



OFFICE OF THE PUBLIC AUDITOR
REPUBLIC OF PALAU

PERFORMANCE AUDIT REPORT

ON

**TYPHOON BOPHA CATASTROPHE
RELIEF OPERATIONS**



REPUBLIC OF PALAU

FOR THE PERIOD FROM DECEMBER 02, 2012 TO JANUARY 18, 2013

TBRCO-13-01P-01*opa00

REPUBLIC OF PALAU



Office of the Public Auditor

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November 21, 2013

Serial#: opa14-034au

Honorable Antonio Bells
Vice President/Minister of Justice
Chairman, National Emergency Committee
Office of the Vice President
Koror, Republic of Palau 96940

Subject: Final Audit Report on Typhoon Bopha Catastrophe Relief Operations for the period from December 2, 2012 to January 18, 2013.

Dear Mr. Vice President:

This report presents the results of our audit on Typhoon Bopha Catastrophe Relief Operations for the period from December 2, 2012 to January 18, 2013.

The Office of the Public Auditor (OPA) received your response to the draft audit report. Your response has been incorporated and published in the final audit report. The OPA also has included responses (or lack thereof) from other agencies having responsibilities regarding matters discussed in the report.

The OPA has established an Audit Recommendation Tracking System (ARTS) to keep track of the status of recommendations issued in this report. Accordingly, the OPA will conduct follow up inspections on your responses and corrective action measures to assess their implementation and operation. On a semi-annual basis, June 30 and December 31 each year, the OPA will report the status of the recommendations to the Office of the President and Presiding Officers of the Olbiil Era Kelulau for their information and disposition.

If you have any questions regarding matters of audit findings and recommendations, the OPA will be available to discuss such matters at your request.

Sincerely,

Satrunino Tewid
Public Auditor
Republic of Palau

Typhoon Bopha Catastrophe Relief Operations

Period from December 02, 2012 to January 18, 2013

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November 25, 2013

Honorable Antonio Bells
Vice President/Minister of Justice
Chairman, National Emergency Committee
P.O. Box 6067
Koror, Republic of Palau 96940

Subject: Final Report on the Performance Audit of Typhoon Bopha Catastrophe Relief Operations for the period from December 02, 2012 to January 18, 2013

Dear Mr. Vice President:

This audit report presents the result of our audit on Typhoon Bopha Catastrophe Relief Operations for the period from December 02, 2012 to January 18, 2013. The audit was undertaken at your request, following your appointment as Typhoon Bopha Catastrophe Relief Coordinator on January 18, 2013.

The objective of the audit was to assess the effectiveness and efficiency of the work of the Bopha Catastrophe Relief Coordinator (BCRC) by determining whether (1) a hierarchy of priorities was established, (2) disaster relief was timely, (3) damage assessments and the allocation of resources were fair and equitable, and (4) funds were used for relief efforts in an economical manner.

As a result of the review, the Office of the Public Auditor made the following observations and identified certain deficiencies/weaknesses pertaining to the administration of Typhoon Bopha catastrophe relief and recovery operations and related emergency funding, which we believe should be addressed to your attention in your capacity as the National Emergency Committee Chairman, to others responsible for disaster relief and recovery, and to policy makers for appropriate action and disposition. We also propose recommendations, which we believe, if implemented, will correct the deficiencies/weaknesses identified as summarized below:

First, we found that the former President of the Republic of Palau, the Honorable Johnson Toribiong, issued Executive Order No. 314, which established the Bopha Catastrophe Relief Coordinator, and thus pre-empted Executive Order No. 287 -- the Palau National Disaster Risk Management Framework, which governs disaster relief management in the Republic. Executive Order No. 287, which President Toribiong issued on October 19, 2010, established an institutional structure to ensure effective coordination and collaboration in preparing for and

responding to natural disasters and other emergencies that strike the Republic and ensures sustainable mitigation against and effective and equitable recovery from the impact of hazards that are of high risk to Palau.

We recommend that when natural disasters and catastrophes beset the Republic, resulting in the declaration of a state of emergency, the President designate the National Emergency Committee (NEC), the National Emergency Management Office (NEMO), and NEMO's Coordinator as the principal agencies to control and coordinate the Republic's institutional response to such emergencies, as required by Executive Order No. 287.

Second, the BCRC lacked basic policies and procedures to control and guide the processes and decision making used in the relief and recovery operations.

We recommend that when natural disasters and catastrophes beset the Republic, resulting in the declaration of a state of emergency, the President call upon the NEC, NEMO, and NEMO's Coordinator to establish and administer protocols, policies and procedures for managing and coordinating relief and recovery efforts, as required by Executive Order No. 287.

Third, we found that financial assistance may not have been distributed in a fair and timely manner; for instance, some applicants received assistance for home repairs while other did not and many residents in the southern islands of Palau (Peleliu and Angaur) experienced prolonged delay in receiving relief assistance.

We recommend that when natural disasters and catastrophes beset the Republic, resulting in the declaration of a state of emergency, the President call upon the NEC, NEMO, and NEMO's Coordinator to establish and administer the mechanisms and procedures needed to control and coordinate disaster relief operations to ensure a fair and timely distribution of relief assistance, as required by Executive Order No. 287. These mechanisms and procedures should apply to all Palauan entities and all NGOs and international relief agencies that engage in disaster relief.

