



OFFICE OF THE PUBLIC AUDITOR
REPUBLIC OF PALAU

PERFORMANCE AUDIT REPORT

ON

UIGHUR RESETTLEMENT GRANTS

REPUBLIC OF PALAU

FOR THE PERIOD FROM OCTOBER 1, 2009 TO SEPTEMBER 30, 2013

Performed by the Office of the Public Auditor

URG-13-03P*opa00

REPUBLIC OF PALAU



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Office of the Public Auditor

August 28, 2015
Serial#: opa15-178au

Honorable Tommy E. Remengesau, Jr.
President of the Republic of Palau
Office of the President
Koror, Republic of Palau

Subject: Final Audit Report on the Uighur Resettlement Grants for the period October 1, 2009 to September 30, 2013.

Dear President Remengesau:

This report presents the result of our audit on the Uighur Resettlement Grants for the period from October 1, 2009 to September 30, 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 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 the recommendations 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 this report and the findings and recommendations discussed therein, the OPA will be available to discuss them at your request.

Sincerely,

A handwritten signature in black ink, appearing to read "Satruning Tewid". The signature is stylized and written over a horizontal line.

Satruning Tewid
Public Auditor
Republic of Palau

UIGHUR RESETTLEMENT GRANTS

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Office of the Public Auditor

EXECUTIVE SUMMARY

August 28, 2015

Honorable Tommy E. Remengesau, Jr.
President of the Republic of Palau
Office of the President
P.O. Box 6051
Koror, Republic of Palau 96940

**Subject: Final Report on Performance Audit of the Uighur Resettlement Grants for the period
October 1, 2009 to September 30, 2013**

Dear President Remengesau:

This Final report presents the result of the Office of the Public Auditor's (OPA) performance audit on the Uighur Resettlement Grants for the period October 1, 2009 through September 30, 2013.

The objective of the audit was to determine whether the revenues and expenditures of the Uighur Resettlement Grants were administered in compliance with the Republic of Palau Laws and Regulations.

As a result of the audit, the Office of the Public Auditor found number of weaknesses/deficiencies noted below (Findings No. FY15-01 to FY15-13) relating to the administration of the Uighur Resettlement Grants, which we believe should be brought to the attention of management for appropriate corrective action. We also propose recommendations which, if implemented, we believe, will correct or rectify these weaknesses/deficiencies.

First, the OPA found that the Uighur grants totaling \$702,622 were deposited into and administered from a separate bank account outside of the Republic of Palau National Treasury contrary to the Republic of Palau's Constitution and national treasury laws,

Second, the OPA found that major procurements relating to the provision of goods and services for the Uighurs, i.e., Leased Housing, Accounting Services, Construction Services, Household Furnishings, Medical Services, and Security Services were conducted without competitive bidding in violation of the Republic of Palau's Procurement Law and Regulations,

Third, the audit revealed that the Uighur Resettlement Grants expenditures totaling approximately \$702,249 may have been incurred in violation of the Republic of Palau's laws governing certification of funds availability,

Fourth, the OPA found that majority of the agreements for the provision of goods and services for the Uighurs, i.e., Leased Housing, Accounting Services, Construction Services, and Security Services, were executed without a written contract in violation of the Republic of Palau Procurement Law and Regulations,

Fifth, the OPA found that several procurements were awarded by then-President to his siblings in violation of the Code of Ethics Act and Conflict of Interest provisions of the Republic of Palau Procurement Law and Regulations,

Sixth, the OPA found that the Uighur Resettlement Program established an "open" fuel charge account without competitive bidding and the essential controls to ensure that fuel requisitions support the Uighurs resettlement and to control costs,

Seventh, the OPA found that the Uighur Resettlement Program after spending approximately \$41,194.76 buying household furniture, fixtures, and appliances was unable to account for, locate the properties, and return them to the proper government authorities,

Eighth, then-President entered into a 3-year lease agreement for an apartment complex for the Uighurs with an advance payment of \$63,000 but most of the Uighurs prematurely relocated to other apartments thereby forfeiting the full use of the advance payment,

