Public Health Medical & Allied	1	Clinical Nurse Supv.
20	Public Protection & Allied	3	Police Captain
21	Administration Management & Allied	2	Accountant III
		1	Administrative Officer I
		1	Budget Analyst II
		1	Federal Program Coord. II
		1	Immigration Officer I
		2	Land Commissioner I
		1	Personnel Spec. II
		5	Tax Officer II

<u>Pay Level</u>	<u>Occupational Group</u>	<u>No. of Employees</u>	<u>Position Class</u>
21	Education & Social Services	1	Community Dev. Spec. II
		1	Educ. Specialist II
		2	School Principal III
21	Public Health Medical & Allied	1	Chief Dist. Nurse
21	Agriculture & Allied	1	Agriculturist III
21	Engineering & Allied	1	Surveyor III
21	Public Protection & Allied	1	Public Safety Training Specialist
21	Trades Crafts & Equipment Operations	1	Building Maint. Supv. II
		1	Const. Insp. II
		1	Elect. Distribution Supv.
		1	Port Director II
		1	Public Works Officer I
		1	Roads & Grounds Maint. Supv.
22	Administration Management & Allied	1	Employment Services Officer
		1	Social Sec. Representative
		1	Rescom Rep. I
22	Education & Social Services	1	School Principal IV
22	Public Health Medical & Allied	1	Dist. Hosp. Administrator
22	Trades Crafts & Equipment Operations	1	Equipment Maint. Asst. Supt.
23	Administration Management & Allied	1	Dist. Finance Officer
		1	Dist. Revenue Officer
		2	Personnel Spec. III
23	Education & Social Services	1	Classroom Teacher V
23	Public Protection & Allied	1	Chief of Police
24	(None listed)		
25	Administration Management & Allied	1	Dist. Economic Dev. Officer
		1	Dist. Land Management Officer
		1	Acting Program and Budget Officer
25	Public Health Medical & Allied	1	Dental Officer II
		1	Medical Officer I

<u>Pay Level</u>	<u>Occupational Group</u>	<u>No. of Employees</u>	<u>Position Class</u>
26	(None Listed)		
27	Administration Management & Allied	1 1 1	Rescom Rep. II Dist. Public Affairs Officer Deputy Dist. Director Public Works
27	Education & Social Services	1	Asst. Dist. Director of Education
28	Public Health Medical & Allied	1 4	Chief Dist. Dental Services Medical Officer III
29	Public Health Medical & Allied	1 1	Asst. Dist. Director of Health Services Medical Officer Specialized II
30	Education & Social Services	1	District Director of Education
30	Public Health Medical & Allied	1	Dist. Director of Health Services

PART IV

LEGISLATIVE PROGRAM

LEGISLATIVE PROGRAM

A substantial amount of legislation will be needed to effectuate social and economic programs of the Commonwealth, to establish government departments and agencies, and planning and budgetary processes. Bills critical to the transitional planning studies of the Office of Transition Studies and Planning will be proposed. A number are contained in Part V of the IPA report. Other bills will be initiated by members of the Commonwealth legislature to meet social and economic problems confronting the Northern Mariana Islands and their people and for revenue-raising purposes. The legislature must also adopt rules of procedure for the senate and house of representatives and joint rules affecting relationships between them* and within the executive branch.

The legislative agenda confronting the first session of the senate and house of representatives in 1978 will necessitate a system for determining priorities.

We have identified twenty-four pieces of legislation that should be considered during the first or second year of the Commonwealth legislature. See Table VIII. Others may be added to the list. Where appropriate, draft legislation, for consideration of the governor is contained in Part V. These are preliminary drafts for discussion purposes.

*. This is discussed separately on organization of the legislature and includes proposed draft rules. See Part II of the IPA report.

IPA did not attempt a revision of all of the substantive laws that will be in force in the Commonwealth under the terms of the constitution's schedule on transitional matters. The first step in comprehensive legislative revision is the establishment of a Commonwealth Code of Laws which should be a high priority. A tentative table of contents of a code has been prepared separately, together with an exhaustive summary of all laws that may affect the Commonwealth and a detailed index of the summary. A procedure for code preparation is discussed infra and a draft bill is included in Part V. The bill would establish a process and assign responsibility for code preparation and legislative revision on a continuing basis.

Certain formal parts of bills in Part V have not been included: separability clauses, effective dates unless there is a special requirement, repealers of existing laws, and the like. These should be the responsibility of the legislative counsel's office at the time of enactment or of the attorney general at the time of preparation and submission of legislation by the executive branch.

TABLE VIII

LEGISLATIVE PROGRAM

1. Government Act
2. Rules of the Legislature
3. Continuity of Laws Act
4. Code of Laws Act
5. Planning and Budgeting Act
6. Public Corporation Control Act
7. Federal Programs Coordination Act.
8. Boards, Commissions and Authorities Appointments Act
9. Administrative Procedures Act
10. Contracts and Purchases Act
11. Elections Act
12. Interim Executive Authority Act
13. Departments and Agencies Expiration Act ("Sunset" Law)
14. Seal Act
15. Freedom of Information Act
16. Public Meetings and Records Act ("Sunshine" Law)
17. Ethics Act
18. Eminent Domain Act
19. Historic, Landmark and Cultural Preservation Act
20. Land Use, Zoning, Subdivision Control, and Building Codes Act
21. Submerged Lands, Natural and Marine Resources Management Act
22. Public Services Agency and Commission Act
23. Marianas Development Bank and Development Corporation Act
24. Corporations, Partnerships and Business Associations Act

CHAPTER THIRTEEN

SCOPE OF PROPOSED LEGISLATION

Establishment of the Government

The principal piece of legislation that will command the immediate attention of the governor and the legislature is a bill to create the branches, departments and agencies of the Commonwealth government within the arrangement prescribed by the constitution. The constitution establishes the Marianas Public Land Corporation and Marianas Public Land Trust, and it requires other instruments: civil service commission, board of education, public auditor, parole board, office of the superintendent of education, an advisory commission on officers' compensation, and an advisory commission on the judiciary. It leaves to the legislature and the governor responsibility for establishing most departments and agencies of the executive branch.

Part II of the IPA report contains recommendations for the structure of government. To effectuate many of these recommendations, a draft bill has been prepared in Part V. This legislation should not detail internal organization. It should define agency responsibilities and lines of control and accountability. Latitude should be left to the governor and to agency heads with respect to the internal structuring of agencies to enhance operating efficiency and effective coordination and accountability.

More than one viable approach to division of functions and structure is apparent. The bill should be treated as a working draft for discussion and action.

Where the constitution does not require subordinate legislation, that is, where the constitutional provision is in effect self executing, we have chosen not to repeat those provisions in the draft statute*. The bill complements these constitutional provisions.

The enabling legislation does not propose salaries for senior elected and appointed officials, including the mayors, Representative to the United States and judges of the Commonwealth trial court. The constitution requires that these salaries be set by law. The appropriate legal instrument is the appropriations act or officers' compensation act. Part III, of the IPA report outlines considerations in the determination of officers' salaries and reasonable allowances for expenses and contains a suggested salary scale for these exempt positions. They are not formal recommendations.

It would be difficult but not impossible for the legislature to enact legislation establishing the government on a department-by-department basis. It would require repetition of omnibus provisions and would constrain the goal of close interaction among agencies that we believe is critical. Recommendation 443: We recommend that the legislature enact a comprehensive Commonwealth Government Act as one of the first pieces of legislative business in the 1978 session.

* For example, Article IV, Section 4 states that judges shall be at least thirty years of age. In Title I of the enabling bill, we do not repeat that qualification request. Nor do we repeat the senate advice and consent requirement where it is mandated by the constitution (e.i. Article III, Section 14 on heads of executive departments.)

Rules of the Legislature

Part II of the IPA report reviews the organizational requirements of the Commonwealth legislature and proposes officers, professional and administrative staff, committees, joint committees, legislation, and procedures that will facilitate orderly conduct of business. Rules proposed are in that part. The full text is contained in Part V. They are designed to meet constitutional requirements for the new bicameral body and do not attempt to deal with all rules governing the Senate and House of Representatives.

Under Article II, Section 14(b) of the Constitution, each house shall, "...promulgate rules of procedure." This does not prevent the two houses from adopting joint rules on matters common to both such as reconciliation of differences on legislation. The draft rules in Part V might be adopted in one of several ways:

1. Each house by simple resolution adopts rules on matters pertaining exclusively to its own procedures and rules that pertain to relations between the two houses. Thus, the Senate would not adopt a rule pertaining to officers of the House but the resolution of the Senate (and of the House separately) would contain identical wording on joint matters.

2. The two houses by concurrent resolution adopt either all of the rules or rules pertaining to joint matters. If the former approach is taken, then the concurrent resolution would specify that for those matters that pertain only to one house, this constitutes a rule only of that house, so there is no doubt of that houses' constitutional prerogative to change that rule without the concurrence of the other.

3. The two houses adopt either a joint resolution or a bill containing the rules with appropriate disclaimers that reserve the right of the individual house or the two houses concurrently to change the rules within their constitutional prerogative. Such disclaimers are necessary since joint resolutions and bills require action by the governor. This might be viewed as contrary to the constitutional provision on each house adopting rules of procedure. The only perceived advantage of the joint resolution or bill route is that it would encompass matters that are not strictly rules of procedure of the houses. (There is precedence for such an approach in the United States Congress.)

Recommendation 444: We recommend that the legislature adopt rules of the legislature respecting officers, committees, comity of relations between the senate and house of representatives, staff, types of legislation, and related matters; and that it adopt existing rules pertaining to floor procedures.

Continuity of Laws

There must be a determination of those laws that are in effect on the effective date of the constitution.

Section 2 of the schedule on transitional matters provides:

Laws in force in the Northern Mariana Islands on the day preceding the effective date of the constitution that are consistent with the constitution and the covenant shall continue in force until they expire or are amended or repealed.

The Analysis to that section notes that it". . . does not purport to cover laws beyond the reach of Commonwealth authority, such as the Trusteeship agreement, United States laws or secretarial orders" (p.194). Provisions of the federal constitution, the covenant, federal laws and regulations and various secretarial orders will be in effect and are not dependent on the constitutional provision quoted which pertains principally to laws enacted by the Congress of Micronesia, the district and transitional NMI legislature and municipal councils. One approach to the question of establishing which laws are in force is to allow administrative and judicial determinations to determine force and effect on a case by case basis. An alternative is to have an appropriate official make a determination of those laws that in his judgment are in force and effect on the effective date of the constitution as a guide to persons and agencies who may be affected by a particular statute. The ~~appropriate official in our judgment is the attorney general.~~ We propose there be a law to establish an orderly process for his determination, in effect an opinion of counsel, but not to preclude final determinations by a court of appropriate jurisdiction, nor to preempt the jurisdiction of the Commonwealth legislature. Recommendation 445: We recommend that the legislature enact a law to establish a process for determining those laws that are in effect on the effective date of the constitution.

Commonwealth Code of Laws

The laws that will be in effect in the Northern Mariana Islands after the effective date of the constitution will be derived from a variety of sources: the covenant, the constitution, the Trust Territory code, the Northern Mariana Islands district code, enactments by the Northern Mariana Islands legislature not a part of the district code, municipal ordinances, and, possible, executive orders of the high commissioner, district administrator, and resident commissioner. There is no single collection of these laws. The new Commonwealth will have a body of law that is contained in separate compilations. The provisions of Section 2 of the schedule on transitional matters serve to assure that there are laws governing the affairs of the Commonwealth and its people. It is part of a series of continuity provisions that are indispensable to an orderly transition to constitutional self-government. Two tasks must be addressed respecting the laws that will govern the Commonwealth: first, to begin the process of harmonizing all of the laws that are in effect into a single, usable compilation or code; and second, to begin the process of reviewing and revising statutory provisions to meet changed requirements and concepts of a programmatic, institutional, and societal nature. This includes laws defining criminal and social behavior as well as governmental structure and delegation of authority.

The legislature shall establish by statute a requirement for a Commonwealth code of laws and it should assign responsibility for this activity to an official or multi-membered commission. Responsibility should be established by the legislature for statutory revision. (IPA has prepared as a separate document and for preliminary discussion a draft table of contents of a Commonwealth Code of Laws into which all legislation of a general and permanent nature could well be incorporated.)

Separate enactments by the Commonwealth legislature will have the effect of revising various provisions of existing statutory law, but a more structured law revision process is needed to assure a body of statutory law that meets the needs of the people of the Northern Mariana Islands.

Recommendation 446: We recommend that the legislature during its first annual session enact a Commonwealth code of laws act; that such act require the compilation of a code of laws; and that the attorney general be the responsible official for the preparation of the code and its submission no later than two years from the effective date of the act to the legislature.

Recommendation 447: We recommend that the attorney general review the substance of laws in force in the Commonwealth and propose revisions of such laws; and that there be established a Commonwealth law revision commission to assist and advise the attorney general.

In the formative years of the Commonwealth the attorney general will have onerous duties and responsibilities code compilation and law revision, heavily technical, longer range activities, may not receive his high attention or may burden him to the detriment of fundamental responsibilities. Acceptance of this point of view would substantiate the case for establishment of an alternative form for code compilation and law revision. Alternatives include a standing or special legislative committee or one or more commissions.

The use of legislative committees for one or both of these tasks is a distinct possibility. It has considerable merit because the legislature has the constitutional responsibility for enactment of statutes and would have to pass on any recommended

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form of code compilation or statutory revision. The demands on the legislature, however, temper the feasibility of this alternative. The legislature will have an enormous agenda in establishing the new government, in acting upon gubernatorial nominees, in approving budgets, in conducting hearings and investigations, and in performing other constitutional duties and responsibilities.

The use of an independent commission for code compilation and statutory revision also has the advantage of not diverting officials from their principal responsibilities. A law revision commission can assist in discharging the responsibilities we believe should be assigned to the attorney general. Law revision involves fundamental policy issues in such areas as criminal laws, the mentally ill, business in corporations, and trade and commerce, Code compilation, essentially a technical task, and drafting of statutory revisions, should be in our judgment, the responsibility of the person most familiar with the legal issues that are likely to arise. That person is normally the attorney general, who as chief law officer of the government, advises not only the governor and executive branch on legal matters but also the legislature within the construct of the constitution. In addition he will appear daily before the judiciary and be quite familiar with statutory matters dealt with by the courts. These responsibilities could be delegated by the attorney general to an assistant attorney general, Consultants can do much of the technical work.

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Planning and Budgeting

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Each of the three consultant firms to the Office of Transition Studies and Planning have identified the critical role that planning and resource allocation play in the Commonwealth. Pacific Planning and Design Consultants has proposed a system for rational use of the land resources of the Commonwealth and have proposed legislation dealing with zoning, building codes, and subdivision controls. PPDC proposes a master planning process and a system by which land is divided into zones for different uses. PPDC has developed an agenda of capital improvements that will be needed in Saipan, Rota, Tinian and on the other populated islands; and they address problems designed to meet constitutional requirements for preserving places of natural importance and historic significance.

Robert R. Nathan Associates in its development plan addresses not only the substance of economic and social development but the methods by which development planning moves from blueprint to implementation. The Nathan report proposes legislation to establish a development bank and a development corporation to facilitate economic growth in the Commonwealth. The report emphasizes coordinated centralized planning to assure rational use of scarce resources.

IPA in the previous chapters has addressed many of the same subjects from the view of sound institutional and administrative arrangements. We have recommended the establishment within the executive office of the governor of an office of planning and budgeting and have proposed an extensive procedure by which the Commonwealth allocates and controls fiscal resources.

Of high priority in the legislative agenda is consideration and enactment of a comprehensive planning and budgeting act that will be the foundation statutory instrument for effectuating many of consultant recommendations. Draft legislation contained in Part V of the IPA report is designed to meet the constitutional distributions of power among the branches of government, particularly between the legislative and executive branches, and the requirement for a unified budget. We propose that the formal OTSP plans dealing respectively with land-use, physical development, social and economic development be submitted by the governor, with his modifications, to the legislature for official adoption as guides to formal commitments of resources, programs, and legislative enactments.

Critical choices will confront the governor and legislature. These pertain to a series of policies governing such matters as the time and form of budget requests, the method of enactment of appropriations by the legislature, expenditure controls, the future of social and economic development planning, and its impact on the budgetary processes, the commitment to well-ordered land-use decisions, limitations on discretionary spending authority by agency heads, accountability mechanisms for public authorities and other public benefit corporations, and substantive consideration of land-use control measures.

Neither the constitution nor common sense call for the fragmentation that has existed heretofore. Wholly separate budget systems, as in the case of legislative appropriations separate from the allocation procedures for federal financial assistance, and disparate units of financial administration must be replaced. Some facets of financial administration will continue to be decentralized to accommodate special needs of the neighbor islands or to facilitate expeditious delivery of supplies and equipment. We propose a single

treasury. We propose a uniform system of accounts. We propose that most of the ordinary disbursement and accounting activities be handled within a single department of financial administration. We propose, in consonance with the constitution, that there be a single annual budget for the Commonwealth and that the legislative action on that budget take the form of an annual appropriation act. Finally, we propose adoption of a system of zero-base budgeting.