Fourth, we found that historical monuments were one of the first priorities to receive financial assistance for the restoration or rebuilding of these structures, although their delay would not have been life-threatening or pose immediate danger to the health and safety of the citizens of the Republic or of the States involved.

We recommend that when natural disasters and catastrophes beset the Republic, resulting in the declaration of a state of emergency, the President call upon the NEC, NEMO, and NEMO's Coordinator to establish and administer mechanisms and procedures needed for setting and implementing priorities in connection with disaster relief and recovery efforts, as required by Executive Order No. 287. We further recommend that disaster relief and recovery efforts emphasize first and foremost the welfare and safety of all citizens of the Republic.

Fifth, we found that funds appropriated or donated for the Typhoon Bopha catastrophe relief and recovery efforts were deposited and administered outside of National Treasury contrary to the law.

Office of the Public Auditor

We recommend that when natural disasters and catastrophes beset the Republic, resulting in the declaration of a state of emergency, the President ensure that the Director of Bureau of National Treasury is responsible to the NEC for the management of all funds allocated and expended for disaster relief, as required by the treasury laws of the Republic of Palau and by Executive Order No. 287.

Sixth, we found that BCRC's contracts with private contractors for construction or repair of residential dwellings, public infrastructure, and historical monuments failed to require project inspections to verify percentage of completion of work, quality of work, and project completion before progress or final payments were made.

We recommend that all future private construction contracts pertaining to disaster relief and recovery work require periodic inspections to be conducted to verify percentage of completion of work, quality of work, and project completion before progress and final payments are tendered.

Seventh, we found that certain employees of the National Government and other agencies assigned to assist BCRC received compensation without adequate supporting documents (i.e., timesheets).


We recommend that NEC, NEMO, and all entities engaged in future disaster relief and recovery maintain control over their payrolls by requiring the use of timesheets to justify payroll expenditures.

Eighth, we found that the Palau Community College was reimbursed \$6,488 for the salary of an employee assigned by its President to assist BCRC, even though there was no contractual agreement for the reimbursement.

We recommend that any future reimbursement arrangements for workers (or their employers) assigned to disaster relief efforts be documented in a contractual agreement.

Finally, we would like to thank the Bopha Catastrophe Relief Coordinator, his staff and volunteers for the professional courtesy and cooperation extended to us during the audit.

Sincerely,



Satrunino Tewid
Public Auditor

BACKGROUND

On December 2, 2012, Sunday, at approximately eleven o'clock at night, Super Typhoon Bopha made landfall in the Republic of Palau with wind speeds of 155-190 miles per hour, wave height at 52 feet, and storm surge at 18 feet. In the early morning of December 3, 2012, Typhoon Bopha passed south of the islands of the Republic of Palau. In the aftermath, four (4) States on the east coast of Babeldaob, namely Ngaraard, Ngiwal, Melekeok, and Ngchesar, as well as the islands of Peleliu and Angaur to the South, sustained extensive damage from tidal waves that surged inland destroying residential structures, roads, water and electricity, and inundating surrounding areas with seawater, sand, and debris, while other states on the west coast of Babeldaob sustained minor to no damage.

On the same day, December 3, 2012, President Johnson Toribiong convened and consulted the Senate and House of Delegates of the Olbiil Era Kelulau and, based on a preliminary damage assessment by the National Emergency Management Office (NEMO) and recommendations from the members of the National Emergency Committee (NEC), declared a State of Emergency on December 4, 2012. The Olbiil Era Kelulau (OEK) concurred by confirming the declaration of a State of Emergency.

In accordance with the Presidential Declaration of a State of Emergency, and pursuant to the legislative authority of the President under Article VIII, § 14 of the Constitution of the Republic of Palau, the President on December 5, 2012 enacted RPPL No. 8-52, the "Super Typhoon Bopha Emergency Funding Act". The Act authorized the sum of \$10,000,000 and appropriated the sum of \$5,000,000 therefrom to provide funding for the Republic of Palau's response to the damage caused by Super Typhoon Bopha, and for other related purposes.

On December 5, 2012, President Johnson Toribiong issued Executive Order No. 314 appointing Dr. Patrick U. Tellei, President of Palau Community College, as the Bopha Catastrophe Relief Coordinator (BCRC) to exercise the authority conferred upon the President by RPPL No. 8-52 and to take all actions necessary to afford immediate and specific relief to those lives or property threatened by the catastrophe.

Following the installation of the Honorable Tommy E. Remengesau Jr. as the incoming President of the Republic of Palau, the President on January 18, 2013, issued Executive Order 320 appointing the Honorable Antonio Bells, Vice President/Minister of Justice, as the new Bopha Catastrophe Relief Coordinator.

Upon assuming the new role as the BCRC, the Vice President on January 31, 2013, requested the Office of the Public Auditor to conduct an audit of the administration of the relief effort so as to provide an account of what's been done as basis for determining the way forward.