Ninth, the OPA found that a suspicious security service company owned by the President's sibling was hired to provide security service for the Uighurs in violation of the Code of Ethics Act and Conflict of Interest provisions of the Republic of Palau Procurement Law and Regulations,

Tenth, the OPA found that the Uighur Coordinator was unable to account for, locate, and return a vehicle and other equipment purchased for the Uighur Resettlement program to the proper government authorities,

Eleventh, the OPA found that controls over check disbursements were lax in that checks were issued out of numerical sequences, several checks were not recorded in the disbursement journal, and a series of check numbers were used twice,

Twelfth, the OPA questioned \$255,895.54 of the Uighur Grants expenditures due to lack of supporting documentation such as contracts, invoices, receipts, etc. and/or violations of the Code of Ethics Act, the Procurement law and regulations, and other applicable laws and regulations.

Thirteenth, the OPA found that supplemental funding appropriated under RPPL No. 9-7 were not used in accordance with the intent of the appropriation legislation.

Recommendation

To correct or rectify the above-noted weaknesses/deficiencies:

First, the OPA recommends that all grants and other revenues due the Republic of Palau be deposited into and administered from the Bureau of National Treasury in compliance with the Republic of Palau Constitution and National Treasury Laws. In addition, we recommend the Office of the Attorney General or the Interim Special Prosecutor further investigate the administration of the Uighur Resettlement grants and take appropriate action for any violation of the Republic of Palau Constitution and other applicable laws and regulations,

Second, the OPA recommends that all programs and projects funded by Republic of Palau funds, whether from taxes, grants, or otherwise, adhere to and follow the Republic of Palau Procurement Law and Regulations. In addition, we recommend the Office of the Attorney General or the Interim Special Prosecutor further investigate the above-mentioned procurements and take legal action for any violation of Republic of Palau laws and regulations, the procurement law and regulations in particular,

Third, the OPA recommends that all grants and other revenues due the Republic of Palau be deposited into and administered from the Bureau of National Treasury in compliance with the Republic of Palau Constitution and National Treasury Laws. In addition, we recommend the Office of the Attorney General or the Interim Special Prosecutor further investigate the certification of funds process for the Uighur Resettlement Grants expenditures and take appropriate action for any violation of the Republic of Palau Laws and regulations,

Fourth, the OPA recommends that all Republic of Palau funds be deposited into and administered from the Bureau of National Treasury to insure that established internal controls within National Treasury are exercised to safeguard the propriety of transactions and their recording and to ensure compliance with applicable laws and regulations. In addition, we recommend that the Office of the Attorney General or the Interim Special Prosecutor further investigate the above transactions and take legal action for violation of the Republic of Palau Laws and regulations, including the recovery of public funds that may have been illegally spent,

Fifth, the OPA recommends that all grants and other revenues due the Republic of Palau be deposited into and administered from the Bureau of National Treasury in compliance with the Republic of Palau Constitution and National Treasury Laws. In addition, we recommend the Office of the Attorney General or the Interim Special Prosecutor further investigate the above transactions and take legal action for any violations of the Republic of Palau laws and regulations, the Code of Ethics Act and Conflict of interest in particular,

Sixth, the OPA recommends that fuel supply arrangements be let out to competitive bidding to ensure the government is obtaining the most economical price for its fuel products. In addition, proper controls should be established to protect the "open" fuel charge account to ensure that it is used for official business, requisitions contain the proper supporting documents and the account is properly monitored,

Seventh, the OPA recommends that all grants and other revenues due the Republic of Palau be deposited into and administered from the Bureau of National Treasury in compliance with the Republic of Palau Constitution and National Treasury Laws. In addition, we recommend the Office of the Attorney General or the Interim Special Prosecutor further investigate the whereabouts of these properties, seek their recovery, and take legal action for any violation of the Republic of Palau laws and regulations, including misappropriation or misuse of government property,