Of all the changes that will occur as the Commonwealth begins its business perhaps one of the most challenging has to do with unified budgeting and financial management.

Recommendation 448: We recommend that the legislature enact a comprehensive Commonwealth planning-budgeting act to assure an orderly and unified process for the adoption of the annual budget and for land-use, social, and economic planning.

Control of Public Corporations

Uniform statutory procedures are proposed for all corporations created by special law. A proposed bill in Part V assures coordination of the actions of a public corporation with the program of the governor and the actions of executive agencies. The bill provides for public scrutiny of the actions a public corporation takes, and treats the directors and employees of public corporations as public officials and servants responsible to the public trust. It would reduce costs and increase accountability by having legal, fiscal, personnel, and housekeeping functions performed for the corporation by central agencies.

The act strengthens public control of public corporations through these requirements:

- submission of an annual budget;
- publication of a complete annual financial statement;
- public audit of the corporation by the public auditor;
- publication of an annual report by the public corporation;
- cooperation with related Commonwealth agencies;
- staff support and logistical services provided by central agencies;
- approval of new projects by the governor or the legislature;
- public hearings on proposed new projects;
- treatment of directors of a public corporation as public officials subject to codes of ethics;
- civil service status for employees of a public corporation;

The draft legislation in Part V includes provisions that permit gubernatorial review of proposed major new activities of a public corporation. It may be argued that autonomous public corporations can take the initiative more easily and operate more efficiently than elected political officials. In fact, a principal reason for enacting such entities is to avoid partisan politics, reduce dependency on legislative bodies and encourage business practices. On the other hand, a public corporation might pursue projects at public expense that are in violent conflict with Commonwealth official plans or the activities of other public agencies.

Although the draft bill provides for gubernatorial approval of new major projects, regardless of source of funding, a public corporation would itself initiate, plan and manage any project it pursues. The proposed act does not limit the purposes or powers available to a public corporation. In the event the governor rejects a plan for a new project, the public corporation may appeal to the legislature, which will act by way of legislation. The requirement of gubernatorial approval is designed to assure coordination with other government programs. The requirement that a public corporation hold a public hearing on a proposed project provides greater public visibility of public corporations as a means of promoting constructive interaction between the members of the public and their public agents.

A system of control that in some way approximates part of the requirements of the draft bill has been in existence in the federal government under the Government Corporation Control Act, Title 31 U.S.C. Ch. 14 (59 Stat. 597 as amended).

One matter which must be resolved is the applicability of this proposed law to the two constitutionally-created entities:

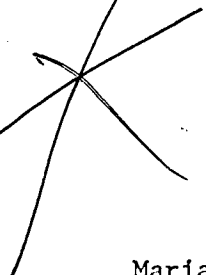
Federal Programs Coordination

The Commonwealth is eligible to apply for and secure federal grants, in addition to the federal financial assistance guaranteed by the covenant. Grants can yield significant income to the Commonwealth and they provide opportunity to support programs in a range of fields, including health, education, social services, transportation, economic development, public works, and community development *.

Along with the bounty administrative problems will arise. A principal one has to do with matching fund requirements. A second is the fragmentation of planning that may occur if grants management is carried on by different units without any central coordination. Federal grant programs should be consonant with all Commonwealth service delivery activities. Federally supported programs could be developed in isolation from the bulk of Commonwealth activities to the point that there is considerable confusion, wasted effort, and misuse of local tax revenues.

To avoid potential difficulties effective coordination should be required by law in the application for federal grants and in their delivery. Central coordination should be a priority goal of the new administration. While it would be unwise to stifle all direct relationships between agencies of the Commonwealth and federal agencies, it would be equally unwise to allow individual departments and agencies to secure federal grants without clearances with the executive office of the governor.

*This will complement the duties of the representative to the United States. We have proposed in Part II of the IPA report a liaison office to Region IX in San Francisco.



Marianas Public Land Corporation and the Marianas Public Trust. Because of the special constitutional status of these bodies, both of which are actually established by the constitution directly, it is our judgment that they should be exempt from the provisions of the proposed law. Recommendation 449: We recommend that a public corporations control act be enacted; that it establish standards of public accountability of public corporations pertaining to budget, financial matters, major new activities, and personnel; and that the act apply to all public benefit corporations other than the Marianas Public Land Corporation and the Marianas Public Land Trust.

be materially affected by initial legislation or government organization.

Persons on such boards will continue to serve in this capacity until the member resigns, is removed from the board, commission or authority prior to the expiration of his or her term or the enabling legislation that authorized or created the multi-membered body is repealed or changed.

In the case of the board of education, an entity that has functioned with no particular distinction, the situation will remedy itself. The constitution mandates the establishment of a representative board of education; of necessity this means the elimination of the present board. In this instance the governor will be able to make a total new set of appointments and will not be bound to reappoint present members. Similarly, a civil service commission will be established as a new body so that in that area the carryover situation does not exist. The focus of attention is only on carryover boards.

Should the governor be authorized with senate advice and consent to change membership on carryover boards before terms expire? We believe he should. This would allow the governor to fill these boards with persons who, in the governor's judgment, are appropriate to the facts confronting the Commonwealth in its salad days.

While there are pros and cons on the wisdom of such a grant of authority, it is our judgment that it would provide opportunity for the governor to install in positions of importance persons of his own choosing. To take two major examples, both the airport authority and the Mariana Islands Housing Authority

are important entities within the Commonwealth government. Both entities have considerable latitude in their activities. Whether or not they are restructured and institutionally changed the functions of airport administration and housing and urban renewal command considerable public attention. The governor should have the opportunity to appoint persons who will be compatible with the direction he wishes his administration to pursue.

Recommendation 452: We recommend that the legislature enact legislation terminating automatically the term of each member of a board, commission or authority for which there is a fixed term of service that is carried over to the new government unless the governor within a ten day period following the effective date of the legislation reappoints the person for the balance of his or her unexpired term; and that such reappointment be subject to the advice and consent of the senate which action must be taken not later than fifteen legislative days following receipt from the governor of notice of reappointment.

We propose a specific deadline within which the governor must act. The burden is upon him to reappoint members within a proposed ten day period or the member's service on the board automatically expires. If the governor does not reappoint a member then there is automatically a vacancy. Fairness to existing members is preserved by requiring the governor to act promptly in deciding whether to reappoint. It may be desirable to consider that the expiration of the term of service of a member of a multi-membered board should be for a period longer than a proposed ten day period. An alternative is to continue the service of a carry-over member of a board unless the governor acted to replace him by a certain date.

The senate should move promptly in acting upon gubernatorial appointments under the proposed law. The choice of fifteen legislative days may be too precipitous. Perhaps a longer period should be allowed?

One final note: this arrangement provides an orderly way for dealing with the cited issue and would involve both the executive and legislative branches. It is possible that the governor, as part of his constitutional duties and responsibilities, may be free to act with respect to carry-over appointees for which there is a fixed term appointment.

The governor may wish to secure an opinion from the attorney general respecting his capacity to act without legislative authorization. Note further that the proposed law would apply only to persons serving on multi-membered bodies for which there is a fixed term of service. It would not apply to persons serving at the pleasure of the appointing official. In those instances, we have no doubt that the governor succeeds to the power vested formerly in the high commissioner, district administrator, or resident commissioner.

Administrative Procedures

We have identified in Part III of the IPA report deficiencies in the administrative mechanisms by which the NMI government conducts its affairs. Many problems are management oriented. Others pertain to the availability of formal written documents that establish governmental entities, define agency rules and regulations and methods for their adoption, or bring important matters to public notice. It will be necessary for the Commonwealth to establish a Commonwealth Register in which executive orders of the governor and agency regulations can be promulgated. The Commonwealth Register would do for the Commonwealth what the Territorial Register does for the Trust Territory Government (cf 17 TTC Section 2). A set of statutory standards should be adopted to guide administrative procedures pertaining to official actions including procedures for adoption of rules and regulations. The attorney general would be responsible for collecting and publishing a code of agency rules and regulations.

Draft legislation would take the form of a revision and modification of Title 17, Chapter I of the Trust Territory Code. This should be simplified since many of the detailed provisions may be burdensome.

Recommendation 453: We recommend that the legislature enact an administrative procedures act, that such act include the establishment under the attorney general of a Commonwealth Register, to be the official publication document of official notices, regulations, and executive orders of the governor; that the act provide the official compilation of agency rules by the attorney general; that the act establish standards for adoption of agency rules and regulations.

Contracts and Purchases

The Trust Territory Code contains provisions on government contracts. Legislation will be needed to supplement or replace these provisions to assure adequate controls over the purchase of services, equipment and supplies. The Commonwealth will engage in major construction activities, heavily supported by Covenant-guaranteed funds. In addition, it may contract for consultant services. Rigorous standards and their enforcement are needed to reduce misuse of public funds and the public trust. It is indispensable that the public auditor have the right to examine the financial accounts of major contractors with the Commonwealth with respect to Commonwealth funded contractual activities. This should apply to commercial firms and to nonprofit organizations.

Recommendation 454: We recommend that the legislature enact a Commonwealth Contracts and Purchase Act to establish the requirements for letting contracts, advertising and bids, purchase orders, financial controls, and related matters.

Commonwealth Elections

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The Northern Mariana Islands legislature has enacted an election law principally for the purpose of holding the first election in 1977. There will be sufficient time during 1978 to review its provisions and impact and to prepare a new Commonwealth election code or amendments to the 1977 legislation. Under the terms of section 2 of the Schedule on Transitional Matters the legislation enacted in 1977, assuming it is otherwise constitutional and valid, will be in force and effect after the effective date of the constitution.

The Institute of Public Administration as part of its legislative program efforts had drafted a Commonwealth election code. This was used in part in framing the legislative enactment of 1977. No urgent time problem is posed since there is unlikely to be any election held in the Commonwealth until 1979. If an interim election is held because of a vacancy or to meet any other constitutional need, the 1977 legislation would suffice.

Recommendation 455: We recommend that the legislature review the election laws that are in force and effect in the Commonwealth and that it enact in 1979 appropriate amendments or revisions.

Appointments to Boards, Commissions and Authorities

A question to be confronted is whether the governor should be given authority to make changes in the existing membership of multi-membered boards that are continued even though the terms of members have not expired and there is no change in legislation affecting the board or commission or the terms of membership of it.

The Commonwealth will begin with essentially the same structure of government as existed prior to the effective date of the constitution except with respect to those institutions newly created by the constitution or which are contrary to the constitution. (cf Sections 2 and 3 of the schedule in transitional matters). Most departments and agencies of the executive branch will operate as they have in the past until replaced by enabling legislation under the constitution (Article III, Section 15). The Northern Mariana Islands legislature, a unicameral body, is replaced by the Commonwealth legislature, a bicameral body. The governor becomes the chief executive of the Commonwealth replacing the resident commissioner, an appointee of the Secretary of Interior. The Marianas Land Commission no longer will have capacity to make decisions, a responsibility vested in the judiciary (see Part II of the IPA report). Multi-membered boards, commissions and authorities that were created by or pursuant to laws that remain in force and effect by virtue of Section 2 of the schedule on transitional matters largely will continue to function until they are replaced.

Article II, Section 15 of the constitution provides an orderly basis by which the legislature establishes the principal departments of the executive branch and allocates duties and responsibilities among the agencies.

It is likely that a number of multi-membered boards will continue to function for a considerable period of time and will not

Accordingly, it would be desirable to establish through legislation principles of grant coordination for the new Commonwealth government. The governor will have considerable latitude to institute necessary controls through executive orders and other directives to persons within the executive branch.

Recommendation 450: We recommend that the legislature enact a commonwealth federal program coordination act requiring that federal grant applications be subject to the approval of the governor or his designated representative in the executive office; that persons employed by the Commonwealth utilizing federal funds in whole or in part be a part of the civil service and subject to the general direction of the civil service commission and Commonwealth department heads; and that a federal grants coordinator be appointed by the governor in the office of planning-budgeting.

Recommendation 451: We recommend that the governor establish a liaison office in San Francisco to assure effective grants coordination with Region IX of the federal government.

Interim Executive Authority

During the early months of the Commonwealth government, there will be a scene not unexpected of confusion. The necessary "shake down" activities are similar to what occurs when a new ship is launched and begins to function on the high seas. In the case of the Commonwealth government, while there will be continuity of laws, personnel, and programs, many matters will require urgent legislative consideration. Not all can be dealt with at once. In addition, the governor will be acting and testing the scope of his authority, and he must do so with considerable caution as well as enterprise.

To assure prompt attention to many major problems that will confront the governor and recognizing that the full array of legislative enactments and budgetary authority will not have been acted upon by the new legislature early in 1978, it may be desirable to grant the governor specified limited authority for a short period of time. This involves authority to transfer functions among agencies as the new machinery of government and the necessary enabling legislation is being considered; re-assignment of personnel; establishment of the executive office of the governor; creation of interim commissions and boards; and limited reprogramming of funds to meet urgent needs.

There is a potential danger that the new governor would assert more power than he is constitutionally granted under article II or act too cautiously and not exercise the power that does vest in him under the constitution.

In our judgment it would be extremely useful to eliminate as many areas of uncertainty as possible and grant to the governor by legislative act interim and controlled executive authority.

Recommendation 456: We recommend that the legislature enact as soon as possible after it first convenes an interim executive authority act; that the act include discretionary authority to the governor to transfer functions, reassign personnel within the executive branch, to assign persons to serve as assistants to the governor in the executive office of the governor; that it make the Office of Transition Studies and Planning a part of the executive office; that it authorize the governor to establish interim advisory commissions and boards; that it grant to the governor discretionary authority to reprogram funds within specified limits and for specified purposes; that all actions taken pursuant to this legislation be communicated to the legislature promptly; and that the act itself expire no later than 90 days after its effective date unless extended for no more than two successive 90 days periods by affirmative action of the legislature.

Sunset Legislation

There has developed in a number of American jurisdictions a concept known as "sunset legislation". Its purpose is to eliminate obsolete government agencies. This can be done by an omnibus statute that requires affirmative legislative action to keep alive an agency after a stated period of time, usually a number of years, unless the agency is a permanent governmental instrument. Development of sunshine legislation reflects the concern by legislators toward the proliferation of miscellaneous boards, commissions and other special units of government which, their critics assert, have outlived their usefulness.

Some state governments have handled the problem of proliferation and obsolescence through constitutional revision that reduces the total number of agencies or process of governmental reorganization. Other states have passed "sunset" laws. This makes particular sense in the case of special agencies of government, including miscellaneous multi-membered boards and commissions.

In the case of the Commonwealth of the Northern Mariana Islands there exists a sunset-type situation in a number of boards and commissions that either never became active, have outlived their usefulness, or should be integrated into more permanent instruments of government. Most of these situations will be resolved when the legislature enacts a comprehensive government enabling law establishing the machinery of government.

It would be useful in addition to take legislative action to identify those instruments of government that are considered to be permanent agencies, such as the constitutionally established

department of education and those units, not otherwise structured as part of a permanent department or agency, that are expected to perform specific functions for a stated period of years. With respect to the latter group, it may be desirable to establish for each such agency at the time it is established to have an automatic expiration date.

Broadly sunset legislation can be accomplished in one of several ways. The following alternatives should be considered:

1. Enact an omnibus law that provides for the automatic disestablishment of any agency of government after a stated number of years, except for agencies that are created as permanent departments and agencies.

2. Authorize the governor by legislation to propose the discontinuation of any agency or function when in his judgment no useful purpose remains and make such action subject to legislative veto. This arrangement could take the form of reorganization acts, the method in the constitution for reorganizing the government.

3. Provide in every act of the legislature creating a nonpermanent instrument of government a provision on its expiration. To take a single example, if the legislature were to create a special study commission on underwater mineral recovery, that bill would contain a section saying "This act shall expire and the commission established under it shall cease to exist no later than five years from the effective date of the act."

In our judgment a hybrid approach chosen from among these alternatives would provide sufficient flexibility to avoid a too rigid approach.

Recommendation 457: We recommend that the government enabling act creating the permanent infrastructure of the government provide that agencies of government that are not intended to be permanent be designated as nonpermanent agencies and that they may be discontinued by reorganization plan of the governor or that they automatically cease to exist no later than five years from the date they are created unless they are renewed by legislative action.

Recommendation 458: We recommend that for those instruments of government for which a longer but still not permanent life is desired, the legislature specifically designate the period of years that that agency shall be allowed to exist before it may be discontinued by action of the governor through the organization act or automatically.

Commonwealth Seal

The Commonwealth shall adopt an official seal for the purpose of authenticating legislative acts and other official documents, e.g. certification of the election of the Representative to the United States, and for other appropriate purposes, including ceremonial ones.

Recommendation 459: We recommend that the legislature enact a statute to provide for the design, approval and use of the official seal of the Commonwealth.

Responsibility for design of the official seal should rest with the governor, but the seal would not have official status until approved by the legislature. Responsibility for custody of the seal and for the authentication of acts under it would rest with the attorney general. Violations of the standards of the act or of officially designated regulations governing its use (to be issued by the governor as executive orders) would constitute a misdemeanor punishable by fines of \$100 or imprisonment for ten days, or both.