On August 5, 2013 President Tommy Remengesau, Jr. issued Executive Order No. 342 assigning to the Palau Housing Authority the final oversight role for the relief effort for the impact of Typhoon Bopha, in consultation with the Capital Improvement Office.

Executive Order No. 287 – the 2010 National Disaster Risk Management Framework

On October 19, 2010, President Johnson Toribiong signed Executive Order No. 287 adopting the 2010 National Disaster Risk Management Framework. As the Executive Order states, “the 2010 Palau National Disaster Risk Management Framework lays down a comprehensive response and recovery arrangement and sets up the mechanism for incorporating disaster risk reduction and mitigation measures to achieve sustainable national development planning . . .” Executive Order No. 287, which repealed Executive Order No. 166-99, the Republic of Palau’s previous National Disaster Management Plan, established an institutional structure to ensure effective coordination and collaboration in preparing for and responding to natural disasters and other emergencies that strike the Republic and ensures sustainable mitigation against and effective and equitable recovery from the impact of hazards that are of high risk to Palau. Regarding the aftermath of national disasters such as Super Typhoon Bopha, Executive Order No. 287 provides “a coordinated and integrated approach to disaster response management across all responding agencies,” including Palauan agencies and regional and international relief organizations and NGOs (Executive Order No. 287, Part 3, Section 3.11.1).¹

Executive Order No. 287 designates the National Emergency Committee (NEC) as the agency tasked to “command, control and coordinate operations for any nationally declared disaster or emergency,” to prepare the initial damage assessment report and submit recommendations to the Disaster Executive Council (DEC), and to “oversee recovery efforts according to priorities set by the DEC”² (3.4.1). Executive Order No. 287 also tasks the NEC with the management and coordination of disaster relief and recovery efforts (3.24). Executive Order No. 287 mandates that the Coordinator of NEMO “shall be the National Disaster Coordinator (NDC) for all natural disasters” (3.11). The NEMO Coordinator, as NDC, is to “assume the overall control and coordination responsibilities for the duration of any declared national disaster in support of the role and responsibilities of the National Emergency Committee (NEC)” (3.6).

OBJECTIVE, SCOPE AND METHODOLOGY

The objective of the audit was to assess the effectiveness and efficiency of the work of the former Bopha Catastrophe Relief Coordinator by determining whether (1) a hierarchy of priorities was established, (2) disaster relief was timely, (3) damage assessment and allocation of resources were fair and equitable, and (4) funds were used for relief efforts in an economical manner.

The scope of the audit was limited to the period from December 2, 2012 to January 18, 2013. As this is a performance audit, we did not conduct audit procedures to assess the fairness of the financial statements of BCRC or any component or account within those financial statements and therefore express no opinion on the financial statements.

¹ All citations hereafter are to sections and subsections of Executive Order No. 287, unless otherwise indicated.

² The DEC consists of the President of the Republic, the Vice President, all Ministers, the Heads of the Council of Chiefs, the Chairman of the Governors’ Association, the Senate President and House Speaker of the Olbiil Era Kelulau.

Office of the Public Auditor

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The Public Auditing Act of 1985 empowers the Office of the Public Auditor to specifically act to prevent fraud, waste, and abuse in the collection and expenditures of public funds. The Public Auditor may make recommendations on the prevention and/or detection of fraud, waste, and abuse of public funds.

To accomplish our audit objective, we reviewed bank records, contracts, damage assessment reports, financial reports, executive orders, public laws, files, receipts, invoices, and other relevant records and documents. We also conducted interviews with State Governors, the BCRC and his staff. Moreover, we conducted site visits to some of the States on the east coast of Babeldaob to observe the damage and assess the progress of the work to repair and restore residential homes, infrastructure, and historical sites.

PRIOR AUDIT COVERAGE

This is the first time the Office of the Public Auditor has conducted an audit with a focus on disaster relief efforts in the Republic of Palau. No other audit of this kind has ever been performed by the OPA or an independent accounting firm

BCRC Finding No.1

Appointment of Bopha Catastrophe Relief Coordinator

On October 19, 2010, as noted above, President Johnson Toribiong signed Executive Order No. 287 adopting the Palau National Disaster Risk Management Framework 2010 and repealing Executive Order 166-9, the Republic of Palau's previous National Disaster Management Plan, issued on May 10, 1999. Executive Order No. 287 mandates that the Coordinator of NEMO "shall be the National Disaster Coordinator (NDC) for all natural disasters" (3.11). The NEMO Coordinator, as NDC, is to "assume the overall control and coordination responsibilities for the duration of any declared national disaster in support of the role and responsibilities of the National Emergency Committee (NEC)" (3.6).

The audit revealed that on December 5, 2012, President Toribiong issued Executive Order No. 314 appointing Dr. Patrick Tellei, President of Palau Community College, as Bopha Catastrophe Relief Coordinator (BCRC) and the President's designee to exercise the authority conferred upon the President by RPPL No. 8-52, which authorized the President or his designee to take all actions deemed necessary to afford immediate and specific relief to those whose lives or property were threatened by the catastrophe. The Act authorized the sum of \$10,000,000 for Bopha relief and recovery and appropriated the sum of \$5,000,000 therefrom for expenditure and obligation in connection with the relief and recovery efforts.