Eighth, the OPA recommends that all grants and other revenues due the Republic of Palau be deposited into and administered from the Bureau of National Treasury in compliance with the Republic of Palau Constitution and National Treasury Laws. In addition, we recommend the Office of the Attorney General or the Interim Special Prosecutor further investigate the lease agreement and related advance payments and take appropriate action for any violation of the Republic of Palau laws and regulations, including the Code of Ethics Act, conflict of interest, and the recovery of any illegal payments therewith,

Ninth, the OPA recommends that all grants and other revenues due the Republic of Palau be deposited into and administered from the Bureau of National Treasury in compliance with the Republic of Palau Constitution and National Treasury Laws. In addition, we recommend the Office of the Attorney General or the Interim Special Prosecutor further investigate the above-mentioned security services to ensure the Republic received the services that it paid for and take appropriate action for any violation of the Republic of Palau laws and regulations, including the Code of Ethics Act, conflict of interest, and the recovery of any illegal payments therewith,

Tenth, the OPA recommends that all grants and other revenues due the Republic of Palau be deposited into and administered from the Bureau of National Treasury in compliance with the Republic of Palau Constitution and National Treasury Laws. In addition, we recommend the Office of the Attorney General or the Interim Special Prosecutor further investigate the government properties acquired with the Uighurs grants and take appropriate action for any violation of the Republic of Palau laws and regulations, including misappropriation or misuse of government property,

Eleventh, the OPA recommends that all grants and other revenues due to the Republic of Palau be deposited into and administered from the Bureau of National Treasury to ensure the integrity of controls over checks including issuing checks in proper numerical sequence, recording of transactions, and preventing the use of duplicate check numbers. In addition, we

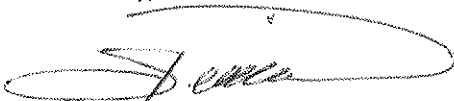
recommend the Office of the Attorney General or the Interim Special Prosecutor further investigate the unrecorded checks to ensure their proper use and disposition,

Twelfth, the OPA recommends that all grants and other revenues due to the Republic of Palau be deposited into and administered from the Bureau of National Treasury to ensure that expenditures contain the proper supporting documents and are in compliance with applicable laws and regulations. In addition, we recommend that the Office of the Attorney General or the Interim Special Prosecutor further investigate the \$255,895.54 of questioned costs and take legal action for any improper use of public funds and/or violations of the Republic of Palau laws and regulations,

Thirteenth, the OPA recommends that the National Government expend public funds in accordance with the intent of appropriation laws.

Finally, the Office of the Public Auditor would like to thank the staff and management of the Uighurs Resettlement Program for their professional courtesy and cooperation extended to us during the audit.

Sincerely,

A handwritten signature in black ink, appearing to read 'Satrunino Tewid', written over a horizontal line.

Satrunino Tewid
Public Auditor
Republic of Palau

BACKGROUND

On October 12, 2009, after consultations between U.S. Ambassador Daniel Fried and President Johnson Toribiong, the United States and the Republic of Palau reached an agreement regarding the ethnic Uighur individuals detained at the Guantanamo Bay Detention Facility. This agreement is memorialized in a Diplomatic Note dated October 12, 2009. Palau agreed to accept six Uighur detainees for temporary resettlement, pending identification of another country or countries willing to accept the refugees for permanent resettlement. In exchange, the United States agreed to provide Palau with \$589,998.00 in foreign aid (\$98,333 per Uighur) to be used for the costs of resettlement. The agreement stipulated that these funds were “to be expended solely for the resettlement of the Uighurs by the Government of Palau at the discretion of the President of Palau, subject to applicable Palau law.” The U.S. also committed to arrange for medical treatment off-island for the refugees, if required, as well as to help Palau engage a Uighur-language translator for six months, both to be funded by the U.S. grant.