Freedom of Information

Democracies flourish as open societies. This means that governmental actions are public actions; restrictions on the public's right to know should be few in number. Legislation proposed in the Congress of Micronesia in 1975 (SB No. 6-12) and California, New York and New Jersey law have been used as the basis of a proposed Commonwealth Freedom of Information Act. The act would assure the right of the public to inspect records and secure copies. The essence of state legislation is a change from the requirements of common law that, ". . . a citizen wishing to inspect a public agency record must demonstrate a special or personal interest in the matter or issue."* The new principle is that the public has a right to know.

Not every document or record should be open to public scrutiny. Records pertaining to individuals if made available might invade the right of personal privacy (such as medical records) or impede law enforcement efforts or labor negotiations. Others may impede the process of contract awards. Correspondence between a citizen and his legislator should be protected. Most tax returns and payroll records also would be protected. But legislative records, copies of contracts and leases, opinions of the attorney general, orders of the judiciary, agency rules and regulations, all are public records and should be accessible.

Recommendation 460: We recommend that the legislature enact a freedom of information act that assures citizen access

*Port Authority of New York and New Jersey, Policy and Procedures, October 2, 1977.

to public records while protecting specified classes of documents;
and that administration of the act be assigned to the attorney
general.

"Sunshine Legislation"

The proposed freedom of information act should be complemented by a law that mandates open meetings of public bodies. The popular name for recent laws in this area are "sunshine" laws. Legislative and executive proceedings should be conducted in open meetings, with advance notice of them. There are exceptions to meet legitimate need for confidentiality. Records are to be kept of meetings in order to assure that the decisions reached are documented. The Northern Mariana Islands have had a tradition of an open society, and legislation of this nature would be in that tradition. What must be considered, however, is the administrative burden that falls on persons charged with enforcement of these provisions. Formal notice and records requirements can be time consuming and costly. The final determination of legislation in this and related areas should be tempered by what is realistic.

Recommendation 461: We recommend that the legislature enact a public meetings and records act to assure that most public meetings, including legislative sessions and legislative committee meetings, are open to the public and that notice is given of public meetings.

Codes of Conduct

The constitution mandates enactment of codes of conduct for members of the legislative and executive branches. Rules of the judiciary must address the subject of judicial ethics. The problem of ethics and their enforcement and methods to minimize conflicts of laws situations have perplexed governments at every level throughout history. It is not our job to sermonize. We propose legislation that if enacted and effectively enforced will minimize opportunities for misuse of the public trust and avoid conflict situations. A critical component of legislation is disclosure of potential conflicts and clear standards on what is allowed and what is not. We also propose a process by which advisory opinions can be given, building on successful efforts in other jurisdictions.

Recommendation 411: We recommend that the legislature enact ethics legislation that establishes a code of conduct for public officials and that provides a standard of behavior for persons in positions of public trust.

Eminent Domain

The legislature should enact an eminent domain act that clarifies the procedures by which the Commonwealth acquires private property for public purposes pursuant to Article XIII of the constitution. Section 2 of that article prohibits the taking of private land when suitable public land is available. This limitation does not apply to the taking of private property other than land. Public lands other than submerged lands are within the jurisdiction of the Marianas Public Land Corporation. If the Corporation declines to make a portion of public land available to the executive branch for a public purpose, the executive branch may exercise the power of eminent domain through condemnation proceedings in order to secure private land. This may pose a constitutional issue pertaining to the "no suitable public land" provision.

There is no constitutional prohibition against the exercise of the power of eminent domain by entities of the Commonwealth other than the Marianas Public Land Corporation. The Corporation would not by virtue of Article XI be entitled to manage and dispose of lands acquired under eminent domain. Article XI, in fact may bar the Corporation from owning land that was acquired through eminent domain.

We propose that the authority to determine condemnation proceedings (that is, eminent domain) of real or personal property be vested in the Commonwealth trial court and its trial division. The statute should provide a process by which the "suitable public land" alternative is determined.

Recommendation 462: We recommend that the legislature enact an eminent domain act and that determinations of condemnation awards and related matters affecting the acquisition of private property be within the jurisdiction of the land division of the Commonwealth Trial Court.

Historic, Landmark and Cultural Preservation

Article XIV of the constitution was designed to preserve for the benefit of the people the marine resources of the Commonwealth; the protection of the island of Managaha, the islands of Sariguan (or an alternative island) and Maug and other islands as uninhabited places; and the protection and preservation of places of importance to the culture, traditions and history of the people of the Northern Mariana Islands. Artifacts and other things of cultural or historical significance are to be "protected, preserved and maintained in the Commonwealth as provided by law."

The Mariana Islands have not done well in historic and landmarks preservation. The extant buildings of the Japanese period are defaced and in bad condition. There are few structures of the German and Spanish eras. The lack of access to the uninhabited islands has been the principal means of preventing abuse to them. A casual attitude has surrounded the collection and removal of artifacts from the early history of the islands.

The process of landmarks identification and their inclusion in the national register has begun and is a commendable effort. But restoration, cleanup of historic sites, identification of major places of historical and cultural significance lag.

A tough law is needed to protect artifacts and places of great significance. It must be capable of enforcement and must be vigorously enforced. The Commonwealth should establish a museum in which artifacts can be displayed, not just for tourism purposes but for the enrichment of the citizens of the Commonwealth.

Recommendations 462: We recommend that the legislature enact a comprehensive historic, landmark and cultural preservation act and that the act contain strong penalties for violations.

Land Use Planning, Zoning, Subdivision Controls, And Building Codes

For the three principal populated islands, a formal land use plan should be adopted, including division of areas into zones, each zone having particularized allowable uses (residential, light commercial, agricultural, industrial). Within a basic land use plan and zoning system, subdivision controls and building codes may be appropriate. PPDA

Because much of the control of land vests not in the legislative or executive branches of the government, but in the Marianas Public Land Corporation, application of the American experience in land use controls will not be easy. The Constitution requires the Corporation to adopt a comprehensive land use plan (Article XI, section 5(f)). Short of failing to respond at all to this requirement, it is difficult to perceive how the governor or the legislature could force the Corporation to adopt a system of land use, including the division of public lands into zones for varied uses. Likewise, the Corporation may choose to ignore land use planning of private lands or developmental efforts not on public lands.

Hopefully, this state of affairs will not happen. Much will be gained by cooperation between the central government planners and the Corporation's planners. In Part III of the IPA report these problems were noted and institutional bases proposed to encourage cooperation. Joint technical studies should be encouraged. Planning technical and policy advisory bodies or, at a future time, a formal planning commission, should include representation of the Corporation. We would hope that the Corporation would view its role as the trustee of public lands, less so than as the operational manager of those portions of the public lands used for active public purposes, such as the location of public buildings and recreation sites.

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Land use and agency legislation should not impose artificial standards in the built-up areas of Saipan, Rota and Tinian. An extended public education process will be required to build confidence of citizens in planning processes and comprehension of what is at stake. Decisions on how to use lands in the Marianas ultimately rest with the citizens and their elected representatives. While mainland observers may view with dismay the building of a center for cockfights near a public school, if that is what the people want, so be it.

Value
Judgments

Recommendation 463: We recommend that the legislature enact a land use planning and zoning act, and authorize within that act subdivision control regulations.

The legislature also should consider enactment of building codes to assure minimal safety and health controls. We caution against highly complex code arrangements that would be unrealistic in the Northern Mariana Islands and would discourage investments and construction.

Recommendation 464: We recommend that the legislature adopt appropriate building codes modified to the particularized needs of the Northern Mariana Islands.

Submerged Lands, Natural, and Marine Resources Management

In Part III of the IPA report, we proposed that responsibility for natural resources, including the marine resources, of the Commonwealth, be vested in a department of natural resources. That department will have the task of implementing the farsighted constitutional requirements on marine resources (Article XIV, Section 1) and submerged lands (Article XI, Section 2). Legislation will be required governing the use of these lands, including potential mineral deposits, and the marine resources in the seas surrounding the islands that comprise the Commonwealth.

Many serious problems pertaining to off shore drilling, fishing rights and related matters have national and international aspects. In our view it would be desirable for the Commonwealth to assert its interests in appropriate forums and to adopt legislation to preserve and protect resources within its jurisdiction. Similarly, legislation should be adopted to enhance and preserve the wildlife and vegetation on the islands.

Recommendation 465: We recommend that the legislature enact comprehensive legislation to preserve, protect, and enhance for the benefit of the Commonwealth its natural and marine resources and the submerged lands within its jurisdiction.

Public Services Agency and Commission

Utility services for the Northern Mariana Islands, with the exception of telephone service, are provided by the Department of Public Works. The PPDC and Nathan reports address facets of utility services and propose considerable upgrading to assure an adequate supply of pure water, good sewage disposal, and sufficient electric power to meet future demands. Rate adjustments are essential, particularly for electric power. It may be feasible for a new Saipan power plant to be constructed with private venture capital, revenue bonds, or covenant-authorized construction funds, or combinations.

Institutionally, a strong case can be made for establishing a public benefit corporation to construct new facilities and to manage public power operations. If this is done, we prefer that the enabling legislation be sufficiently flexible to allow such an instrument over time to assume responsibility for power on the neighbor islands and for other utility functions. This would avoid proliferation of independent or quasi independent agencies.

Recommendation 466: We recommend that the legislature enact legislation to create a public services agency with authority and fiscal capacity to assume responsibility for electric power on Saipan and, with appropriate subsequent legislative approvals, assumption of responsibility for other power functions, for the delivery of pure water supplies, and for sewage disposal.

Traditional experience with utilities, particularly private corporations is to establish a state regulatory commission to set and enforce standards of service and to approve rates. This subject is discussed in a separate report (see Appendix) . It may be desirable to establish such an entity on an advisory basis now, to guide the rate making activities of public works and to become a formal regulatory body over utilities whenever there is a fundamental institutional change in operating utilities' functions. Such regulatory body would have jurisdiction over telecommunications services, now under private franchise.

Recommendation 467: We recommend that the legislature establish an advisory commission on utility rates and standards of service respecting telecommunications and utility functions of the department of public works; and that such a commission be organized as a public services commission at the time the public services agency is established.

Development Bank and Development Corporation

Article XI, Section 6(c) of the Constitution refers to legislative action establishing a Marianas development bank. It does not require that the legislature so act. The Robert R. Nathan report proposes that a development bank be established with particular responsibility for economic development loan funds. The Nathan report also proposes the establishment of a development corporation to encourage private enterprise. We concur in these proposals.

Recommendation 468: We recommend that the legislature authorize the incorporation of a Marianas Development Bank and a Marianas Development Corporation for the purpose of assuring maximum utilization of economic development loan funds and other resources, and to encourage private investment and growth in the Commonwealth.

Private and Not for Profit Corporations and Business
Associations

The Commonwealth will inherit Trust Territory laws governing private business corporations. These laws should be revised and enlarged to facilitate business growth and not for private institutions, including educational institutions. It is our view that this should be done through the law revision process proposed above. In Part III of the IPA report we proposed that the attorney general serve as the registrar of corporations.

Recommendation 469: We recommend that as part of the law revision process the statutes governing private business associations and partnerships, corporations and not for profit and membership corporations be revised and re-enacted.

PART V

SELECTED DRAFT LEGISLATION

X

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

BE IT ENACTED BY THE NORTHERN MARIANA ISLANDS COMMONWEALTH LEGISLATURE:

This act shall be known and may be cited as the Commonwealth Government Act of 1978.

Title 1. THE JUDICIARY OF THE NORTHERN MARIANA ISLANDS

Section 1. Commonwealth Trial Court (a) There is established the commonwealth trial court to consist of a civil division, a criminal division, and a land division.

(b) The commonwealth trial court shall be composed of two full-time judges. No person shall be appointed a judge of the Commonwealth Trial Court unless the person has:

(1) Been graduated from an accredited law school in the United States and who at the time of appointment been admitted to practice before the bar of the Northern Mariana Islands, or the bar of a state, territory or possession of the United States and who is eligible for admission to the bar of the Northern Mariana Islands or the bar of the Trust Territory of the Pacific Islands;

(2) Practised for a minimum of five years as a trial attorney or for a minimum of two years as a judge of a court of record which has jurisdiction comparable to the civil or the criminal jurisdiction of the commonwealth trial court or who has a combination of legal practice, legal or related research, court administration, or law school teaching for a total of at least ten years; and,

X
Definition

(3) Has not been convicted of a felony in the commonwealth ~~and~~ or in any area under the jurisdiction of the United States.

(c) No person shall take the oath of office as a judge of the commonwealth trial court who has not been admitted to the bar of the Northern Mariana Islands or the bar of the Trust Territory of the Pacific Islands.

inconsistent

Automatically becomes judge below X

Not necessary

(d) At least one of the judges of the commonwealth trial court shall possess special qualifications to deal with land matters.

(e) The governor shall designate one judge of the commonwealth trial court as chief judge and the other judge of the commonwealth trial court as associate judge. The governor in his discretion may redesignate the chief judge and associate judge whenever there is a vacancy or at the expiration of a period of one year from the date of such designations or any redesignations.

Section 2. Residence of Commonwealth Trial Court Judges (a) A person who is otherwise eligible for appointment as a judge of the commonwealth trial court may be appointed whether or not at the time of his taking the office he is a domiciliary or a resident of the Northern Mariana Islands.

(b) No person shall serve as a judge of the commonwealth trial court who does not establish within thirty days and maintain during his tenure as a judge a place of residence in the Northern Mariana Islands.

Section 3. Service on Rota and Tinian

The chief judge shall assign one full-time judge of the commonwealth trial court to Rota and one full-time judge of the commonwealth trial court to Tinian and shall assign judges to the civil, criminal, and land divisions. The chief judge may assign a judge of the commonwealth trial court to hear cases or perform other judicial functions in the islands north of Saipan.

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Section 4. Parts, Terms and Calendars

Within each division of the commonwealth trial court the chief judge may establish one or more parts, terms or calendars for the orderly management and disposition of matters before the court.



** New Concept
Not in Report*

The discretion vested pursuant to this section shall terminate at such time as rules of the judiciary become effective unless the rules provide for the continuation of such discretion.

Section 5. Referees

The chief judge may appoint one or more persons who are admitted to practice before the bar of the Northern Mariana Islands or the bar of the Trust Territory of the Pacific Islands to serve as referees to expedite the disposition of small claim cases and traffic cases. No judgment or order shall be issued by a referee. He may recommend a judgment or order to the appropriate judge of the commonwealth trial court. The rules of the judiciary shall determine the duties and responsibilities of referees. Referees shall serve on a voluntary basis and are subject to provisions of the code of conduct of the judiciary. A judge of the Commonwealth Trial Court in his discretion may suspend or terminate the services of a referee. The chief judge may issue certificates of appreciation to referees.

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Section 6. Assignment to United States District Court for the Northern Mariana Islands

(a) The chief judge shall assign one of the judges of the commonwealth trial court to sit as a judge of the United States District Court for the Northern Mariana Islands when it sits as an appellate panel other than a judge who has conducted the trial of a case in the commonwealth trial court that is before the United States District Court sitting as an appellate court panel.

(b) No judge of the commonwealth trial court sitting as a member of an appellate panel of the district court shall receive any additional compensation for such service but he shall be reimbursed for any actual and necessary costs in connection with such service that are not otherwise reimbursed to him by the district court or the federal judiciary.

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Section 7. Appeals

The United States District Court for the Northern Mariana Islands shall hear and determine all final appeals from the judgment and orders of the commonwealth trial court. Motions for rehearings, judgments and orders, recommendations of referees or any other matter internal to the functioning of the commonwealth trial court shall be determined by the commonwealth trial court.

Section 8. Court Administration

The chief judge, with the concurrence of the associate judge, shall appoint a clerk of the court who shall be within the civil service. Assistant clerks, court reporters, interpreters and other administrative or clerical staff shall be assigned to the commonwealth trial court within budgetary appropriations and shall be within the civil service. All persons employed by or otherwise serving the commonwealth trial court in any capacity shall be subject to the codes of conduct that may be applicable to judicial administration in the Northern Mariana Islands.

Section 9. Advisory Commission on the Judiciary

(a) There is established an advisory commission on the judiciary to consist of five members to be appointed by the governor with the advice and consent of the senate. No person employed by the government of Northern Mariana Islands shall be appointed to or serve on the advisory commission on the judiciary. Of the members appointed at least two shall be attorneys admitted to practice before the bar of the Northern Mariana Islands or the Trust Territory of the Pacific Islands and at least two shall not be lawyers. The governor may appoint one person who is an attorney admitted to practice before the bar of a state, territory or possession of the United States other than the bar of the Northern Mariana Islands or the Trust Territory of the Pacific Islands. At least one member of the advisory commission

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[then 3 attorneys

shall be a resident of Saipan and at least one member shall be a resident of Tinian or Rota.

(b) Each member of the advisory commission shall serve a term of three years, but of the members first appointed one shall be appointed to serve a term of one year, two shall be appointed to serve a term of two years, and two shall be appointed to serve a term of three years. No member of the advisory commission shall be paid for his service on the advisory commission but shall be reimbursed for actual and necessary expenses in connection with service on the advisory commission within budgetary appropriations.