We were unable to determine the reasoning upon which the President of the Republic abandoned Executive Order No. 287 and opted to appoint an ad hoc Bopha Catastrophe Relief Coordinator (BCRC). Executive Order No. 287 is a structured instrument that was issued specifically to govern the Republic's relief and recovery efforts in the aftermath of natural disasters and other catastrophes. The BCRC, on the other hand, did not have a structured mechanism for planning, coordinating, or executing actions in response to the catastrophe. Moreover, the staff assigned to assist BCRC lacked prior experience or training in conducting emergency relief and recovery operations.

Thus, by appointing the BCRC in response to the Super Typhoon Bopha catastrophe, the former President failed to implement the Palau National Disaster Risk Management Framework, which his Executive Order No. 287 adopted as national policy on October 19, 2010 "in its entirety," but instead created a disaster coordinator without a basic framework to guide its operations. In addition, in operating without Executive Order No. 287's mandates and guidelines, the BCRC may not have been as effective and efficient as it could have been in implementing controls, coordinating activities, decision making, accountability, and overall organizational arrangements, which are critical aspects of disaster management and risk reduction strategies.

Recommendation

We recommend that when natural disasters and other catastrophic events beset the Republic, resulting in the declaration of a state of emergency, the President designate the National Emergency Committee, the National Emergency Management Office, and NEMO's Coordinator

as the principal agencies to control and coordinate the Republic's institutional response to such emergencies, as required by Executive Order No. 287. Abandoning Executive Order No. 287 and replacing the Palau National Disaster Risk Management Framework with an ad hoc institution at the last minute, as occurred in the wake of Super Typhoon Bopha, only leads to inefficient and ineffective response to national emergencies.

National Emergency Committee's (NEC) Response: *I fully agree that the Palau National Disaster Risk Management Framework is the most practical, effective, and efficient way for the National Government to respond to natural disasters and other catastrophic events in order to provide timely and equitable relief to the people affected. I believe this is the primary reason why the Framework was adopted in the first place. In this regard, I will consult with the President and the members of the NEC on the implementation of the recommendation and other corrective measures.*

BCRC Finding No. 2

Policies and Procedures

An effective and efficient response to national emergencies dictates formulation of policies and procedures to control and guide processes and decision making in the relief and recovery operations. Policies and procedures such as methodologies for conducting damage assessments, prioritization of relief assistance, ratings for levels of damage, eligibility for immediate relief, and such other essential policies provide guidelines for the conduct and coordination of relief and recovery efforts, and support a fair, equitable, and transparent allocation of resources to those affected by national emergencies. In addition, the National Emergency Management Office (NEMO) is responsible for developing operating procedures with relevant government agencies for disaster management operations in order to improve coordination of disaster recovery.

During the audit, we found that the BCRC did not establish any policies and procedures to control, coordinate or guide relief and recovery operations. We found no evidence of a hierarchy of priorities to support the BCRC's mobilization of resources to provide relief assistance. The BCRC lacked a committee to coordinate operations and ensure effective decision making. It lacked policies governing, for example, conduct of damage assessments, ratings for levels of damage, eligibility for immediate relief, etc.

It appears the BCRC was rushed into existence to implement the relief and recovery efforts without an institutional framework and guidelines to ensure that the intent of RPPL No. 8-52 would be achieved in a timely manner and assistance distributed in a fair and equitable manner to the people affected by the disaster.

As a result, relief and recovery efforts were untimely, lacked proper planning and coordination, prioritization, uniformity and consistency, and decision making was delegated to one individual rather than by consensus of a committee.

Recommendation

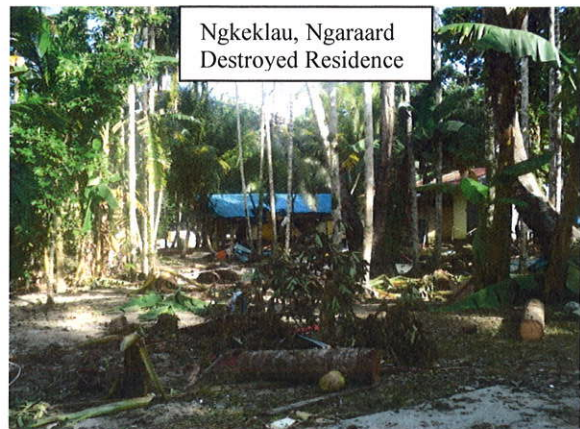
We recommend that when natural disasters and other catastrophic events beset the Republic resulting in declaration of a state of emergency, the President call upon the NEC, NEMO, and NEMO's Coordinator to establish and administer protocols, policies and procedures for managing and coordinating relief and recovery efforts, as required by Executive Order No. 287. Specifically, we draw your attention to Executive Order No. 287's requirement that the recovery process "be managed and coordinated by the NEC with the support and advice of the Hazard Mitigation Sub-Committee (HMSC)" (3.24). Policies and procedures such as conducting damage assessments, establishing ratings for levels of damage and determining eligibility for immediate relief are just some of the essential policies that need to be put in place to guide relief and recovery efforts.