The funds, which Palau received shortly thereafter, were deposited into accounts at the Koror branch of Bank Pacific on or about October 5, 2009 and not into the Republic of Palau National Treasury. On this date, then-President, The Honorable Johnson Toribiong, issued a letter to then-Director of the Bureau of National Treasury stating in part: By this letter you are hereby authorized and directed to open a separate account in the name of the Republic of Palau National Treasury at the Koror Branch of Bank Pacific to be used solely for the purpose of receiving and disbursing funds received from the United States for the Uighur Resettlement Program. On or about November 1, 2009, the Uighurs arrived in Palau. In summer 2011, Palau obtained additional grants from third-party sources. In addition, in July 2013, in RPPL No. 9-7, the Olbiil Era Kelulau appropriated \$30,000 to supplement the Uighur resettlement program. These funds were administered through the national treasury.

In March 2013, the Bank Pacific accounts were closed and the Uighur resettlement funds were transferred to the National Treasury. As of the writing of this report, all of the Uighur refugees have been resettled in other countries; the most recent departed Palau and was resettled in March 2015.

OBJECTIVE, SCOPE AND METHODOLOGY

The objective of the audit was to determine whether the revenues and expenditures of the Uighur Resettlement Grants were administered in compliance with the Republic of Palau Laws and Regulations.

The scope of the audit covered the period from October 1, 2009 through September 30, 2013. As this was a performance audit, we did not conduct audit procedures to assess the fairness of the financial statements of the Uighurs Grants or any component or accounts within those financial statements and therefore express no opinion on the financial statements.

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 and 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 audit findings and conclusions based on our audit objectives.

The Public Auditing Act of 1985 expressly empowers the Office of the Public Auditor to act to prevent fraud, waste and abuse in the collection and expenditure of public funds. The Public Auditor may make recommendations on the prevention and detection of fraud, waste and abuse of public funds. The Public Auditor may also refer findings of possible violations of national law to the Attorney General or the Special Prosecutor for appropriate legal action.

To accomplish our audit objective, we reviewed the accounting records and reports of the Uighur Resettlement Grants maintained at the Bureau of National Treasury under the custody of its Director. These records included revenues and expenditures and related supporting documents, Diplomatic Note between the Republic of Palau and the United States of America, contracts and lease agreements, payroll, fixed assets, correspondence, disbursement journal, and such other relevant records and documents. We also reviewed applicable Republic of Palau laws and regulations including the Code of Ethics Act and the Procurement Law and Regulations, government funding laws, and appropriation laws. In addition, we reviewed records and reports at the Bureau of National Treasury. Moreover, we conducted interviews with the Uighur Coordinator and officials of the Bureau of National Treasury.

FINDINGS AND RECOMMENDATIONS

Finding No. FY 15-01: Deposit and Administration of Uighur Grants outside National Treasury

Article XII, Section 1 of the Constitution of the Republic of Palau (ROP) 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."

In addition, 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."

Moreover, 40 PNC §102 states: "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."

The audit revealed that the Uighur Resettlement Grants, the bulk of which came from the Diplomatic Agreement between the government of the United States of America and the Republic of Palau, were deposited into and administered from a separate bank account outside of the Republic of Palau National Treasury contrary to the above law. We found that the grant from the United States was not collected and receipted by the Director of the Bureau of National Treasury as prescribed by law. Instead, the money was wire transferred directly into a separate Uighur bank account and administered from the said account. On October 5, 2009, then-President, The Honorable Johnson Toribiong, issued a letter to then-Director of the Bureau of National Treasury stating in part: By this letter you are hereby authorized and directed to open a separate account in the name of the Republic of Palau National Treasury at the Koror Branch of Bank Pacific to be used solely for the purpose of receiving and disbursing funds received from the United States for the Uighur Resettlement Program.