(c) In addition to its other duties and responsibilities, the advisory commission on the judiciary shall assist the commonwealth trial court and in the preparation and review of a code or codes of conduct and ethical behavior for judges and members of the bar of the Northern Mariana Islands and shall submit its recommendations to the chief judge. In conducting its duties and responsibilities pursuant to this subsection, the advisory commission may employ staff or consultants within budgetary appropriations for that purpose.

Section 10. Protection of Juveniles in Criminal Juvenile Proceedings

The chief judge may establish a juvenile term within the criminal division. The rules of the commonwealth trial court shall prescribe means to assure the protection of persons under eighteen years of age in criminal judicial proceedings. The chief judge shall appoint a juvenile assistance officer. The officer and any assistants shall be within the civil service.

Section 11. Court of Record

The commonwealth trial court is a court of record. The rules of the judiciary may provide that a part or a term of a division of

*How about
trial assistants*

the commonwealth trial court, other than the land division, is a court not of record.

Section 12. Small Claims

In the event a small claims part or calendar is established, it shall be limited to cases in which the value of the matter in controversy does not exceed the sum of five hundred dollars.

Section 13. Authority to Administer Oaths

A judge of the commonwealth trial court may administer the oath of office prescribed pursuant to article XVII, section 1 of the constitution but this shall not serve as a limitation upon other persons who may administer the oath of office.

Section 14. Admission to the Bar of the Northern Mariana Islands

Any person who is admitted to practice before the bar of the Trust Territory of the Pacific Islands on the effective date of the constitution is a member of the bar of the Northern Mariana Islands and shall be entitled to receive certification from the commonwealth trial court to that effect. The court may impose a filing fee to cover the expenses of issuing such a certificate not to exceed ten dollars. Nothing contained in this section shall constrain the scope of rules of the judiciary on admission to the bar in any other respect. No person shall practice before the commonwealth trial court at the expiration of thirty days from the date a judge of the commonwealth trial court appointed by the governor has taken the oath of office, unless he or she has paid the filing fee, if any, and has received a certificate.

Section 15. Land Matters

The Marianas land commission is transferred and made an administrative unit of the land division of the commonwealth trial court but shall have no authority to make any final determination

respecting actions involving land. It shall perform fact finding functions on behalf of the land division and perform land registration functions within budgetary appropriations. All persons employed by the judiciary as part of the land commission shall be within the civil service and shall not have judicial titles.

Title II. NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

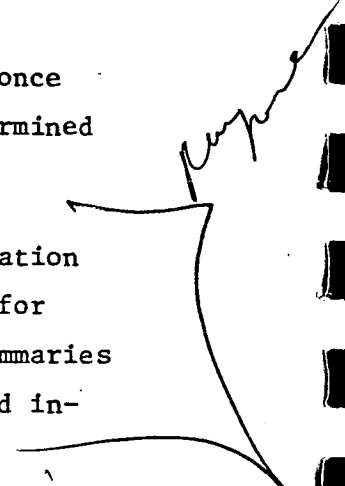
Section I. Legislative Conference

(a) There is established as a part of the legislature the legislative conference to serve as an information exchange forum for senators and representatives and for senators-elect and representatives-elect. The legislative conference shall not propose or act upon any legislative matter.

(b) The legislative conference shall meet at least once each year annually on dates and for periods of time to be determined by concurrent resolution.

(c) The legislative conference shall provide information on the duties and responsibilities of legislators; techniques for securing efficiency in the conduct of legislative business; summaries of major issues that may confront the commonwealth; and related information exchange and technical matters.

(d) The joint committee on rules and procedures shall determine the manner of organization and scope of the legislative conference. Within budgetary appropriations, the joint committee on rules and procedures may authorize employment of staff and consultants to assist the office of professional services in legislative conference matters. Administrative support for the legislative conference shall be provided by the administrative officer.



*Needs seen only
w/ new legislature - question
annual hours*

Title III. THE EXECUTIVE BRANCH

Section I. Office of Governor (a) There is established the office of governor of the Northern Mariana Islands that shall consist of the immediate office of the governor and the executive office of the governor. The lieutenant governor, the executive assistant for Carolinian affairs, and the governor's council shall be within the office of the governor.

(b) The immediate office of the governor shall consist of the governor, a private secretary, and an assistant to the governor. The governor shall appoint the private secretary and assistant.

*W/out
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outside
civil ser*

(c) The executive office of the governor shall consist of the following:

(1) An office of the chief administrative officer, to be headed by a chief administrative officer appointed by the governor with the advice and consent of the senate; a deputy chief administrative officer appointed by the governor who shall have such duties and responsibilities as may be assigned to him by the chief administrative officer and, in addition, shall facilitate the delivery of government services on Rota, Tinian and the islands north of Saipan; and such other specialists and assistants who may be authorized pursuant to budgetary appropriations and who shall be within the civil service. There is established within the office of the chief administrative officer a training unit to be headed by a training officer who shall be appointed by the governor upon recommendation of the chief administrative officer. The training officer and other personnel of the training unit shall be within the civil service;

*→ a deputy
of Court?*

(2) A planning-budgeting officer who may have such other title as may be specified by the governor, who shall be appointed by the governor with the advice and consent of the senate and such other specialists and assistants as may be authorized pursuant to budgetary appropriations and who shall be within the civil service. A principal planner,

economic development

and a physical planner
-526-

* budget officer, and federal program coordinator shall be appointed to head units within the planning-budgeting office by the governor upon recommendation of the planning-budgeting officer and who shall be within the civil service;

(3) An office of assistant to the governor for program and legislative review to be appointed by the governor with the advice and consent of the senate; and,

* (4) A public information and protocol office to be comprised of a single individual who shall be appointed by the governor and shall be within the civil service.

(d) The governor shall receive official visitors and conduct official ceremonies of the commonwealth and he may delegate such duties and responsibilities to the lieutenant governor and to elected or appointed officials of the commonwealth.

Section 2. Representative to the United States (a) The representative to the United States shall receive an annual salary of \$? and an allowance for expenses as provided in the annual appropriation act. There is authorized to be appropriated funds for the establishment of office space in the District of Columbia and the appointment of one full-time secretary and one full-time professional staff assistant. The secretary and assistant, in the event they are residents of the United States, shall be contract employees. *(if not civil service)*

(b) In addition to his other duties and responsibilities the representative to the United States shall coordinate all activities of the commonwealth government respecting federal grants coordination in the District of Columbia. The representative may join and participate on a non-partisan basis those professional associations and organizations that will enhance the best interests of the commonwealth. The representative, within budgetary appropriations for such purpose, may attend conferences of organizations representing state governments, counties, and local governments, as well as professional societies of public administration.



(c) No elected official, other than the governor or the lieutenant governor, and no employee of the commonwealth or any political subdivision of it shall testify before any congressional committee in the District of Columbia without first informing the representative to the United States. It is the intent of this subsection to assure effective coordination in all congressional testimony given by commonwealth officials and employees.

(d) The representative to the United States is subject to any code of conduct that is enacted by the legislature for the governor, lieutenant governor or heads of executive departments.

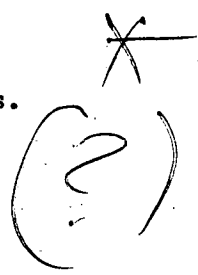
(e) In the event that the Commonwealth is required to send an official spokesman to appear before or testify at any session of an official organ of the United Nations, the representative to the United States shall perform such assignment but shall not do so until notice is given to the United States Department of State or its Mission to the United Nations in the City of New York.

*only?
Foreign aff.*

Section 3. Lieutenant Governor

[RESERVED]

Section 4. Office of Attorney General (a) There is established the office of attorney general, which shall be an executive branch department. No person shall be appointed as attorney general who does not have the qualifications of a judge of the commonwealth trial court pursuant to section one of title I of this act. Assistant attorneys general and other staff of the office of attorney general shall be appointed within the civil service and within budgetary appropriations. No person shall be appointed as an assistant attorney general who has not been graduated from an accredited law school and is admitted to practice or, at the time of his appointment is eligible to be admitted to practice, before the bar of the Northern Mariana Islands or of the Trust Territory of the Pacific Islands. An assistant attorney general at the discretion of the attorney general may perform



* any duty and responsibility vested in the attorney general.

(b) In addition to his other duties and responsibilities, the attorney general shall retain the seal of the commonwealth and authenticate official actions and documents of the commonwealth, register business, educational, and not-for-profit corporations, appoint or certify the appointment of notaries public, issue notarial certificates, perform the functions of immigration, emigration and naturalization, handle any matter pertaining to alien property, be responsible for the publication of laws and compilation of the code of the commonwealth and compilations of rules, regulations and executive orders of the governor and of agencies of the commonwealth.

(c) The attorney general shall review and approve as to form and legal capacity all proposed contracts, bonds, or other evidence of contractual obligation of the commonwealth, its branches, departments, agencies and instrumentalities, including public corporations.

(d) The attorney general shall act as counsel to all branches, departments and agencies of the commonwealth including public corporations other than the Mariana Public Land Corporation and the Mariana Public Land Trust; the attorney general may act as counsel to the Corporation or Trust at their request. It is the intent of this subsection that there be a single legal office of the commonwealth and that the employment of separate legal staff of agencies, including public corporations, be disallowed except in unusual circumstances. With the consent of the attorney general and within budgetary appropriations, a branch, department, agency or public corporation of the commonwealth may employ or retain special legal counsel for particular matters. In the event of any charges brought against the attorney general, the prosecution of such charges shall be done by counsel retained for that purpose and shall not require the approval of the attorney general.

what are these?

(e) There is established in the office of the attorney general an office of immigration and naturalization to be headed by a director of immigration and naturalization appointed by the governor on the nomination of the attorney general.

Does not meet in advice + consent in context.

(f) Unless otherwise provided by law, the attorney general shall be responsible for the administration of any code of conduct or ethics that may be enacted into law pertaining to the legislative or executive branches of the commonwealth. The attorney general shall assign an attorney in his office as commonwealth ethics officer who shall assist any board of ethics that may be established.

Section 5. Public Defender (a) There is established within the executive branch the office of public defender to be headed by the public defender appointed by the governor with the advice and consent of the senate. No person shall be appointed to the position of public defender who does not meet the qualifications of a judge of the commonwealth trial court pursuant to section I of title I of this act.

(b) [Reserved for Carryover of Statutory Duties and Responsibilities]

Section 6. Board of Parole* (a) There is established the board of parole to consist of three members who shall serve terms of six years to be appointed by the governor with the advice and consent of the senate. Of the members first appointed one shall be for a term of two years, one shall be for a term of four years, and one shall be for a term of six years. At least one of the members of the board shall be an attorney admitted to practice before the bar of the Northern Mariana Islands or the Trust Territory of the Pacific Islands; and at least one member shall be a woman.

only six years

(?)

* It is intended that the jurisdiction of the Board of parole will be specified more fully in the Criminal Laws and appropriate Codes of Criminal Procedure.

(b) Members of the board of parole shall not be paid for their services on the board but shall be reimbursed for actual necessary expenses in connection with their duties and responsibilities on the board within budgetary appropriations.

(c) The board of parole shall be located in the office of attorney general. The attorney general shall provide clerical and other support to the board of parole and available data on applications that come before the board. The department of emergency services and other departments and agencies shall cooperate with the board of parole in providing additional data to enable the board to make sound judgments in determining applications for parole.

(d) In addition to its other duties and responsibilities, the board of parole shall receive and may approve applications for parole by persons who have been convicted of crimes in the commonwealth. Parole shall be granted in a manner consistent with provisions of law on sentencing. Members of the board of parole shall supervise or authorize supervision of persons who are on parole. The board of parole may revoke the granting of parole when in its judgment the conditions of parole have been violated.

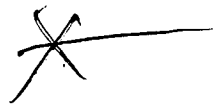
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Section 7. Civil Service Commission; Personnel Office* (a) There is established the civil service commission to consist of three members to be appointed by the governor with the advice and consent of the senate for six-year terms. Of the members first appointed, one shall be for two years, one shall be for four years, and one shall be for six years. No member of the commission shall serve for more than the total of two full terms or one full term plus any term that is less than a full term. No member shall be appointed or serve as a member of the civil service commission who is actively involved as an officer of a political party or who within a period of one year prior to his or her appointment has been an elected official of the commonwealth or a person serving under appointment of the governor. At least one member of the commission shall be a woman.

Why six years

How about Salary

*It is the intent of this section to establish the civil service commission and personnel office but not to incorporate at this time any substantive revision of personnel laws governing the commonwealth.



(b) There is established within the civil service commission a personnel office to implement the personnel plans and policies of the commission and to conduct day-by-day commonwealth personnel management functions, including classification and recruitment, appointment, promotion and discipline, payroll administration, other than payroll matters handled by the department of financial administration, labor relations and related functions. The personnel office may perform personnel training functions at the request of the chief administrative officer.

(c) The civil service commission shall prepare a comprehensive personnel management plan for the commonwealth and submit copies of such plan, including proposed personnel policies, to the governor and legislature. The plan and proposed policies shall include consideration of a career management service of technical, professional, management, administrative and supervisory personnel to meet the managerial needs of the commonwealth. The commission shall establish a system of appointment and promotion for persons within the civil service based on merit and fitness demonstrated by examination or by other evidence of competence and shall establish such system of written or oral examination or evidence of competence.

(d) The personnel office shall be headed by a personnel officer appointed by the civil service commission. The personnel officer shall serve as secretary of the civil service commission. No person shall be appointed personnel officer who does not have professional qualifications for that position in personnel administration and management. The commission shall establish and publish the professional qualifications for the position of personnel officer and either constitute itself a search committee or appoint a search committee to locate suitable candidates.

what do you mean by profess.?

(e) The civil service commission shall be the personnel board of the commonwealth for the purpose of hearing and determining any appeals from any decision made by the personnel office with respect to a matter within the jurisdiction of the civil service commission.

(f) The civil service commission, consonant with the constitution and provisions of law, shall establish full employment opportunity programs within the commonwealth and adopt policies and regulations with respect to the administration of such programs. The commission in its annual report shall contain a summary of equal opportunity employment activities in the public service of the commonwealth and make recommendations for improvement or any legislation that may be needed for the governor and legislature.

W/ B. C. W.

Section 8. Board of Professional Licensing (a) There is established a board of professional licensing to be composed of six members, including the superintendent of education ex officio, director of public works ex officio, and personnel officer ex officio, and three citizen members to be appointed by the governor with the advice and consent of the senate for six-year terms. Of the three citizen members first appointed one shall be appointed for a two-year term, one for a four-year term, and one for a six-year term. No member of the board shall receive any salary for service on the board but shall be reimbursed for actual and necessary expenses in connection with service on the board within budgetary appropriations.

(b) The board of professional licensing shall be located in the civil service commission. The personnel officer shall serve as secretary of the board and administer any testing or credentializing activities of the board. The personnel officer shall assign staff to the service of the board within budgetary appropriations.

X

(c) The board shall license or establish the requisite credentials of persons who seek to practice in the following professions or trades: architects, engineers, surveyors, land surveyors, plumbers, electricians, carpenters, ship's officers, barbers and beauticians, and such other professions and trades as may be within the jurisdiction of the board of professional licensing pursuant to law. It shall not have jurisdiction over the admission to the bar or the disciplining of attorneys, the licensing or certification of teachers, or the licensing, certification or credentialing of persons in the healing arts.

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(d) The board shall determine those professional or trade organizations within its jurisdiction whose credentialing certifications it will accept as the basis for approving applications to practice a profession or trade within the jurisdiction of the board. The board may accept the license or certification issued by an agency of the United States government or a state or political subdivision of a state or of a territory or possession of the United States. The board may require that an applicant successfully complete a written examination, an oral examination, a medical examination, or provide evidence of competence which the board itself administers. The board may require that an applicant take an examination administered by an appropriate professional organization. The board may contract for the purchase or other acquisition, use, scoring, and validation of professional tests.

(e) The board shall issue regulations establishing the criteria and standards for licensing or authorization to practice a profession or trade within the jurisdiction of the board.

Section 9. Public Auditor (a) There is established as an independent agency the office of public audit to be headed by the public auditor. No person shall be appointed as public auditor who is not a certified public accountant with at least three years of experience in governmental accounting or finance. The public auditor shall be appointed

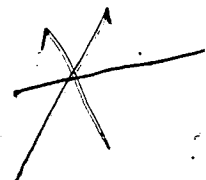
for a term of six years and no person shall serve as public auditor for more than two consecutive full six-year terms or the balance of an unexpired term plus two full six-year terms.

(b) There shall be in the office of public audit a deputy public auditor to be appointed in the same manner as the public auditor and have the qualifications of public auditor and who shall have such duties and responsibilities as may be assigned by the public auditor.

(c) The public auditor shall review the system of accounts proposed to be established by the department of financial administration or by or for any other branch, department, agency or instrument of the commonwealth including public corporations.

(d) The audit duties and responsibilities of the public auditor shall extend to persons or corporations having contracts with the commonwealth with respect to the books and accounts arising from such contracts. In the event that a contractor fails to make his books or accounts respecting any government contract with the commonwealth available to the public auditor or to his representative, the contract shall be cancelled immediately by the contracting authority of the commonwealth or by the attorney general. No contract shall be executed on behalf of the commonwealth unless it contains provision acceptable to the attorney general and the public auditor authorizing the audit of the books and accounts of the contractor by the public auditor with respect to the government contract.