NEC's Response: *I fully agree that the Palau National Disaster Risk Management Framework is the most practical, effective way for the National Government to respond to natural disasters and other catastrophic events in order to provide timely and equitable relief to the people affected. I further concur that policies and procedures are essential to guide management and emergency response teams in carrying out relief and recovery operations. In this regard, I will discuss the findings and recommendations with the National Emergency Management Office (NEMO) Coordinator to identify the specific areas where policies and procedures are weak, or lacking, and take corrective measures to improve or strengthen them.*

BCRC Finding No.3

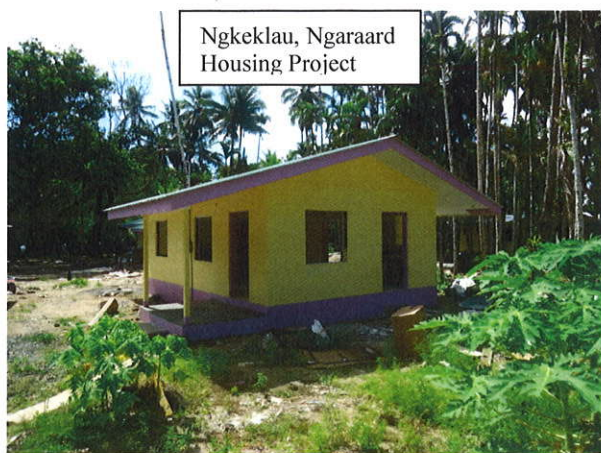
Awarding Residential Projects

The RPPL No. 8-52, Section 4, Authorization to Expend Funds, states: "The President or his designee is hereby authorized to expend the funds appropriated by this Act and to take all actions that he deems to be necessary to afford immediate and specific relief to those lives or property threatened by the catastrophe, and to procure all goods, equipment and services required for emergency operations and emergency capital improvement projects, and to provide disaster relief, including emergency operations, purchases and construction, necessitated by the catastrophe." In addition, the awarding of relief assistance should be based on accurate and valid information to facilitate a fair and equitable distribution of financial assistance to claimants.



During the audit, we found that financial assistance may not have been distributed in a fair and timely manner to all claimants. Based on the former BCRC Report, dated January 24, 2013, a total of 398 claim applications were filed for residential assistance. Of the 398 residential

applications, only 56 claimants were awarded, while the remaining 342 applications were still pending as of January 24, 2013. Of the 56 claimants awarded, 43 were for rebuilding new homes, 10 for repairs, and 3 for outdoor cooking facilities. Furthermore, we noted that some residential homes were assessed as level 4 (Extensive Damage) and level 3 (Moderate Damage) but did not receive immediate repairs. Neglected and exposed to weather elements, these homes continued to further deteriorate until they were too damaged to repair. Moreover, we found that some residential homes were awarded repair materials and building of outdoor cooking facilities while others with the same level of damage were not. Finally, claim applicants in Peleliu and Angaur, some of whose homes were demolished, endured prolonged delay for assistance.



In addition, we found that the BCRC did not have a structured process or committee to review and evaluate damage claims nor did it establish criteria, policies or procedures to guide damage assessments and award financial assistance. Moreover, the Coordinator did not have experienced or trained personnel to conduct damage assessments, a critical component of relief and recovery operations, and to ensure the accuracy and validity of assessments upon which financial assistance were awarded. In addition, as noted under Finding 2, the lack of policies and procedures on

how to distribute assistance may have contributed to inequity, inconsistency, and the lack of timeliness in the distribution of relief efforts.

As a result, only 56 applicants who filed damage claims received assistance, while the remaining 342 were postponed. Moreover, these 342 applicants received no follow-up communications regarding the status of their claims for assistance.

Recommendation

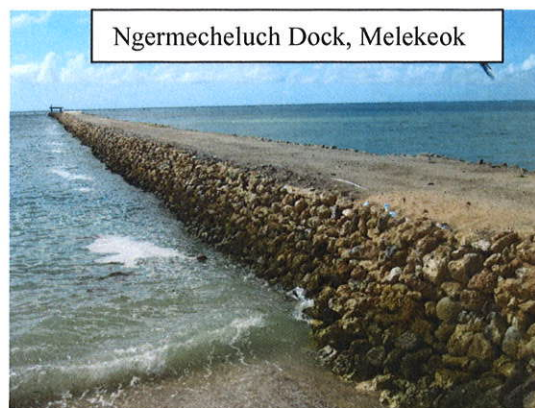
We recommend that when natural disasters and other catastrophic events beset the Republic resulting in the declaration of a state of emergency, the President call upon the NEC, NEMO, and NEMO's Coordinator to establish and administer protocols, policies and procedures for managing and coordinating relief and recovery efforts, as required by Executive Order No. 287. Specifically, we draw your attention to Executive Order No. 287's requirement that the recovery process "be managed and coordinated by the NEC with the support and advice of the HMSC" (3.24). Policies and procedures such as conducting damage assessments, establishing ratings for levels of damage and determining eligibility for immediate relief are just some of the essential policies that need to be put in place to guide relief and recovery efforts. Such policies and procedures will provide the essential guidelines to ensure fair, equitable, and timely distribution of assistance to claimants.