The Uighur Resettlement Program also received six (6) third-party grants totaling \$112,624; however, these grants were first collected and receipted by the National Treasury but subsequently disbursed to the Uighur bank account and administered from the said account alike the U.S. grant. As such, the grants activities (revenues and expenditures) were not captured in the official accounting records of the Bureau of National Treasury. The Republic of Palau received financial assistance from United States Government and other donor countries and sources listed below for the Uighur Resettlement:

<u>Donor</u>	<u>Amount</u>
United States of America	\$ 589,998.00
Fiber Optic	25,000.00

Georgia Grant Fund	21,000.00
Azerbaijan Grant	21,000.00
Humanitarian Fund	20,000.00
Humanitarian Fund	15,575.00
Taiwan Stimulus Grant	10,000.00
Miscellaneous	<u>49.37</u>
Total	<u>\$702,622.37</u>

Due to lack of documentation, we were unable to verify the source of funds for the \$21,000 grants from Georgia and from Azerbaijan and whether the grants were disbursed to the Uighur account from the Bureau of National Treasury or via wire transfer from the grantor.

Because the grants were deposited and administered independent of and separate from national treasury, the grants transactions and expenditures bypassed the myriad internal controls policies and procedures of national treasury intended to ensure their (transactions and expenditures) propriety and compliance with applicable laws and regulations. Some of these critical policies and procedures include the receipting and recording of revenues and expenditures into the National Treasury's accounting records, competitive bidding, certification of funds, conflict of interest, Code of Ethics Act, to name some. And although the Uighur Checking Account was labeled as "Palau National Treasury Uighur Resettlement Fund", the label is only true in form but not in substance as revenues and expenditures of the program were not entered and recorded into the National Treasury's official accounting records but were maintained separately.

The cause of the above condition appears to be the deliberate act and order to authorize and direct that the Uighur funds be administered separate from and independent of National Treasury. In a letter to Mr. Marino Rechesengel, then-Director of Bureau of National Treasury, dated October 19, 2009, Serial No. 09-584, then-President Johnson Toribiong states "this fund is to be administered separately from and independent of the regular procedures for the disbursement of public funds."

As a result, the Uighur Resettlement grants may have been administered in violation of the Republic of Palau Constitution and laws governing the deposit and expenditure of public funds. In addition, because the monies were not deposited and administered through the national treasury, the standard internal controls policies and procedures, i.e. competitive bidding, certification funds availability, certification of contracts or agreements by the Attorney General, fixed assets monitoring, etc. were bypassed, exposing the Uighur resettlement grants to potential abuse, fraud, and other irregularities.

Recommendation

We recommend that all grants and other revenues due to the Republic of Palau be deposited and administered from the Bureau of National Treasury in compliance with the Republic of Palau Constitution and national treasury laws. This process insures that established internal

controls policies and procedures within national treasury (i.e., competitive bidding, Certification funds availability, certification of contracts or agreements by the Attorney General, fixed assets recording and monitoring, etc.) take effect. In addition, we recommend the Office of the Attorney General or the Interim Special Prosecutor further investigate the administration of the Uighurs Resettlement grants and take appropriate action for any violation of the Republic of Palau Constitution and other applicable laws and regulations.

Finding No. FY 15-02: Non-Compliance with ROP Procurement Law and Regulations

40 PNCA, Chapter 6, Government Procurement, under Section 601(b) outlines the purpose of the procurement policies which include (1) to ensure the fair and equitable treatment of all persons who deal with the procurement system of the Republic or any state government, (2) to provide for increased economy in all procurements and to maximize purchasing value of public funds, (3) to encourage competition, to name a few.

In addition, Section 602, Requirement of good faith, states: "All parties, including government employees, contractors, offerors and bidders, involved in the negotiation, bidding, offering, performance and administration of government contracts shall act in good faith."

Also, Section 603, Application, subsection (b) states in part: Except as otherwise specified by law, this chapter applies to every expenditure of public funds by the national government or state governments irrespective of source, including United States Federal Financial Assistance monies...

Moreover, Section 614, Competitive sealed bidding, requires that contracts shall be awarded by competitive sealed bids except as otherwise provided by law. Invitation for bids shall contain a clear, complete and accurate description of the goods or services to be procured.