(e) In addition to his other duties and responsibilities, the public auditor shall prepare annually and at such other times as he may determine a report or reports on the cash and financial accounts of the commonwealth, including pension, trust funds, obligations, outstanding indebtedness, and special federal accounts that are required to be maintained, and on the investment of idle cash. In such report or reports the public auditor may make recommendations of a legislative or administrative nature.



Section 10. Board of Elections

[It is intended that current legislation adopted by the Northern Mariana Islands legislature or any amendment to it be codified within this section for convenience]

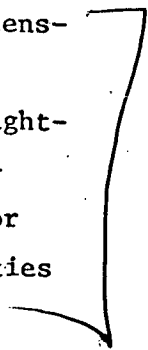
Section 11. Public Services Commission

[Reserved]

NONE

Section 12. Department of Community Affairs (a) There is established as an executive branch department the department of community affairs to be headed by a director of community affairs appointed by the governor. *(Advice + consent) ?*

(b) The department of community affairs shall be responsible for commonwealth functions and activities in the areas of social services, consumer protections, regulation of retail establishments not otherwise within the jurisdiction of the department of economic development, broadcasting, and alcoholic beverage control. Unless otherwise specified, by this act or other law the department shall be responsible for commonwealth programs and activities pertaining to improvement of local communities and villages, community development and community action programs, services to programs for children, young people and adults, and the elderly, local registration and licensing formerly exercised by the chartered municipalities on Saipan, Rota and Tinian, regulation and licensing of dogs, cats and other household pets, welfare assistance to the disadvantaged, local public recreation programs not otherwise provided by any other department, licensing of restaurants and other eating establishments, licensing of privately owned or operated public recreation or sports activities, including cock pits, motion picture houses, bars and night-clubs, issuance and regulation of permits related to fishweir, regulation and licensing of taxicabs and other for-hire or rental motor vehicle businesses, and any authorized consumer protection activities not within the jurisdiction of any other department or agency.



X
Section 13. Department of Economic Development (a) There is established as an executive branch department the department of economic development to be headed by a director of economic development appointed by the governor. *(Advice & consent)*

(b) The department of economic development shall be responsible for the stimulation and encouragement of the private economy of the commonwealth and shall conduct studies and promotional activities, not otherwise vested in any other department, agency or instrumentality of the commonwealth, to achieve such objectives. The department shall be responsible for administration of provisions of law affecting foreign labor; broadening of employment opportunities in the commonwealth; growth of commercial fishing and maritime industry; and licensing of business construction and businesses that are not otherwise regulated or licensed by any other department or agency of the commonwealth. The department shall be responsible for encouragement of harmonious labor relations in the private sector, other than matters pertaining to employees of the commonwealth.

by Divide
X
(c) The department shall have the responsibilities formerly vested in the foreign investment board, and there shall be organized or continued within the department an office or board to encourage tourism and the reception and enjoyment of visitors to the Northern Mariana Islands. Unless otherwise provided by law, the organization of the Marianas visitors bureau pursuant to the Mariana Islands Visitors Bureau Act of 1976 (Mariana Islands District Legislative Act, November 21, 1976) shall be located institutionally within the department of economic development. Unless otherwise provided by law, the department of economic development shall be responsible for development and promulgation of regulations pertaining to the maritime industry. X

Section 14. Board and Department of Education (a) There is established the Northern Marianas Board of education to consist of five members. Of the members first appointed, two shall serve for a term of one year,

Group of four years

one shall serve for a term of two years, one shall serve for a term of three years, and one shall serve for a term of four years*. Vacancies shall be filled for the balance of the unexpired term. Of the five members at least one shall be a resident of Tinian, one a resident of Rota, and two shall be residents of Saipan; at least one member shall be a woman and one member shall be a person of Carolinian descent. No person shall be appointed as a member of the board who is not a qualified voter in the Northern Mariana Islands or who is an elected official or employee of the commonwealth. At least two members of the board shall be parents of children enrolled in the public schools.

(b) There is established as an executive branch the department of education to be responsible for public elementary, secondary and higher education in the commonwealth; the awarding and organization of all publicly funded scholarships and related aid programs in education and higher education; provision of adult educational and special skills education and training. The department shall administer provisions of law respecting regulation of privately provided education in the commonwealth; and it shall review and approve all applications for incorporation or establishment of educational institutions in the commonwealth.

(c) The department of education shall be responsible for provision of public library services and museums that may be established in the commonwealth and it may administer funds from private foundations, philanthropic or other sources with respect to libraries, museums and cultural institutions and activities. Unless otherwise provided by law or by any article of incorporation of a public entity within the jurisdiction of the department of education pursuant to this subsection, the governing policy board for public libraries and museums is the Northern Marianas board of education.

*Article III, Section 13 prescribes four-year terms for board members. They are appointed by the governor with the advice and consent of the Senate.

Except as otherwise provided by law, the department of education shall be responsible for adult basic education, standards of attendance and enforcement of laws pertaining to compulsory attendance, bilingual education, literacy training program, inspection and compliance activities respecting non-public educational facilities, special on-the-job training activities including those pertaining to youth employment as an educational activity, organization and servicing of a commonwealth research and reference library including special collections to service the judiciary and legislature, oversight of educational programs funded in whole or in part through the department of education at overseas locations, academic, commercial, vocational and special skills education and training, and special seminars and programs of cultural interest to the community at large.

(d) The board of education shall establish and promulgate professional qualifications for the position of superintendent of education and shall constitute itself or appoint a search committee to locate candidates for the position of superintendent of education. The board shall not appoint a person or enter into an appointment contract with a person or superintendent of education for a period of more than three years but such term may be renewed for like periods. The board shall not remove the superintendent prior to the expiration of his or her term except for cause and after notice of the charges against the superintendent and an opportunity is presented to the superintendent to be heard in his or her own defense. The salary of the superintendent of education shall be not less than the salary established for directors of executive branch departments.

(e) The governor shall choose from among the members of the board of education a president and a vice president to serve for two-year terms. The board may employ a secretary of the board on a full or a part-time basis within budgetary appropriations and the person holding such position shall be within the civil service but shall not be an employee of the department of education. The secretary shall report directly to the board through its president.

(f) In the exercise of the duties and responsibilities of the board of education to formulate policy over the public school system, the board shall adopt written policies in a manner consistent with the administrative procedures act. Any member of the board of education or any committee of the board itself may inspect any public school facility at any time and shall receive the full cooperation in doing so from the superintendent of education and all employees of the department of education, but shall take no remedial action. The board from time to time may advise the superintendent of education of any deficiency in the public school system relating to physical facilities, quality of instruction, conduct of teachers and students, or any other matter, but it shall not take any direct remedial action on its own other than changes in policy. The board shall issue an annual report on the state of education in the commonwealth.

(g) Unless otherwise provided by law the licensing or certification of teachers and any teacher's aides as educational specialists in the Northern Mariana Islands shall be the responsibility of the board of education administered through the superintendent of education.

(h) No diploma, certificate, or degree shall be granted by an educational institution other than the department of education unless the program and the awarding of such diploma, certification or degree has been approved pursuant to policies and regulations established by the board of education. No correspondent educational program, whether it involves or does not involve awarding or issuing of a diploma, certificate, or degree shall be conducted in the Northern Mariana Islands unless the program and curricula have been approved and licensed by the board of education through the superintendent of education.

(1) Corporal punishment in any school in the Northern Mariana Islands is prohibited. Violations shall be punished by a fine not to exceed one thousand dollars, imprisonment for a term not to exceed five years. The superintendent of education shall suspend any teacher or other person employed in the department of education who is charged with a violation of this subject or with any other crime against a student.

Section 15. Department of Emergency Services (a) There is established the department of emergency services as an executive branch department to be headed by a director of emergency services appointed by the governor. Unless otherwise determined by the governor the police chief shall be the person designated by the governor as director of emergency services who shall be paid at the salary rate established for directors of executive branch departments. The department of emergency services shall consist of a police force, a fire service, and a corrections and probation agency.

Inconsistent

(b) The police force shall be headed by a police chief. The fire service shall be headed by a fire chief. The corrections and probation agency shall be headed by a corrections and probation officer. The governor shall appoint the police chief, the fire chief and the corrections and probation officer. These shall be within the civil service.

(c) The department of emergency services shall be responsible for law enforcement, fire protection, corrections, juvenile rehabilitation, traffic regulation and enforcement, motor vehicle registration and inspection, civil defense but, unless otherwise specified, not disaster relief, protection and security guard services of public buildings, provision of police and security for public ceremonies and official meetings, control of stray animals and their disposition in a manner consonant with the public health and humane considerations, assistance in compliance enforcement of

*Good if - describe separate functions
of divisions*

regulatory activities of other departments and agencies of the commonwealth including public corporations and independent agencies, assistance in tax collection, enforcement of public environmental health, buildings and code inspections, and related activities, probation services for adult and juvenile offenders, rehabilitation services for young adults and adults, and criminal justice planning, improvement and public information related to the areas of law enforcement, criminal justice, fire prevention, and related matters. The director of emergency services may establish within the department one or more units of administration that will provide common services to the police force, the fire service, and the corrections and probation agency. It is the intent of this subsection to reduce operating costs to the maximum extent feasible and to maximize personnel utilization.

(d) In the event that the governor declares a state of emergency pursuant to article III, section 10 of the constitution, the director of emergency services shall act as the principal official responsible for mobilization of resources and the meeting of emergency conditions unless another designation is made by the governor or pursuant to law.

(e) In the event that criminal charges are brought against any member of the police force, including but not limited to the police chief, for any matter other than an offense or a misdemeanor, such person is automatically suspended without pay from his official duties but shall be paid retroactively in the event that he is found not guilty or the charges are dismissed. In the event that the director of emergency services determines that a member of the police force against whom charges have been brought, other than the police chief, would be placed in a financially hardship situation, he may request the chief administrative officer that such person be given temporary assignment in another department or agency on a temporary basis pending disposition of the charges against him. In the event that a member of the police force, including but not limited to the police chief, is convicted of a crime, other than an offense or a misdemeanor, such person is dismissed from the police force and shall

These are policy not organization

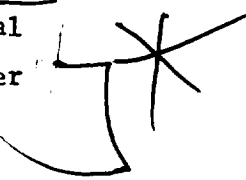
not be reemployed by the commonwealth government in any capacity for a period of at least three years. ✓

Section 16. Department of Financial Administration (a) There is established as an executive branch department the department of financial administration to be headed by a director of financial administration appointed by the governor. No person shall be appointed as director of financial administration who does not possess professional qualifications including at least a masters degree in an appropriate academic discipline or who is a certified public accountant and in addition has at least five years of progressively increasing experience in governmental finance and accounting or equivalent private-sector experience.

(b) The department shall have responsibility for collecting and depositing all locally raised revenues, from any source, including taxes, customs duties, excise tax revenues, license fees, payments for services, receiving and depositing all funds from federal government, establishing and maintaining bank accounts, maintaining the books of accounts of the commonwealth, managing trust and retirement funds of the commonwealth and related receipts, and establishing and maintaining special revenue accounts on behalf of any public corporation, unless otherwise directed by law selecting the banks in which commonwealth funds will be deposited, disbursing funds pursuant to authority of law, providing financial data to the governor, legislature and departments, agencies and instrumentalities of the commonwealth, and conducting all related financial management activities of the commonwealth other than the preparation of the budget of the commonwealth and post-audit functions. It shall have responsibility for customs and baggage inspection. Nothing contained in this subsection shall prevent a department, agency or instrument of the commonwealth from collecting revenues with the approval of the director of financial administration and with all receipts transmitted promptly to the department of financial administration. The department with the

concurrence of the public auditor shall establish a uniform system of accounts. An accrual method of accounting shall be maintained that meets generally accepted principles of governmental accounting.

(c) At least annually the director of financial administration shall issue a detailed report on financial affairs of the commonwealth and submit copies to the governor, legislature, and public auditor, and such report shall be promptly published.

(d) There is established within the department of financial administration the commonwealth treasury to be headed by the commonwealth treasurer to be appointed by the governor with the advice and consent of the senate on the nomination of the director of financial administration. No person shall be appointed commonwealth treasurer who does not possess professional qualifications established for that position by the governor. 

(e) The director of financial administration, the commonwealth treasurer, and other officials designated by the director or by the commonwealth treasurer shall be bonded.

Section 17. Department of Health (a) There is established as an executive branch department the department of health to be headed by a director of health appointed by the governor. No person shall be appointed director of health who does not possess professional qualifications. Prior to making his appointment, the governor shall appoint a search committee to enumerate the qualifications for the position. Upon approval of such a qualifications statement by the governor the committee shall conduct a search for suitable candidates and make its recommendations to the governor.

(b) The department of health shall be responsible for provision of health and medical care services, dental health, mental health services, and environmental health services. It shall set and enforce standards of public environmental health protection including animal health standards, standards of pure water quality, and standards of sanitary engineering. This department shall be the

depository of vital statistics for the commonwealth and shall issue birth, fetal death, and death certificates, and marriage licenses.

(c) There is established within the department of health an office of medical examiner to be headed by a medical examiner to be appointed by the director of health who shall be within the civil service.

(d) There is established in the department of health a board of health and environmental quality to consist of seven members appointed by the governor with the advice and consent of the senate. The members shall be appointed for terms of five years. Of the persons first appointed two shall serve a term of one year, two shall serve a term of two years, one shall serve a term of three years, one shall serve a term of four years, and one shall serve a term of five years. The board shall adopt regulations governing public health and environmental quality and may include within such regulations all matters affecting health within the commonwealth and within the functional jurisdiction of the department of health pursuant to this section. The board in its regulations may establish a system of compliance and enforcement, including imposition of fines and imprisonment not to exceed fines in the amount of \$500 for each violation of a regulation or imprisonment not to exceed one year for each violation of a regulation; and a system of self inspection, preliminary determinations of violations, hearings, compliance orders and related enforcement mechanisms. The attorney general shall prosecute violations in a court of competent jurisdiction and the department of emergency services shall assist in compliance and enforcement and inspectional activities. The department of health shall be responsible for implementation and other administrative actions pursuant to the regulations of the board of health and environmental quality. The board shall act as an appeals body for any decision or administrative determination by the director of health with respect to any matter pertaining to the regulations of the board. Unless otherwise provided, the board may act as a representative body with respect to federal health planning requirements.

(e) The governor may establish one or more consumer, practitioner, or other bodies to serve as health planning or environmental quality planning instrumentalities in order to meet eligibility requirements for federal grant and assistance programs. For the purpose of complying with federal requirements the board of health is a state health planning agency unless another department or another agency, board or commission, is so designated by the governor or by law.

Section 18. Department of Natural Resources (a) There is established as an executive branch department the department of natural resources to be headed by a director of natural resources appointed by the governor.

(b) The department shall be responsible for protection and enhancement of the natural resources of the islands including the marine environment, management and disposition of submerged lands, management of public lands transferred or assigned to it pursuant to article XI of the constitution and within the comprehensive land-use plan adopted by the Marianas Public Land Corporation, conduct land surveys, perform maintenance and effective use of the animal and marine resources of the commonwealth, agricultural, fishing, plant, marketing, aquaculture and related programs, agricultural extension programs, establishment and operation of public recreation facilities and programs, inspection and compliance activities of meat and meat products that are not otherwise within the compliance activities of the department of health. It is the intent of this section that the department of natural resources be the principal active land survey and land-management agency respecting public programs for agricultural, forestry, and natural resource, landscaping and beautification programs, and recreation matters not otherwise within the jurisdiction of the Marianas Public Land Corporation. It is the

intent of this act that the department of natural resources work closely with and in cooperation with the Marianas Public Land Corporation to assure consonance of purpose.

(c) The department shall be responsible for historic and landmarks conservation and preservation. The department shall have principal commonwealth responsibility to meet constitutional requirements respecting Chamorro and Carolinian heritages and traditions, and protection of wildlife resources. It shall be responsible for the productive use of land made available by the Marianas Public Land Corporation for agricultural homesteads and it shall be responsible for programs affecting recovery of minerals on submerged lands.

(d) Upon the nomination of the director of natural resources, the governor shall appoint with the advice and consent of the senate a director of agriculture and marketing services to oversee plant, meat and meat products inspection, animal quarantine functions and related matters within the jurisdiction of the department of natural resources.

(e) The governor by executive order may establish and appoint the members of appropriate historic and landmark preservation commissions or boards to enable the commonwealth to be eligible to receive federal funds.

(f) The jurisdiction of the department of natural resources shall not extend, unless specifically authorized by law, to the construction, repair or maintenance or public recreation and other sites. It is the intent of this section that all public works activities of the commonwealth, including construction and repair, be within the responsibility of the department of public works.

(g) The Marianas Fishing Authority is dissolved and its duties and responsibilities shall be assumed by the department of natural resources.

Section 19. Department of Public Works (a) There is established as an executive branch department, the department of public works to be headed by a director of public works appointed by the governor.