NEC’s Response: *I fully agree that the Palau National Disaster Risk Management Framework (PNDRMF) is the most practical, effective, and efficient way for the National Government to respond to natural disasters and other catastrophic events in order to provide timely and equitable relief to the people affected. The replacement of the Palau National Disaster Risk Management Framework by the BCRC at the last minute without a framework to guide its work may have contributed to the inequities and inconsistencies in the relief efforts, in addition to land disputes and ownership of land where new houses were to be built. In this respect, as Chairman of the NEC, I will consult with the President and members of the NEC to determine how the PNDRMF can improve operations (i.e. policies and procedures, etc....) to ensure the equitable and fair distribution of assistance to those whose lives are affected by natural disasters and other catastrophes.*

BCRC Finding No. 4

Funding for Historical Infrastructure Projects

RPPL No. 8-52, Section 4, Authorization to Expend Funds states “The President or his designee is hereby authorized to expend the funds appropriated by this Act and to take all actions that he deems to be necessary to afford immediate and specific relief to those lives or property threatened by the catastrophe, and to procure all goods, equipment and services required for emergency operations and emergency capital improvement projects, and to provide disaster relief, including emergency operations, purchases and construction, necessitated by the catastrophe.”



The audit revealed that several historical infrastructure projects were awarded funds for reconstruction or restoration. The projects and their respective expenditures are shown below:

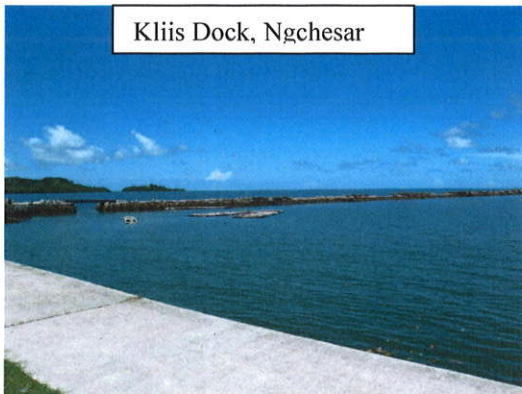
Project	Location	Total Expenditures
Ngerbau Dock Project	Ngarchelong State	\$ 27,058.52
Chetoilechang Seawall Restoration	Ngkeklau, Ngaraard State	\$ 87,400.00
Ngiwal Seawall Rehabilitation Project Phase I (Btelul a Chang ra Belod to Honeymoon Beach)	Ngiwal State	\$ 54,560.00
Ngermecheluch Dock Restoration Project (Okemii, Such, Meteu Klechem)	Melekeok State	\$ 150,000.00
Kliis Traditional Dock Project	Ngchesar State	\$ 96,572.56
Total Cost		\$ 415,591.08

Although we were convinced that a few of these projects (Chetoilechang Seawall and Ngiwal Seawall) were critical for the restoration and protection of road systems and related appurtenances, others (Ngerbau Dock, Ngermecheluch Dock, and Kliis Dock) could have been delayed until after the repair, restoration, and reconstruction of residential homes. The delay in the restoration or reconstruction of these historical structures would not have threatened the lives and health of the citizens of the affected states or the Republic; the delay in the reconstruction or repair of peoples' homes, however, did. For example, at the time the projects had incurred the above expenditures, Melekeok State had 31 pending residential applications for assistance and Ngchesar State had 4.

Btelul a Chang ra Blod, Ngiwal



Kliis Dock, Ngchesar



We could not determine the logic behind funding priority for historical structures over residential homes, especially considering the purpose and intent of the appropriation of funds in RPPL No. 8-52.

As a result, 342 residential claims applications categorized (degree of damage) as level 4, 3, 2, and 1 were still pending as of January 24, 2013. In addition, the restoration of the historical monuments, the damage to which was not life-threatening, consumed funding which otherwise would have been available

for the reconstruction of or repair to damaged homes in those States with ownership of the monuments.

Recommendation

We recommend that the Palau Housing Authority, in consultation with the Capital Improvement Office, use funds that remain from the appropriation made pursuant to RPPL No. 8-52 to repair or reconstruct residential homes and public facilities damaged or destroyed by the natural disaster that, if not reconstructed, restored, or repaired, would threaten the lives and safety of the citizens of the Republic. In this regard, the projects should be prioritized to ensure that investment of the limited funding realizes a return that improves or strengthens the livelihood, safety, and health of the people and returns their lives to normalcy.

NEC's Response: *I agree with the finding and the recommendation, I also concur that the historical infrastructure projects perhaps could have been delayed to avail the funds for repair and reconstruction of residential homes. The apparent lack of prioritization of projects (due to lack of policies and procedures) perhaps contributed to the restoration and reconstruction of historical projects receiving priority over residential homes.*

BCRC Finding No. 5

Deposit of Bopha Funds outside National Treasury

Article XII, Section 1 of the Constitution of the Republic of Palau states: “There shall be a National Treasury and a state treasury for each of the states. All revenues derived from taxes or other sources shall be deposited in the appropriate treasury. No funds shall be withdrawn from any treasury except by law.”