The audit revealed that the government failed to use competitive bidding in the procurement of goods and services for the Uighurs Resettlement Program as follows:

1) Procurement of Leased Housing for the Uighurs

Upon their relocation to Palau, the government initially leased an Apartment Complex to house the six (6) Uighurs by paying an advance payment of \$63,000 for a 3-year lease without competitive bidding. The building is owned by the President's sibling. In addition, prior to executing the lease agreement, the government arranged with the owner to perform renovation work on the apartment for which the government paid the owner \$26,164.33, also without competitive bidding. The Uighurs did not fully utilize and exhaust the \$63,000 advance payment on the apartment and the government subsequently relocated them to six (6) separate apartments, also without competitive bidding. Please refer to Findings No.FY 15-08 and No.FY 15-04 for more details.

2) Procurement of Accounting Services

The government hired an accountant to prepare financial reports for the Uighurs Resettlement Program without competitive bidding and a contract. The accountant is the wife of the then-Director of the Bureau of National Treasury, who was responsible for administering the Uighurs funds. Without a contract, we were unable to determine her duties and responsibilities and the amount of the contract for her services. The accountant was paid the sum of approximately \$21,700 over a four (4)-year period. Please refer to **Exhibit V** for details of payments.

3) Procurement of Construction Services

The government hired an owner of an apartment building to construct 3 one-bedroom apartment units (on the same apartment complex) as living quarters for the Uighurs for approximately \$55,049.58 without competitive bidding. The building is owned by another sibling of the President. Three (3) of the Uighurs stayed in these units beginning in March 2011; however, due to the lack of a lease agreement, we were unable to determine the duration of their stay in these Apartment units. Please refer to Finding No.FY 15-04 for more details.

4) Procurement of Household Furniture, Fixtures and Appliances

Due to lack of planning, discussion, and arrangements with the Uighurs, the government had not prepared a master list of household furniture, fixtures and appliances to furnish the Uighurs living quarters. This master list would have allowed the government to bid out the items and take advantage of discount prices through bulk purchasing and cutting costs. Failing to take advantage of this situation, the government resorted to purchasing the items on a whim thereby increasing cost of operations and setting the direction for the accelerated depletion of the Uighurs funds. The government purchased household furniture, fixtures and appliances to furnish the initial living Quarters of the Uighurs and thereafter moved them to separate apartments and purchased additional furnishings. In all, the government spent approximately \$41,194.76 on furniture, fixtures and appliances for the six (6) Uighurs without competitive bidding, i.e., obtaining the required price quotations. In addition, after the Uighurs departed Palau, the government failed to retrieve and secure the furniture, fixtures and appliances; thus, was unable to determine their whereabouts and final disposition. Please refer to Finding No. FY15-07 for more details.

5) Procurement of Medical Services

To provide for the health of the Uighurs, the President entered into an agreement with a local medical clinic to provide medical services to the Uighurs for a term of six (6) months at a cost of \$30,000 without competitive bidding. In addition, we found no evidence of certification of funds availability on the contract. 40 PNCA § 401(b) states: No person shall enter into any contract which purports to obligate public funds or which purports to obligate funds from any appropriation ...made available or appropriated by the Olbiil Era Kelulau or of public funds from any other source whatsoever, unless the National Director of Program, Budget and Management, ...first certifies in writing on the document to be used as a contract that funds are available to complete the contract. Any contract entered into in violation of this subsection shall be void...

The term of the contract stipulates that the contractor shall be paid \$15,000 upon execution of the contract and the remaining \$15,000 shall be paid in a manner to be mutually agreed upon. However, we found that the contractor was paid the entire \$30,000 upon execution of the contract. In addition, we found what appears to be double payment as certain Uighurs visited the clinic during the period the contract was still in force and were charged \$1,024 for medical services. Moreover, the Belau National Hospital also showed records of providing medical service to the Uighurs totaling \$1,103.27 during the period the contract was in force.

6) Security Services

To provide for the safety of the Uighurs, the government hired private security firms to provide security services for the Uighurs without competitive bidding, one of which was owned by the President's younger sibling. We found that there was no contract with the security company owned by the President's sibling. Due to lack of a contract, we were unable to determine the amount of the contract and related terms and conditions. Please refer to Finding No. FY15-09 for more details.