(b) The department of public works shall be responsible for all public works and roads and other construction and maintenance activities of the commonwealth and for all branches, departments, agencies and instrumentalities of the commonwealth, including public corporations. It is the intent of this section that there be a consolidated public works agency. Unless otherwise provided by law, the department of public works shall be responsible for transportation functions other than those vested by law in a public corporation, harbor facilities and docks, all utilities including water supply, sewage disposal and power, utilities services and facilities, erection and maintenance of public signs and traffic signals, provision and maintenance of public boats, supervision and maintenance of public buildings, provision of office space and upkeep of public buildings and the areas, parking lots and other approaches to public buildings, acquisition, maintenance and repair of heavy equipment and supply and procurement. The department shall assume responsibility for and integrate among the functions of the department street sanitation, solid waste collection and disposal, and other public works functions formerly performed by the chartered municipalities of Saipan, Rota and Tinian.

(c) The department of public works in cooperation with the department of financial administration shall institute systems to assure effective cost accounting methods in order to isolate the actual direct and indirect costs for proprietary and utility functions performed by the department of public works, including heavy equipment and central repair, utility services, and supply and procurement.

(d) No utility or other service shall be provided to a non-governmental user except under a rate or pricing structure that reimburses the commonwealth for all direct, indirect and overhead costs of a capital and operating nature incurred in connection with such services, unless a subsidy is provided pursuant to law and within budgetary appropriations for such purpose. This section shall become operative during a transition period of three years in order that the cost basis for rate and pricing systems may be developed and implemented. With the approval of the director of financial administration, the director of public works shall appoint a person within the civil service as the utilities business manager with responsibility for cost identification and introduction of modern cost accounting and pricing methods. The governor shall appoint a task force to advise the director, the governor and other commonwealth officials on appropriate rates and prices to be charged for proprietary service delivery.

Title IV. GOVERNMENT ORGANIZATION AND PROCEDURES REQUIREMENTS

Section I. Definitions. As used in this act:

(1) "Commonwealth" means the government of the Commonwealth of the Northern Mariana Islands.

(2) "Law" means an act of the Northern Mariana Commonwealth legislature or any law that is continued in force in the Northern Mariana Islands pursuant to section 2 of the schedule on transitional matters of the constitution.

(3) "Constitution" means the constitution of the Northern Mariana Islands.

(4) "Budgetary appropriations" means an appropriation of money contained in an appropriation act.

(5) "Within the civil service" means the appointment of a person who has been given a job title and has met the qualifications for such job title by the civil service commission.

(6) "Legislature" means the Northern Marianas Commonwealth Legislature.

Section 2. Boards and Commissions (a) Unless otherwise provided by law, no person who is appointed to a board, commission, governmental task force, advisory body, or similar entity shall receive any salary, wage, remuneration or other payment for services on such body as a member or as an officer of it but shall be reimbursed for actual and necessary expenses in connection with service on such board within budgetary appropriations.

(b) Unless otherwise provided by law, no person shall be appointed by the governor to a board or commission requiring the advice and consent of the senate who is not a resident of the Northern Mariana Islands and who is not a citizen or national of the United States and at least eighteen years of age.

(c) Unless otherwise provided by law, vacancies on any board, commission governmental task force, advisory body, or similar entity shall be filled in the same manner as the original appointment for the balance of the unexpired term.

(d) No person shall be appointed by the governor to a board or commission that requires the advice and consent of the senate who has been convicted of a crime carrying a maximum sentence of imprisonment of more than six months unless a full pardon has been granted or under a period of three years has elapsed since the time of such conviction from the end of completion of any sentence.

(e) Unless otherwise provided by law, each board or commission whose members are appointed by the governor shall have a chairman and vice chairman from among its members who shall serve terms of one or two years as determined by the governor. The governor shall designate the chairman and vice chairman. The governor, unless otherwise prohibited by law, may vary the titles of chairman and vice chairman as may be appropriate to each board or commission.

(f) Any person holding any appointed office or membership on a board or commission by appointment of the governor for a fixed term of years, including the balance of a full term, may be removed by the governor upon notification by the governor to the person of the reason for removal, and an opportunity is given to such person to be heard in his own behalf. The governor may designate the attorney general or another official to conduct all such hearings.

(g) Unless otherwise provided by law, each board or commission established pursuant to this act or by executive order of the governor shall prepare annually a report of its activities and furnish copies to the governor and the legislature. Such reports shall be public documents and available to the public upon payment of printing cost.

Section 3. Appointment of Advisory Task Forces, Study Groups And Other Bodies

The governor, chief administrative officer, planning-budgeting officer, representative to the United States, and the heads of each executive branch or department from time to time may establish advisory task forces, study groups or other bodies, with appropriate titles, to advise on matters within the authority of such officials. Unless otherwise stated, the document creating such a body shall contain the expiration date of such body and a copy of the document.

Section 4. Appointments by the Governor

Any person who is appointed to a position by the governor serves at the pleasure of the governor unless otherwise provided by law.

Section 5. Suspension and Removal of Gubernatorial Appointees

(a) Unless otherwise provided by law, the governor may suspend or remove from office a person holding an appointment from the governor in a position for which no fixed term of office is made pursuant to the constitution or by law. Suspension or removal shall be by written notice.

(b) The governor may suspend from office for a period not to exceed thirty days a person holding an appointment from the governor in a position for which a fixed term of office is made pursuant to the constitution or by law upon service of a written notice to such person stating the reason for the suspension.

No person shall be suspended pursuant to this subsection unless in the judgment of the governor the action is justified in order to conserve the resources of the commonwealth, to facilitate an investigation of potential or alleged wrong doing, by virtue of neglect of official duties, misfeasance or malfeasance or other violation of official duties and responsibilities, or for other good cause.

(c) The governor may remove from office a person holding an appointment from the governor for which a fixed term is made pursuant to the constitution or by law upon service of a written notice to such person stating the reasons for such action and with an opportunity for such person to refute the charges against him. The notice of removal shall not be effective until ten days have elapsed from service of it unless during the ten day period the person affected has informed the governor in writing directly or by his attorney that he wishes an opportunity to be heard in which event the governor shall conduct or cause to be conducted a hearing on the charges against such person. In the governor's discretion, the person against whom a notice of removal has been made, may be suspended from office pending the final determination by the governor. The governor shall make a final determination in the matter following the hearing and if the governor confirms his order to removal it shall be effective within five days of service of such order confirming removal. Such person may appear in person or by attorney or other representative. In the event the person is unable to present his case in the English language or does not understand English fully interpreters shall be made available to assist such person.

(d) As used in this section person holding an appointment from the governor means a person appointed to an individual position or office or a member of a board or commission, including a public corporation and includes an appointee of a position or office by a former resident commissioner, district administrator or high commissioner.

Section 6. Permanent Agencies. The permanent agencies of the commonwealth are:

- (1) Office of the Governor;
- (2) Office of Attorney General;
- (3) Board of Parole;
- (4) Civil Service Commission;
- (5) Office of Public Audit;
- (6) Board of Elections;
- (7) Department of Community Affairs;
- (8) Department of Economic Development;
- (9) Department of Education;
- (10) Board of Education;
- (11) Department of Emergency Service;
- (12) Department of Health;
- (13) Department of National Resources;
- (14) Department of Public Works.

Section 7. Implementation (a) The governor shall issue one or more executive orders transferring functions, personnel, facilities, and unexpended appropriations from agencies that existed on the effective date of this act to the departments, agencies, boards, commissions or other entities established pursuant to this act or the constitution. The governor may defer transfers in whole or in part in order to assure continuity of public services and efficient administration of the commonwealth. He shall issue a timetable and schedule of changes.

(b) The governor may take such administrative actions as may be appropriate to assure the implementation of this act and its effectiveness. He may determine divisions of functions presently performed among the departments, agencies, boards, commissions and other entities established pursuant to this act or the constitution.

For the purposes of this section a person holding a position in the commonwealth on the effective date of this act may be appointed to a new position until a full transfer of duties and responsibilities can be effectuated.

(c) The governor shall issue a report to the legislature on the implementation of this act not later than six months from its effective date.

Section 8. Effective Date.

This act shall take effect ten days after it becomes a law.

RULES ON THE ORGANIZATION OF THE LEGISLATURE*

Rule 1. President of the senate. The senate at its first meeting shall elect from among its members a president who shall hold office until the commencement of the new legislature and, if he is still in office at that time, until his successor has been chosen and has qualified. The president shall designate another senator to perform the duties of the chair during temporary absences. In the event of the president's absence from the senate for a period of more than ten legislative days, the senate shall elect from among its members an acting president. In the event of the president's resignation, death, expiration of term, or removal from office as senator or president, the senate shall elect from among its members a president for the balance of the remaining term. Election of a president or temporary president shall be by majority vote. The president may be removed by two-thirds vote of the total number of senators.

Rule 2. Speaker of the house of representatives. The house at its first meeting shall elect from among its members a speaker who shall hold office until the commencement of the new legislature and, if he is still in office at that time, until his successor has been chosen and has qualified. The speaker shall designate another representative to perform the duties of the chair during temporary absences. In the event of the speaker's absence from the house for a period of more than ten legislative days, the house shall elect from among its members an acting speaker. In the event of the speaker's resignation, death, expiration of term, or removal from office as representative or speaker, the house shall elect from among its members a speaker for the balance of the remaining term. Election of a speaker or an acting speaker shall be by majority vote. The speaker may be removed by a two-thirds vote of the total number of representatives.

Rule 3. Conference committees

a. There is established a conference committee of the senate and house of representatives to be composed of three senators chosen by the senate and five representatives chosen by the house. On any matter referred to the conference committee, the senate committee members shall vote as a bloc and the house committee members shall vote as a bloc.

b. No bill shall be presented to the governor and no concurrent resolution shall be certified until it has been adopted in identical form by each house. In the event a bill or concurrent resolution is passed in one house and is adopted by the other with an amendment, it shall

* The form of adoption of these rules is discussed in Part IV.

be returned to the house of origin. If the house of origin accepts the amendment, then the bill or concurrent resolution shall be certified by the presiding officer of such house. If the house of origin does not accept the amendment or further amends the bill or concurrent resolution, it shall return the bill or concurrent resolution to the other house and request that it concur in it. If the other house concurs, the bill or concurrent resolution shall be certified by the presiding officer of the house of origin. If the other house does not concur, it shall refer the bill to the conference committee. The conference committee shall attempt to negotiate agreement on the bill or concurrent resolution and make recommendations to the respective houses for final action. In the event the houses do not agree on the final version of the bill or concurrent resolution, either house may refer it again to the conference committee.

c. The conference committee shall report to the senate and house recommendations adopted by it; or the senate and house members may report separately to their respective houses on any bill or concurrent resolution referred to the conference committee. Such reports shall be made no later than seven legislative days after a bill or concurrent resolution has been referred to the conference committee.

d. The senate members of the conference committee shall select one of their members to be the chairman of the conference committee during the first year of each legislature. The house members shall select one of its members to be the chairman of the conference committee during the second year of the legislature. The senate members of the conference committee shall select one of its members to be the vice chairman of the conference committee during the second year of the legislature.

Rule 4. Floor leaders. The senate and house shall each elect by majority vote a floor leader of the respective house.

Rule 5. Joint committee on rules and procedures. The president of the senate, the speaker of the house, and the floor leaders shall serve as members of a joint committee on rules and procedures. They shall select a representative to serve as a member and chairman of the joint committee in the first year of each legislature; and they shall select a senator to serve as a member and chairman of the joint committee in the second year of the legislature. The joint committee shall oversee all employees of the legislature, subject to the civil service commission, and be responsible for the physical space assigned to the legislature, and develop procedures and may propose rules for comity between the two houses.

Rule 6. Forms of actions. Six types of forms of action shall be considered by the legislature.

a. Bills. A bill contains matters that if approved becomes a law and may include a law that relates exclusively to local matters within one senatorial district or a part of a district, or a bill that includes any rightful subjects of legislature.* Each bill shall contain the words "Northern Marianas Commonwealth Legislature," the name of the house of origin, the name of the introducer or introducers, the words "A Bill," a concise summary of the subject matter of the bill, a concise statement of purpose or legislative finding, if appropriate, an estimate of the direct and indirect costs of implementing the bill if enacted, a short title if desired and appropriate, and the following enactment clause, "Be It Enacted by the Northern Marianas Commonwealth Legislature," and the text of the bill.

b. Appropriation on revenue bills. An appropriation or revenue bill appropriates money or raises revenue, or both and then if approved becomes a law.** Each appropriation or revenue bill shall be introduced only in the house of representatives and shall contain the information required to be contained in a bill pursuant to Rule 6(a) except that it shall contain the words, "An Appropriation Bill," or "A Revenue Bill," or "An Appropriation and Revenue Bill."

c. Local bills. A local bill that if approved becomes a law contains matters that relate exclusively to local matters within one senatorial district or a part of such a district and is proposed to be enacted by the affirmative vote of a majority of the members representing the senatorial district. Each local bill shall contain the information required to be contained in a bill pursuant to Rule 6(a) except that it shall contain the words, "A Local Bill For," and the name of the respective senatorial district, and a reference and citation of the definition of local matters by the legislature that may be the subject of laws enacted by the members from the respective senatorial district pursuant to article II, section 3 of the constitution.

d. Local appropriation or revenue bills. A local appropriation or revenue bill appropriates money or raises revenue, or both, in one senatorial district or a part of it that if approved becomes a law. Each local appropriation or revenue bill shall be introduced in the house of representatives and shall contain the information required pursuant to Rule 6(a), except that it shall contain the words, "A

*."A bill is a complete draft of a proposed law." Analysis, op. cit., p. 43.

** "A revenue bill includes any bill that imposes taxes, license fees, contract payments or tolls, or requires any payment of money to the Commonwealth in any other manner. An appropriation bill is any bill that authorizes, appropriates, designates, earmarks or otherwise permits Commonwealth funds to be spent for any purpose." Analysis, op. cit., p. 42.

Local Appropriation Bill For" or "A Local Revenue Bill For," or a "Local Appropriation and Revenue Bill For," and the name of the respective senatorial district, and a reference and citation to the definition of local matters by the legislature that may be the subject of laws enacted by the members of the respective senatorial district pursuant to article II, section 3 of the constitution.

e. Senate resolution or house resolution. A resolution of the senate or house of representatives that if approved by the respective house does not become a law deals with a matter pertaining to the internal affairs of the respective house or a memorial or expression of policy of one house.* Each resolution shall contain the words, "Senate" or "House of Representatives," followed by the words "of the Northern Marianas Commonwealth Legislature," the name of the introducer or introducers, the words, "A Resolution," any introductory clause, the following resolution clause, "Resolved by the Senate" or "Resolved by the House of Representatives," and the text of the resolution.

f. Concurrent resolution. A concurrent resolution of the senate and house of representatives that if approved does not become a law deals with a matter pertaining to the internal affairs of the legislature or a memorial or expression of policy of the legislature, a proposed amendment to the constitution initiated pursuant to article XVIII, section 3 of the constitution. Each concurrent resolution shall contain the words, "Northern Marianas Commonwealth Legislature," the name of the introducer or introducers, the words "A Concurrent Resolution," any introductory clauses, the following resolution clause, "Resolved by the Senate (the House of Representatives concurring)," or "Resolved by the House of Representatives (the Senate concurring)," and the text of the resolution.

Rule 7. Enactment of local bills and local appropriation or revenue bills.

a. The senators and representatives from each senatorial district shall comprise a committee on local laws for that district. Each committee shall select one of its members to serve as chairman and may adopt rules not inconsistent with the constitution, covenant, laws, rules of either house or joint rules of the legislature.

b. A local bill or a local appropriation or revenue bill may be introduced by one or more senators or representatives from the senatorial district to which the bill is intended to apply in the

* "The legislature cannot enact laws by a resolution, which merely expresses the agreement of the legislature without the force of law." Analysis, op. cit., p. 43. Senate resolution can be used as the method of advising and consenting to gubernatorial appointments although that could be done by motion.

form prescribed pursuant to Rule 6(c) or (d). Each such bill shall lie on the desks of members in the house in which it was introduced for three legislative days during which time any member may move that such bill is not a local matter that may be the subject of laws enacted by the members from the respective senatorial district and he shall state the reasons for the motion. In the event such motion is adopted, the bill shall be treated as though it had been introduced in the form prescribed pursuant to Rule 6(a) or (b). In the event the motion is not adopted or no such motion is made within the prescribed time, the bill shall be referred to the committee of senators and representatives from the respective senatorial district.

c. No local bill or local appropriation or revenue bill shall be enacted by a committee until the mayor from the respective senatorial district has had an opportunity to review and comment on it. A local bill or local appropriation or revenue bill shall be enacted by an affirmative vote of the majority of the members of the committee. Upon enactment, the local bill or local appropriation or revenue bill shall be certified by the chairman of the committee and forwarded to the presiding officer of the house of origin. It shall then be certified by the presiding officer and transmitted to the governor for his consideration pursuant to article II, section 7 of the constitution. In the event the governor vetoes the local bill or local appropriation or revenue bill it shall be treated pursuant to article II, section 7 of the constitution.

d. In addition to its other duties and responsibilities, the committee for the senatorial districts of Rota and of Tinian and Aguiguan, respectively, shall receive and may give its advice and consent to the appointment by the head of an executive branch department of a resident department head for the respective island or islands pursuant to article III, section 17(b) of the constitution. In the event a committee fails to act on a proposed appointment within ten legislative days, the appointment is confirmed.*

Rule 8. Local laws. Unless otherwise determined by either house pursuant to Rule 7(a), a majority of the members representing a senatorial district may enact laws that relate to the following local matters:

a. Speed limits on any road in Tinian or Aguiguan, Rota, the islands north of Saipan, and any village road in Saipan as determined by the director of public works.

b. Noise abatement control.