40 PNC § 101 provides: “There is hereby established a National Treasury of the Republic of Palau into which all revenues derived from national taxes or other sources due to the national government shall be deposited. No funds shall be withdrawn from National Treasury except by law.”

40 PNC § 102 requires: “The Director of the Bureau of National Treasury shall collect and receive national revenues and make such disbursements from the National Treasury as prescribed by law.”

Consistent with these Constitutional and statutory requirements, Executive Order No. 287, Part 3, Section 3.22, states: “The Director of Bureau of National Treasury is responsible to the NEC for the management of all funds provided for disaster relief purposes, and prior authorization is needed for expenditure of such funds” (3.22).

The audit revealed that the former President of the Republic of Palau, the Honorable Johnson Toribiong, established two (2) separate checking accounts outside of the National Treasury for the deposit and disbursement of Bopha relief assistance. One checking account serviced ROP allotments via appropriations under RPPL No. 8-52 and the other served as a depository for private, other country, and non-government contributions authorized and appropriated under RPPL No. 8-56. Furthermore, we found that the BCRC manually recorded its daily transactions on a log book/check register and there appears to have been no reconciliations of the bank accounts. The BCRC administered the two checking accounts at Bank of Guam for the ROP Funds and Donations as follows:

1. BCRC Emergency Fund – ROP (Account No. 0110029031)
2. BCRC Relief Fund – ROP (Account No. 0110029022).

We were not able to determine why these two accounts were established outside of National Treasury and, furthermore, why the Director of Bureau of National Treasury was not assigned the responsibility to manage these funds for the National Emergency Committee (NEC) pursuant to 40 PNC § 102 and Executive Order No. 287. According to a legal opinion that the Office of the Public Auditor obtained from its legal counsel, dated August 19, 2013, the BCRC and the former President acted improperly by failing to deposit the funds into the National Treasury and by administering the funds outside of National Treasury.

Thus, the former President and the BCRC did not comply with the National Treasury laws of the Republic of Palau and with Section 3.22 of the Executive Order No. 287. In addition, there appears to have been a lack of internal controls over disbursement of funds and of bank account reconciliations.

Subsequent to the period covered by this audit, we found, the new BCRC closed the two checking accounts at Bank of Guam and transferred the funds to the National Treasury.

Recommendation

We recommend that in the future any funds allocated for disaster relief and recovery be deposited and administered in compliance with the treasury laws of the Republic of Palau and Executive Order No. 287. We further recommend that the Attorney General investigate the establishment of, deposit of funds into and disbursement of Bopha relief assistance funds by the BCRC from the two (2) separate checking accounts outside of the National Treasury and take appropriate legal action, if warranted.

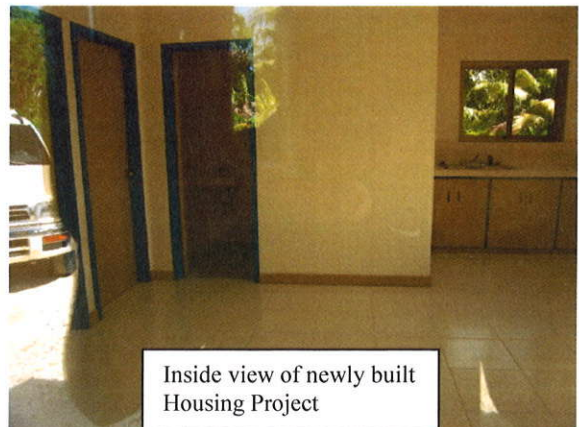
NEC's Response: *I agree with the finding and the recommendation that the typhoon Bopha catastrophe relief funds (both appropriated and donated) should not have been administered outside of National Treasury and should have been deposited into the National Treasury and administered through the National Treasury. For this reason, upon my appointment as the BCRC, one of the first actions I took was to close the accounts and transfer the remaining funds into National Treasury. As chairman of the NEC, I will consult the President of the Republic and the members of the NEC to ensure that for all future emergency relief operations the funding is deposited into National Treasury and relief operations are administered through National Treasury.*

BCRC Finding No. 6

Project Inspection and Progress Payment

Contracts with private contractors for the construction or repair of residential dwellings, public infrastructure projects, or historical monuments in the aftermath of natural disasters should include provisions requiring project inspections to ensure the validity of percentage of completion of work, the quality of work, and project completion before payments are made.

The audit revealed that BCRC construction contracts for residential, CIP, or historical restoration were devoid of requirements to conduct periodic project inspections. In addition, we did not find any documentation that inspections were conducted to



Inside view of newly built Housing Project

verify percentage of completion of work, quality of work, or project completion before progress or final payments were made.

We were unable to determine the reasoning behind BCRC omitting project inspection requirements and progress payments in its construction contracts. In addition, in the absence of inspection reports, we were unable to assure ourselves that payments to contractors were commensurate with percentage of completion of work or quality of work.