The cause of the above condition appears to be the deliberate act and order to authorize and direct that the Uighur funds be administered separate from and independent of National Treasury. In a letter to Mr. Marino Rechesengel, then-Director of Bureau of National Treasury, dated October 19, 2009, Serial No. 09-584, then-President Johnson Toribiong states "this fund is to be administered separately from and independent of the regular procedures for the disbursement of public funds."

In addition, we came across a legal opinion in the Uighur files from then-legal counsel of the President that concludes that the President of the Republic has the authority to suspend the application of the ROP Procurement Law and Regulations if its provisions are inconsistent with the terms and conditions of the grant. We reviewed this particular section (suspension), and concluded that suspension of the Procurement Law and regulations only applies to construction projects.

As a result, the Republic of Palau Procurement Laws and Regulations were not followed in the procurement of goods and services in the resettlement of the Uighurs. In addition, in specific situations, there may have been violations of the Code of Ethics Act and conflict of interest provisions of the Procurement Law and Regulations.

Recommendation

We recommend that programs and projects funded by Republic of Palau funds, whether from taxes, grants, or other sources, adhere to and follow the Republic of Palau Procurement Law and Regulations and the Code of Ethics Act in the procurement of goods and services. In addition, we recommend that all grants and other revenues due to the Republic of Palau be deposited into and administered from the Bureau of National Treasury in compliance with the Republic of Palau Constitution and national treasury laws. This process insures that established internal controls policies and procedures within national treasury (i.e., competitive bidding)

take effect. Moreover, we recommend the Office of the Attorney General or the Interim Special Prosecutor further investigate the above procurements and take legal action for violation of Republic of Palau laws and regulations, the Procurement Law and Regulations in particular.

Finding No. FY15-03: Certification of Funds Availability

40 PNCA § 401(a) states: Unless otherwise specified by law, all projects and operations financed by means of appropriation laws of the Olbiil Era Kelulau shall be contingent upon the availability of funds. No person shall obligate or expend any funds made available or appropriated by the Olbiil Era Kelulau until he receives written certification from the Director of Program, Budget and Management...that funds are available and that obligation may be incurred.

In addition, 40 PNCA § 401(b) states: No person shall enter into any contract which purports to obligate public funds or which purports to obligate funds from any appropriation ...made available or appropriated by the Olbiil Era Kelulau or of public funds from any other source whatsoever, unless the National Director of Program, Budget and Management, ...first certifies in writing on the document to be used as a contract that funds are available to complete the contract. Any contract entered into in violation of this subsection shall be void...

The audit revealed that because the Uighur Resettlement grants were administered separate from and independent of national treasury (separate checking account), all expenditures of the program (approximately \$702,249) may have been incurred in violation of 40 PNCA § 401(a) and (b). The violation occurred in the process of certification of funds availability; whereas the law requires the Director of Program, Budget and Management to certify funds, the certification in the Uighurs program was performed by the Director of National Treasury. The schedule below details the breakdown of the expenditures:

Uighur Resettlement Grants	
US Government Grant & Other Grants	
October 20, 2009 through March 2013	
Material Cost	21,767.60
Labor Cost	8,607.78
Other Fees	800.00
Transportation	18,924.82
Travel and Transportation	5,571.76
Program Coordinator	14,611.25
Assistant Coordinator	2,400.00
Accounting Fees	21,700.00
Acting Coordinator	44,100.00
Housing	127,049.58
Space Rental	42,960.27
Equipment Rental	5,164.00
Equipment	14,120.75
Furniture and Fixtures	31,338.43

Communication and Telephone	29,737.73
Fuel and Oil	13,009.65
Utilities	37,439.36
Household Goods and Supplies	8,971.94
Personal Use	1,885.06
Health Care	34,290.79
Security	21,056.17
Education	35,374.18
Uighurs Mobilization	121,380.00
Payroll Expense	23,717.04
Bank Service Fees	810.46
Miscellaneous Expense	8,655.93
Maintenance and Repair	6,804.79
Total Expenditures	702,249.34

The cause of the above condition appears to be the deliberate act and order to direct that the Uighur funds be administered separate from and independent of National Treasury. In a letter to Mr. Marino Rechesengel, then-Director of Bureau of National Treasury, dated October 19, 2009, Serial No. 09-584, then-President Johnson Toribiong states “this fund is to be administered separately from and independent of the regular procedures for the disbursement of public funds.”