* It may be desirable to establish a similar time limit for gubernatorial appointments requiring senate advice and consent (see Rule 10 (e)(1)).

c. Regulations pertaining to littering, maintaining property in a clean and sanitary manner, and respect for public property.

d. Appropriations of funds for local purposes specified in an appropriation act of the legislature or appropriation of funds collected from a local tax pursuant to subdivision (3) of this rule, or revenues raised from local taxes on Rota, Saipan and Tinian that remain in effect pursuant to the constitution, article IV, section 6(a) (second sentence).

e. Imposition of a local tax on the retail sale of specified goods or services, not to exceed one percent of such sale, or on real property in an amount not to exceed _____; or an admission fee to a theater or other place of public amusement not to exceed ten cents per admission.

f. Curfews.

g. Hunting seasons.

h. Authorizations to a mayor to expend revenues for local public purposes pursuant to article VI, section 3(f) of the constitution and subdivisions (d) and (e) of this rule.

i. Authority to the mayor to promulgate regulations pertaining to any matter referred to in this section.

Rule 9. Legislation on appropriation bills. During consideration of any appropriation bill a senator or a representative may object to any wording on the grounds that it violates article II, section 5(b) (second sentence) of the constitution. The determination of the presiding officer of the senate or house, respectively, shall be subject to one appeal from the decision of the chair to be decided without debate and shall be final.

Rule 10. Committees of the senate.

a. There is established in the senate a committee on fiscal affairs that shall consist of one senator from each senatorial district.

b. There is established in the senate a committee on programs that shall consist of one senator from each senatorial district.

c. There is established in the senate a committee on government organization and law that shall consist of one senator from each senatorial district.

d. Committee members shall be elected by the senate. No senator may serve on more than one committee established pursuant to this section. Each committee shall select as chairman one of the members other than the president of the senate or the floor leader.

e. Each bill, appropriation or revenue bill, resolution or concurrent resolution that is introduced or is referred from the house of representatives shall be referred by the senate clerk to a committee as follows:

1. A bill, resolution, or concurrent resolution pertaining to the structure of the government or any branch, department or agency of it, ethics and codes of conduct, criminal law or criminal procedures, the judiciary, the office of attorney general, the codification, revision or rearrangement of existing laws, amendment to the constitution or to establish a constitutional convention, advice and consent to nominations by the governor, and relations with any other government shall be referred to the committee on government organization and law.*

2. A bill, resolution, or concurrent resolution pertaining to any matter other than a matter referred to the committee on government organization and law pursuant to subdivision (e)(1) of this rule shall be referred to the committee on programs.

3. An appropriation or revenue bill shall be referred to the committee on fiscal affairs.

Rule 11. Committee of the house of representatives.

a. There is established in the house a committee on fiscal affairs that shall consist of four representatives from Saipan and the islands north of it, the representative from Rota, and the representative from Tinian and Aguiguan.

b. There is established in the house a committee on programs that shall consist of four representatives from Saipan and the islands north of it, the representative from Rota, and the representative from Tinian and Aguiguan.

c. There is established in the house a committee on government organization and law that shall consist of four representatives from Saipan and the islands north of it, the representative from Rota, and the representative from Tinian and Aguiguan.

* As noted supra, advice and consent can be done by senate resolution or by a motion.

d. Committee members shall be elected by the house. No representative from Saipan and the islands north of it shall serve on more than one committee. Each committee shall elect as chairman one of its members other than the speaker or the floor leader.

e. Each bill, appropriation or revenue bill, resolution or concurrent resolution that is introduced or is referred from the senate shall be referred by the house clerk to a committee as follows:

1. A bill, resolution or concurrent resolution pertaining to the structure of the government in any branch, department or agency of it, ethics and codes of conduct, criminal laws or criminal procedures, the judiciary, the office of attorney general, the codification, revision or rearrangement of existing laws, amendments to the constitution, or to establish a constitutional convention, and relations with any other government shall be referred to the committee on government organization and law.

2. A bill, resolution, or concurrent resolution pertaining to any matter other than a matter referred to the committee on government organization and law shall be referred to the committee on programs.

3. An appropriation or revenue bill shall be referred to the committee on fiscal affairs.

Rule 12. Joint committee meetings. The senate and house committees on fiscal affairs, programs, and government organization and law may hold joint hearings on any bill, appropriation or revenue bill, or concurrent resolution, on the executive budget submitted by the governor, on any matter within the jurisdiction of the committees or on related legislative investigation or exercise of legislative oversight. Joint hearings shall be authorized by concurrent resolution.

Rule 13. Space and furnishings for the legislature. Within appropriations for such purposes, the department of public works shall provide suitable space, offices, furnishings, equipment, and telephones for the legislature, shall maintain the space, chambers, and offices of the legislature, shall provide any vehicles necessary for movement of goods or for official transportation. No official car shall be provided to any senator or representative or to any officer, staff or employee of the legislature for his or her exclusive use.

Rule 14. Staff of the legislature.

a. The police chief shall assign any necessary security or police to the legislature.

b. There shall be a clerk of the senate and a clerk of the house who shall prepare the journal and keep the record of the respective house and carry out such other duties and responsibilities as may be assigned by the president of the senate or the speaker of the house of representatives respectively.

c. There shall be a sergeant-at-arms of the legislature who shall serve both houses and may be assisted by police assigned by the police chief pursuant to subsection (a) of this rule.

d. There shall be an administrative officer of the legislature who shall be responsible for the day-by-day assignments and supervision of all personnel other than the professional staff and who shall be responsible for the administrative affairs of the senate and house of representatives other than those matters that are the duties and responsibilities of the senate clerk and the house clerk. The administrative officer shall establish and supervise a secretarial, typing and clerical pool to service both houses, the president of the senate, and the speaker of the house of representatives, the floor leaders, the respective senate and house committees and the joint committees, the clerks and the professional staff.

e. There is established the office of professional services, that shall consist of a legislative counsel, an assistant legislative counsel, a senior research associate, a senior fiscal analyst, interns and other positions within budgetary appropriations. These shall be professional positions.

f. Payments of salaries and expenses to members of the legislature and for the staff and other matters pertaining to the internal fiscal affairs of the legislature shall be handled by the department of financial administration.

g. All employees of the legislature shall be under the jurisdiction of the civil service commission, other than the senate clerk, house clerk, and legislative counsel.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Short title. This act shall be known and may be cited as the Continuity of Laws Act of 1978.

Section 2. Purpose. Section two of the schedule on transition matters of the constitution provides that laws in force in the Northern Mariana Islands on the day preceding the effective date of the constitution that are consistent with the constitution and the covenant shall continue in force until they expire or are amended or repealed. The purpose of this act is to identify those laws that are in force.

Section 3. Establishment of Table of Laws in Force. (a) Not later than thirty days from the effective date of this act the attorney general shall prepare a table of laws that in his opinion (1) are consistent with the constitution and covenant and (2) are continued in force pursuant to section two of the schedule on transitional matters of the constitution. The table shall contain the appropriate citation to each law, its title or other reference, and any explanatory material necessary to identify the law and the basis for determining that it is in force in the Commonwealth.

(b) The attorney general may include in the table of laws local laws or ordinances enacted by a municipal council, laws enacted by the Northern Marianas district legislature, laws enacted by the Northern Mariana Islands legislature, provisions of the Northern Marianas district code, provisions of the code of the Trust Territory of the Pacific Islands, any additional laws enacted by the Congress of Micronesia, executive orders, ordinances, regulations, or other official act of the high commissioner of the Trust Territory of the Pacific Islands,

the district administrator of the Northern Mariana District, and of the resident commissioner of the Northern Mariana Islands that may be in force pursuant to section two of the schedule on transitional matters.

(c) The Attorney General may issue an opinion regarding any law with respect to which there is a question as to its being in force. The opinion shall cite the law in question, pose the issue or issues to be resolved, and may propose remedial legislation that in the judgment of the attorney general is inappropriate.

(d) The attorney general may issue separate memoranda citing provisions of law on which further review and research is required before he is able to determine whether a law in his opinion is in force in the Commonwealth. He shall indicate in any such memorandum the length of time necessary to render a definitive opinion.

Section 4. Transmittal of Table, Opinions, and Memoranda to Governor and Legislature. The attorney general shall transmit the matters required or authorized to be prepared by him pursuant to section 3 of this act to the governor and legislature together with any recommendations for proposed remedial legislation or other action. The table of laws, subject to any opinion or memoranda of the attorney general, shall constitute an official listing of laws in force in the Commonwealth pursuant to section two of the schedule on transitional matters of the constitution until they expire or are amended or repealed unless such table is modified or is disapproved by joint resolution of legislature not later than thirty days after the transmittal by the attorney general to the governor or legislature.

Section 5. Effective date. This act is effective on the date of its enactment.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Short title. This act shall be known and may be cited as the Commonwealth Code of Laws Act of 1978.

Section 2. Commonwealth of the Northern Mariana Islands Code of Laws.

(a) The general and permanent laws of the Commonwealth of the Northern Mariana Islands enacted by the legislature or by initiative pursuant to Article IX, section 1 of the constitution shall be organized and published in a code of laws to be known as the Commonwealth of the Northern Mariana Islands code of laws. The code shall contain all laws of a permanent and general nature and shall not include laws of temporary duration whose force and effect is less than one year, appropriation acts, or matters pertaining to the relief of a single individual or business.

(b) Local laws enacted pursuant to Article II, Section 6 of the constitution or by initiative pursuant to Article IX, section 1 of the constitution shall be included in the code as separate parts or titles.

(c) The Code shall contain the text of the covenant and the constitution of the United States and of the Commonwealth of the Northern Mariana Islands.

(d) The Code shall contain the text of executive orders issued by the governor pursuant to Article III, Section 15 of the constitution.

(e) The Code shall contain the text of all permanent and general laws that are continued in force pursuant to the Section 2 of the schedule on transitional matters of the constitution.

Section 3. Compilation of the Code. (a) The Code shall be organized topically and shall be divided by part, title, chapter and section. It shall contain a table of contents and an index. It may include tables of derivation and distribution, legislative histories, other explanatory material and footnotes giving the original source of each law or executive order contained in the Code.

(b) A supplement to the Code shall be published annually.

(c) Changes of language from the original text of a law, not of a substantive nature, may be made to effectuate the topical arrangement and integration of the Code.

Section 4. Responsibility for the Code. (a) The attorney general shall be responsible for the preparation of the code. No later than 120 days from the effective date of this act; the attorney general shall prepare and submit to the legislature a proposed table of contents that shall be official unless modified or disapproved by a majority of both houses of the legislature no later than forty days after the proposed table of contents has been transmitted to the legislature.

(b) Subject to budgetary appropriations, the attorney general shall complete a proposed code no later than two years from the effective date of this act. The attorney general shall submit the proposed code to the legislature. Upon its enactment into law pursuant to Article II, Section 5 and 7 of the constitution, the code shall constitute the official text of all permanent and general laws contained in it, shall be so certified by the attorney general, and may be cited in evidence in any judicial proceeding.

(c) The attorney general shall propose to the legislature a method by which annual supplements to the Code are adopted.

(d) Bills may be enacted by the legislature in the form of amendments to the Code.

Section 5. Revision of laws. (a) The attorney general shall review the substance of laws in force in the Commonwealth and from time to time may propose revisions to such laws. The attorney general may retain attorneys and other experts on a staff, consultant or contractual basis, subject to budgetary appropriations for such purpose, to assist in the law revision effort.

(b) There is established a Commonwealth law revision commission to assist and advise the attorney general respecting his duties and responsibilities pursuant to this act. The Commission shall be comprised of nine members as follows: Two persons appointed by the governor; one person designated by the senate; one person designated by the house of representative; the chief judge of the Commonwealth trial court ex officio; the public defender ex officio; and three attorneys appointed by the governor on the recommendation of the attorney general.

(c) No person serving on the Commission shall receive any salary or payment for such service but may be reimbursed for actual and necessary expenses in connection with such service.

Section 7. Effective date. This act shall be effective on the day it becomes law.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

BE IT ENACTED BY THE NORTHERN MARIANA ISLANDS LEGISLATURE:

Section 1. Short Title. This act shall be known and may be cited as the Planning and Budgeting Act of 1978.

Section 2. Fiscal Year. The fiscal year of the Commonwealth is October 1 through September 30.

Section 3. Annual Budget. (a) Not later than December first of each year* the governor shall issue an executive order establishing a schedule of budgetary requests for the following year. The schedule shall establish review procedures, and related inputs to the annual budget from the branches, departments and agencies of the Commonwealth, including public corporations, and any submissions that may be made by the mayors of Rota, Saipan, Tinian and Aguiguan, and the islands north of Saipan and by the executive assistant for Carolinian affairs. The schedule shall prescribe the budget request format and required supporting data, analyses and reports.

(b) No branch, department, agency, public corporation, elected official other than the governor, or other official employees of the Commonwealth may submit a budget or a budget request to the legislature.

(c) Unless otherwise determined by the governor, the planning-budgeting officer, in consultation with the chief administrative officer, shall review the submissions made pursuant to subsection (a) of this section and conduct one or more public hearings on the submissions. The hearings shall be open to the public. At one of the public hearings the chief administrative officer shall provide for statements to

*The dates in this draft are suggestive

be presented by citizens and representatives of civic, business, and community groups. The planning-budgeting officer may conduct working executive sessions necessary to secure additional information and data requisite to assisting the governor in preparing the annual budget.

(d) No later than April first of each year a copy of a preliminary annual budget for the succeeding fiscal year shall be submitted to the public auditor prior to the date the governor submits the annual budget to the legislature. The public auditor shall render an opinion to the governor on the accuracy of revenue estimates, on the fiscal capacity of the Commonwealth to appropriate the funds proposed in the budget, and on any other matter that in the judgment of the public auditor should be taken into account in the consideration of the annual budget. The report of the public auditor shall be made a public document after the governor submits the annual budget to the legislature.

(e) A copy of any budget submission to the governor shall be transmitted by the governor to the legislature. No later than May fifteen of each year the governor shall submit the annual budget for the succeeding fiscal year to the legislature.

(f) The annual budget of the governor shall contain:

(1) An estimate of revenues for the fiscal year by source, type, and amount, including user charges or fees or any sources of funds whether or not they are to be appropriated; and a statement demonstrating the basis for all revenue estimates given, including comparative analysis for the prior two fiscal years to the extent prior fiscal year data are available;

(2) Proposed expenditures by branch, department or agency and by program or function;

(3) Goals and objectives to be accomplished by each program or function;

(4) Supporting personnel and out-of-pocket expense data;

(5) Numbers of personnel by job title and pay scale to be employed under each major program or functional category;

(6) Proposed capital projects;

(7) Proposed contractual arrangements and services to be rendered by contractors;

(8) A budget message of the governor;

(9) A statement of any substantial differences between the annual budget and plans of the Commonwealth that have been approved pursuant to section of this act and the reasons for such differences.

() The annual budget shall be a public document.

() The annual budget shall be organized and prepared as part of a system of zero-base budgeting.

(h) The annual budget shall identify the aggregate direct amount of funds proposed to be appropriated for services to be delivered on Saipan, Rota, Tinian, and the islands north of Saipan to the extent that such separate identification is feasible. The budget by agency and program shall include proposed appropriations for programs as a whole within such restrictions as may be contained in the appropriation act and shall not contain separate appropriations to individual islands or group of islands.

Section 4. Annual Appropriation Act. (a) The legislature shall act on the annual budget through enactment of an annual appropriation act and in such manner as to assure a balanced budget. Prior to the beginning of the fiscal year, the legislature may amend the annual appropriation act in the same manner as it approved the annual budget.

(b) Following the first day of October of the fiscal year to which the annual appropriation act pertains, the legislature on its initiative may amend the annual appropriation act as not to increase in the aggregate the total funds appropriated or any part for which particularized revenue sources have been earmarked, unless the legislature approves additional taxation.

(c) During the fiscal year, the governor may propose amendments to the approved annual budget contained in the annual appropriation act for such fiscal year. The governor shall accompany his proposal with revised estimates of revenues; proposed reprogramming of funds that would assure a balanced budget; or proposed additional taxation. The legislature, in response to a proposal by the governor, shall act through amendment to the annual appropriation act. No amendment shall be enacted that increases in the aggregate the total funds appropriated or any part for which particularized revenue sources have been earmarked, unless the legislature accepts the governor's revised estimate of revenues; approves the governor's reprogramming of funds; or votes additional taxation.

(d) There shall be a balanced budget for the Commonwealth.

(e) No funds shall be appropriated in an appropriation act or in an amendment to an appropriation act that exceed in the aggregate ninety-five percent of the total amount of revenue estimated to be available for appropriation for the fiscal year or for that part of the budget that is proposed to be funded from a specified revenue source or sources. On or after April first, the governor may request the legislature to amend the annual appropriation act in the manner specified pursuant to subsection (c) of this section proposing an expenditure not to exceed the remaining five percent of the amount originally contained in the revenue estimate of his annual budget. The governor shall accompany his request with supporting data pursuant to and consonant with section 3 of this act, and shall include a statement from the public auditor on the request and supporting data.