Recommendation

We recommend that all future private construction contracts pertaining to disaster relief and recovery work require that periodic inspections be conducted to verify percentage of completion of work, quality of work, and project completion before progress and final payments are tendered. In addition, upon project completion, a final inspection should be conducted and a "certificate of completion" letter or its equivalent should be certified by the inspector and contractor prior to remitting the final payment.

During the audit we observed that the new BCRC implemented project inspections as a requirement prior to disbursing progress payments to contractors.

NEC's Response: *I fully agree with the finding and recommendation that the BCRC construction contracts should have included a requirement that project inspections be conducted before progress or final payments were made to contractor. For this reason, upon assuming the position as BCRC, I instituted the requirement of conducting project inspections before progress or final payments are made.*

BCRC Finding No. 7

Payroll Timesheets

Proper internal controls dictate that payroll expenditures contain timesheets showing the number of days of work, time earned, and certification of the timesheets by the appropriate supervisor or management official.

During the audit, we found that some employees of Public Works, PCC, and other national government agencies assigned to assist BCRC received compensation without adequate documentation (i.e., timesheets). There were no timesheets showing the number of days of work, hours earned, and approval of timesheets by appropriate management officials.

Thus, it appears that BCRC failed to establish essential controls over payroll. As a result, a total of \$ 1,585.71 of payroll costs was undocumented.

Recommendation

We recommend that NEC, NEMO, and all entities engaged in future disaster relief and recovery maintain control over their payrolls by requiring the use of timesheets to justify payroll expenditures. The timesheets should keep track of number of days of work and number of hours earned each day, and should be certified and approved by appropriate management official(s).

NEC's Response: *I agree with the finding and recommendation that timesheets should have been used to keep track of working hours (regular or overtime) of workers. As Chairman of the NEC, I will discuss with the members of the NEC procedures to ensure that this control measure is implemented to keep track of and account for payroll expenditures.*

BCRC Finding No. 8

Reimbursement of Palau Community College

Reimbursement for services rendered to a public institution by another public institution should be documented in a preapproved contractual agreement between the two institutions. The reimbursement should be tendered after the service has been completed or as otherwise stipulated in the contractual agreement. Moreover, a public institution should not be reimbursed for services rendered by one of its employees to another public institution, when those services are part of the employee's existing duties and responsibilities.

During the audit, we found that an employee of Palau Community College (PCC) was assigned by the President of the College, who was also the BCRC, to assist him in the Typhoon Bopha disaster relief and recovery efforts. We further found that there was no contractual agreement between PCC and BCRC regarding reimbursement of PCC for the assignment and services of the employee. The BCRC, however, on December 17, 2012, took it upon himself to reimburse PCC \$6,487.86 for services that the employee was to perform for the period covering December 10, 2012 to March 10, 2013, meaning that PCC was reimbursed in advance of the employee services. In addition, the BCRC may have over-reimbursed PCC based on the actual time that the employee performed services for BCRC, considering that a new BCRC was appointed and took command of operations on January 18, 2013. Moreover, the PCC should not have been reimbursed for the services of the employee as the employee's Limited-Term Appointment contract with PCC required him to provide all assistance to the College President regarding the National Emergency Council (NEC). We further observed that, in contrast, certain National Government employees were also assigned to assist in the relief and recovery efforts, but the National Government was not reimbursed for this.

We were unable to determine the cause of the above actions by the BCRC.

As a result, money reimbursed to PCC at the start of relief operations was not available to provide financial assistance to homeowners and related claimants, even though PCC had not earned the full reimbursement. In addition, according to a legal opinion the Office of the Public

Auditor obtained from its legal counsel, dated August 19, 2013, the reimbursement may have constituted a breach of fiduciary duty by the BCRC.

Recommendation

We recommend that any future reimbursement arrangements for workers (or their employers) assigned to disaster relief and recovery efforts be documented in a contractual agreement. The agreement(s) should spell out the terms and conditions for reimbursement including, but not limited to, duties and responsibilities, duration of service, terms of reimbursement, etc. We further recommend that the Attorney General investigate the above reimbursement and take appropriate action for any misappropriation of public funds or other improprieties.

NEC's Response: *I agree with the finding and recommendation that the reimbursement should have been documented in an agreement spelling out the services to be provided and other terms and conditions. I will discuss this matter with the prior BCRC Coordinator and the Attorney General and take corrective action at the advice of the Attorney General.*

In closing, I want to assure you that as Chairman of the National Emergency Committee (NEC), I will consult with the President of the Republic of Palau and the members of the NEC to discuss the findings and recommendations in the report to ensure that corrective action is taken to remedy the deficiencies identified in the report in order to further strengthen the Republic of Palau's responses to national disasters and other catastrophic events.



**ILLEGAL OR WASTEFUL ACTIVITIES
SHOULD BE REPORTED TO:**

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Madalaii, Koror, Palau**

**TELEPHONE NOS: (680) 488-2889/5687
FACSIMILE NO: (680) 488-2194
WEBSITE ADDRESS: www.palauopa.org
E-MAIL ADDRESS: admin@palauopa.org**

**MONDAY THRU FRIDAY
7:30 a.m. - 4:30 p.m.**

(Closed on Legal Holidays)