Section 5. Who may expend appropriated funds. (a) An appropriation act or any amendment to an appropriation act shall authorize expenditure of public funds only by branches, departments, agencies or public corporations of the Commonwealth. No appropriation shall be made directly to any individual, association, partnership, private business corporation, private educational corporation, or not-for-profit corporation. In the event an appropriation act or any amendment to an appropriation act fails to specify the authorized branch, department, agency or public corporation that may expend designated public funds, the authorized entity is the office of the governor. No expenditure shall be made other than by direction of the head of the respective branch, department, agency or public corporation.

(b) The director of financial administration shall not make any payment otherwise than pursuant to subsection (a) of this section. It is the intent of this section that expenditures contained in legislative acts not consistent with this act be regarded as authorizations, not appropriations.

Section 6. Reprogramming of Funds. (a) No funds shall be used for any purpose that is not consistent with the annual appropriation act or an amendment to the annual appropriation act to which it applies other than (1) funds that are authorized to be programmed pursuant to an amendment to the respective annual appropriation act or (2) pursuant to subsections (b) or (c) of this section.

(b) The governor may authorize reprogramming of funds contained in an appropriation act or amendment to an appropriation act from one program or function to another program or function within a single department or agency in an amount that does not increase or decrease the amount budgeted by more than five percent. The governor may authorize the reprogramming of funds by amounts larger than five percent with the approval of the legislature through an amendment to the respective appropriation act.

(c) No department or agency shall reprogram funds appropriated to it for any program or function within a single appropriation act or an amendment to an appropriation act that will increase or decrease the object classification or other unit of appropriation within the program or function by more than fifteen percent without the written approval of the planning-budgeting officer, with the concurrence of the chief administrative officer. No increase or decrease in an amount larger than thirty percent shall be made unless the governor notifies the legislature.

Section 7. Definition. (a) As used in this act:

(1) "Program or function" means a major activity or service, a capital project, or institution or a separate major activity or service within an institution and includes personal services and other than personal services, and;

(2) "Object classification or other units of administration" means the major groupings of personal services and other than personal services within a program or function.

(b) The governor by executive order shall establish standards for the application of the terms defined in this section.

Section 8. Plans. (a) Within ninety days of the effective date of the constitution the governor shall submit to the legislature, with any modifications he may propose, plans for socio-economic development, physical planning and land use, and government organization and administration, including the plans prepared by or under contract to the Office of Transition Studies and Planning. The governor may make such recommendations or propose legislation with respect to such plans and their implementation.

(b) Within ninety days of the receipt of the plans made pursuant to subsection (a) of this section the legislature by concurrent resolution shall (1) approve with or without statements of reservation the plans and any modifications to them. In the event the legislature fails to act on the plans within ninety days, the plans with the governor's modifications are approved. Such plans, together with any modifications or statements of reservation, shall be official guides to legislative, policy, program, and budgetary actions to which they

pertain. The plans shall be revised and updated annually and the governor shall submit copies of revisions and additions to the legislature no later than February first of each calendar year or at the time he submits the annual budget or his annual report regarding the affairs of the Commonwealth.

Section 9. Effective Date. This act shall take effect on the date it becomes a law.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Short Title. This act shall be known and may be cited as the Public Corporations Act of 1978.

Section 2. Definitions. As used in this act:

(1) "Commonwealth" means the Commonwealth of the Northern Mariana Islands;

(2) "Project" means program or activity undertaken by a public corporation and includes each separate capital, service or operating undertaking by a public corporation that involves (a) a lease, agreement or contract extending for more than one year, or (b) payment or receipt of \$10,000 or more other than for administrative salaries of its employees, or (c) the lease, purchase or sale of ten hectares or more of land by or to the corporation; and,

(3) "Public corporation" or "corporation" means an authority, public benefit corporation, commission, independent agency or other entity established pursuant to law in effect in the Commonwealth for a public purpose but does not include a private business corporation, a not-for-profit corporation, the Marianas Public Land Corporation, the Marianas Public Land Trust, or a branch or department of the Commonwealth.

Section 3. (a) Budget. Each public corporation shall submit to the governor a proposed annual budget no later than the date specified for the submission of budget requests in the schedule of the governor pursuant to section 3(a) of the Planning and Budget Act of 1978 for the succeeding fiscal year in such form and detail and with such supporting data as the governor may require. The corporation shall

identify separately proposed expenditures to be funded (1) from revenues authorized to be raised directly by or to be paid directly to the corporation including user charges and service fees, and (2) those expenditures for which funds are requested to be appropriated by the Commonwealth.

(b) No public corporation shall incur a debt or obligation or expend funds regardless of their source that is not contained in the budget of the corporation, consistent with the purpose of the constitutional or statutory duties and responsibilities of the corporation, within funds contained in an appropriation act as derived from revenue raised directly by or paid directly to the corporation.

Section 4. Support services. (a) The Commonwealth shall provide through appropriate departments, agencies, and offices the following support services for each public corporation except as otherwise specifically provided by law:

(1) Legal services, by the office of attorney general;

(2) Treasury, disbursement, accounting and related financial management services, by the department of financial administration;

(3) Construction, repair, maintenance, equipment supply and procurement services, office facilities, transportation, vehicles, and related housekeeping services, by the department of public works;

(4) Security guard services, by the department of emergency services; and,

(5) Recruitment, examination, job classification, and related personnel management services, by the civil service commission and personnel office.

(b) No public corporation shall itself provide these services unless the designated department or agency is unable to act in a timely way. The budget of the public corporation shall provide reimbursement for provision of such services.

Timely

Section 5. Civil Service. Each person employed by a public corporation shall be within the civil service unless a different arrangement is specially authorized by law.

Section 6. Audit. (a) A public corporation shall adopt and maintain a system of accounting that is consistent with generally accepted accounting principles for public corporations and with accounting standards established by the department of financial administration. The system of accounts of the corporation and any substantial changes in it shall be submitted to and approved by the director of financial administration and the public auditor.

(b) The corporation shall prepare and publish within sixty days of the end of each fiscal year a financial statement covering the operations of the preceding fiscal year and containing such information as may be required within standards of the public auditor.

(c) The public auditor shall audit the corporation's financial operations and transactions and report his findings and any recommendations to the corporation, the governor and the legislature.

(d) The public corporation shall make available to the public auditor or his representative all data, books of accounts and other documents pertaining to the financial affairs of the corporation.

Section 7. Annual report. A public corporation shall prepare and submit to the governor and the legislature an annual report of its activities, including a statement of its goals, description of projects undertaken, progress made and objectives achieved, reasons for impediments to progress, efforts to improve management, and other appropriate information. The report may include recommendations for additional legislation or other proposed actions. The report shall be a public document. Copies shall be made available to the public by the corporation at a cost not to exceed the cost of publication.

Section 8. Cooperation with related agencies. Departments, agencies and officials of the Commonwealth shall cooperate with each public corporation to facilitate the exercise of its constitutional and statutory duties and responsibilities. The support services provided by departments and agencies are technical and no official of any department or agency shall substitute his policy judgment for that of the corporation.

Section 9. Approval of projects. (a) No public corporation shall proceed with the planning or initiation of a project without the preliminary approval of the governor. Following preliminary approval the corporation shall submit a plan for the project to the governor or to the official designated by the governor that shall contain a statement demonstrating the consonance of the proposed project with approved Commonwealth plans and programs.

(b) Within ninety days of the receipt of a plan by the governor or by the official or officials designated by the governor, the governor shall approve or reject the proposed project, or he may approve it subject to modifications. The public corporation may request the legislature to approve a proposed project that has been rejected by the governor or that has been accepted by the governor subject to modifications, which modifications are not acceptable to the corporation. No project for which a plan has been submitted to the legislature shall be initiated unless the project is approved by the legislature.

(c) No plan shall be submitted to the governor or to the official or officials designated by the governor until public hearings have been held on it by the public corporation, following notice of hearings and an opportunity given to the public to be heard on the plan.

(d) The legislature shall consider any plan submitted to it pursuant to subject (b) of this section within sixty days from date of receipt.

(e) A plan may be modified at any time. Major modifications shall be reviewed and approved in the same manner as original proposed project plans.

Section 10. Application of code of ethics and conflicts of interest act. The directors of a public corporation are public officials subject to the [Commonwealth Code of Ethics and Conflicts of Interest Act].

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Short Title. This act shall be known and may be cited as the Commonwealth Federal Programs Coordination Act of 1978.

Section 2. Purpose. Pursuant to the covenant the Commonwealth of the Northern Mariana Islands is or may become eligible for a variety of federal grant programs. The purpose of this act is to assure an orderly process in the filing of applications for and administration of federal grants and the integration of federal grant programs with established plans, policies and programs of the Commonwealth.

Section 3. Filing of grants application. No application for a federal grant or ~~extention~~ or renewal of a federal grant shall be filed by any official or officer of the Commonwealth without the approval in writing of the governor or of a person in the executive office of the governor designated by the governor. No application filed without such written approval shall have force and effect unless a waiver is signed by the governor.

Section 4. Federal grants administration and coordination. (a) The governor or person designated by the governor shall establish guidelines on federal grant program applications, matching funds, and administration.

(b) Persons who are employed by the Commonwealth or any branch, departmental, agency, or instrumentality of the Commonwealth, including any public authority, and whose salaries are paid for in whole or in part by a federal grant, shall be within the civil service except for any position that is not under the jurisdiction of the civil service commission pursuant to Article III, Section 16 of the Constitution,

(c) An assistant to the governor in the office of planning and budgeting shall coordinate federal grant programs for the Commonwealth and shall secure and review information and eligibility

requirements for federal grants; determine whether a proposed federal grant application is consonant with established Commonwealth plans, programs, and policies; determine matching fund requirements and availability of funds under the budget and appropriation acts; assure that obligations and requirements of federal grants are met; and secure timetables, content, and submission of reports required to be submitted under the terms and conditions of federal grants.

Section 5. Liaison to Region IX. The governor shall appoint or may contract for the services of a qualified person to serve as liaison between the Commonwealth and officials of Region IX of the federal government. Such person shall be located in San Francisco and shall have the title of assistant to the governor, and he shall report to the planning and budgeting officer.

Section 6. Effective date. This act shall be effective on the date it becomes a law.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Short title. This act shall be known and may be cited as the Boards, Commissions, and Authorities Appointment Act of 1978.

Section 2. Scope. This act applies to a board, commission, authority or other public corporation that was created by or pursuant to any law that is continued in force pursuant to section 2 of the schedule on transitional matters of the Constitution, and to any person who has been appointed to and is serving, the day preceding the effective date of the Constitution, as a member of any such board, commission, authority or other public corporation.

Section 3. Reappointment by Governor. No person shall serve as a member of a board, commission, authority in other public corporation unless prior to the tenth day following the effective date of this act the governor has reappointed the person for the balance of his or her unexpired term and the advice and consent of the senate to the reappointment has been given pursuant to section 4 of this act.

Section 4. Advice and Consent of the Senate. Not later than fifteen legislative days of receipt of the notice of reappointment by the governor pursuant to section 3 of this act, the senate shall give or deny its advice and consent. Failure of the senate to act within the time specified constitutes advice and consent.

Section 5. Effective date. This act shall take effect on the date it becomes a law.

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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Short Title. This act shall be known and may be cited as the Interim Executive and Continuity of Authority Act of 1978.

Section 2. Purpose. The schedule on transitional matters of the constitution states that laws in force in the Northern Mariana Islands on the day preceding the effective date of the constitution that are consistent with the constitution and the covenant shall continue in force until they expire or are amended or repealed; and that employees of the government of the Northern Mariana Islands shall have the same functions and duties after becoming employees of the Commonwealth until provided otherwise by law, regulation or ordinance. Pending such time as legislation is enacted and in effect establishing the permanent organization of the government, it is necessary and desirable to grant the governor interim authority to transfer functions among government agencies, to reassign personnel, to reprogram funds, to employ temporary staff and retain consultants, and to undertake related activities to assure continuity of governmental operations and the orderly implementation of the constitution and to facilitate meeting federal grants' requirements.

Section 3. Transfer of Functions. The governor may transfer functions among departments and agencies of the executive branch, excluding any authority or public corporation that has been established by law, and he may assign to an existing department or agency additional functions necessary for the continuity of governmental operations and delivery

of public services. The governor shall not establish new departments and agencies pursuant to this act.

Section 4. Reassignment of Personnel. The governor may reassign personnel employed in the executive branch among departments and agencies, including assignments in the executive office of the governor. No person who has been reassigned pursuant to this section shall receive as a consequence of reassignment any additional pay or benefits unless his job title is changed pursuant to law to reflect increased duties and responsibilities.

Section 5. Executive Office of the Governor. (a) There is established the executive office of the governor. The governor may appoint or assign persons to serve as assistants to the governor. He may appoint a chief administrative officer, a deputy chief administrative officer and a planning-budgeting officer to serve at the pleasure of the governor for a period not to exceed one hundred twenty days or to serve at the pleasure of the governor with the advice and consent of the senate.

(b) The Office of Transition Studies and Planning is made a part of the executive office of the governor.

Section 6. Establishment of interim advisory commissions and boards. The governor may establish interim advisory task forces, boards and commissions. No person who is appointed to serve on a task force, board or commission pursuant to this section shall receive any salary or payment for such service but may be reimbursed for actual and necessary expenses in connection with such service.

Section 7. Reprogramming of Funds. (a) The governor may reprogram funds that are available for expenditure by the government in order to assure continuity of public services affected by any transfer of function or reassignment of personnel.

(b) The governor may reprogram funds to the executive office of the governor that are available for expenditure by the government in an amount not to exceed two hundred thousand dollars for the purpose of employment of staff specialists, and technical assistants or for contractual services.

Section 8. Notification to the Legislature. The governor shall notify the legislature of actions taken pursuant to this act no later than five days excluding Saturdays, Sundays and holidays after the date of each action.

Section 9. Expiration Date of Act. This act shall expire no later than ninety days after its effective date unless extended by the legislature. Extensions shall be limited to no more than two successive ninety-day periods. Actions taken pursuant to this act shall remain in force and effect after the expiration date of the act or any extension of the expiration date until repealed or replaced by legislation or other authorized action by the governor or lawful authority.

Section 10. Effective Date. This act shall be effective on the date it becomes a law.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Short title. This act shall be known and may be cited as the Department and Agency Expiration Act of 1978.

Section 2. Definitions as used in this act:

(1) "Permanent agency" means a department, agency, board, commission, authority or any other entity of the Commonwealth or its political subdivisions that is established by the constitution or is designated as a permanent instrument of government.

(2) "Nonpermanent agency" means any department, agency, board, commission, authority or any other entity of the Commonwealth or its political subdivisions other than a permanent agency.

Section 3. Permanent agencies. (a) The legislature by law may designate an agency of government that it intends to have an indefinite span of life as a permanent agency.

(b) The legislature shall designate in the legislation establishing an agency that is not intended to have an indefinite span of life or in an amendment to such legislation the period of life of such agency. This designation shall not exceed renewable periods of six years.

(c) Nothing contained in this section shall prevent or restrict the reorganization, termination, or changes in designation of an agency as permanent or nonpermanent pursuant to the constitution or law.

Section 4. Transfer of property, papers and funds. When an agency ceases to exist pursuant to this act or pursuant to any reorganization

plan or legislation, all property, funds, and equipment and papers of the agency shall be transferred or otherwise disposed of in a manner specified by law or, if there is no such provision of law, in a manner specified by the governor pursuant to executive order.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Short Title. This act shall be known and may be cited as the Commonwealth Seal Act of 1978.

Section 2. Seal of the Commonwealth. (a) There shall be a seal of the Commonwealth of the Northern Mariana Islands to authenticate official acts, proclamations, and other public documents issued by the governor or the legislature or under the authority of the governor or legislature, and for other appropriate official purposes.

(b) The seal shall contain the words "Seal of the Commonwealth of the Northern Mariana Islands," "United States of America," the year "1977" and such other wording or illustration as may be appropriate to the Commonwealth. The seal shall be designed pursuant to direction of the governor. The design shall be simple and dignified. The governor shall submit to the legislature for its approval as the official seal of the Commonwealth a proposed design and description of the seal.

Section 3. Use and Custody of the Seal. (a) The seal shall be in the custody of the attorney general who may delegate its physical custody to an official of the office of attorney general. No person other than the attorney general or official of the office of attorney general designated by the attorney general shall (1) affix the seal on any document or (2) authorize a replica of the seal to be made or used.

(b) Replicas of the seal may be used on official reports, papers, and stationery of the Commonwealth, official flags, or for appropriate display by the executive branch, legislature, and judiciary or a branch, department, agency or public corporation of the Commonwealth. The governor by executive order shall prescribe standards for the proper display and use of the seal.

(c) No person shall use the seal or replica of it in any manner that violates this act or the executive order or any amendment to any executive order of the governor issued pursuant to this section. Violations of this act constitute a misdemeanor and upon conviction shall be punishable by a fine not to exceed \$100 for each offense or ten days imprisonment, or both.