As a result, the \$702,249.34 of expenditures incurred under the Uighur Resettlement Grants did not go through the proper certification of funds process required by law. Instead, the law was circumvented to substitute the Director of Program, Budget and Management with the Director of National Treasury as the certifying officer for certification of funds availability.

Recommendation

We recommend that all grants and other revenues due to the Republic of Palau be deposited into and administered from the Bureau of National Treasury in compliance with the Republic of Palau Constitution and national treasury laws. This process insures that established internal controls policies and procedures within national treasury (i.e., Certification of funds availability) take effect. In addition, we recommend the Office of the Attorney General or the Interim Special Prosecutor further investigate the certification of funds process for the Uighur grants expenditures and take legal action for violation of Republic of Palau laws and regulations.

Finding No. FY 15-04: Lack of Contracts for Procurement of Goods and Services

40 PNCA § 401(b) states: No person shall enter into any contract which purports to obligate public funds or which purports to obligate funds from any appropriation ...made available or appropriated by the Olbiil Era Kelulau or of public funds from any other source whatsoever, unless the National Director of Program, Budget and Management, ...first certifies in writing on the document to be used as a contract that funds are available to complete the contract. Any contract entered into in violation of this subsection shall be void...

40 PNCA, Chapter 6, Government Procurement, under Section 603, Application, subsection (b) states in part: Except as otherwise specified by law, this chapter applies to every expenditure of public funds by the national government or state governments irrespective of source, including United States Federal assistance monies...

40 PNCA, Chapter 6, Section 612, Duties of Attorney General, states ...The Attorney General or in the case of state government contracts, the State Attorney, if any, shall certify the form and legality of every government contract and change order.

In addition, a written contract or agreement is essential to spell out the terms and conditions of the contract to protect the interest of the government and the integrity of the agreement.

The audit revealed that various procurements for goods and services lacked written contracts (see Exhibit I). Several of them involved the provision of living quarters for the Uighurs. Two particular procurements for the construction of Uighurs housing were executed by the government without a written contract or agreement. These procurements also lacked evidence of competitive bidding, certification of funds availability, and certification by the Attorney General as to form and legality.

With respect to construction services, the first procurement involved the renovation of an apartment complex belonging to a sibling of the President to be used as initial housing for the Uighurs. As earlier mentioned, the lease agreement for the apartment complex was executed by then-President and his sister in-law on October 21, 2009. Prior to the Uighurs occupying the apartment, the government contracted the owner to perform renovation work for which the government paid the owner \$26,164.33 without a written contract or agreement. Without a contract, we were unable to determine the scope of work, terms and conditions of the agreement, and cost. The check (#0091) was dated October 20, 2009, the day before the lease agreement was executed.

The second procurement involved the construction of 3 one-bedroom apartment units on an existing apartment building owned by another sibling of the President. This procurement also lacked competitive bidding and a contract. Without a contract, we were unable to determine the dimensions of the units, the scope of work, the type and cost of materials to be used for the construction, the amount of the contract, and other terms and conditions. These units were supposed to be used to house three (3) of the Uighurs. In total, the government paid the owner \$55,049.58 to construct the new units on his own building to house the Uighurs. There was no contract or lease agreement to memorialize these understandings between the government and the landlord, only an invoice signed by the landlord and the Uighurs Coordinator. The Uighurs Coordinator is the brother-in-law of the President and the landlord. In addition, without a lease agreement, we were unable to determine the duration the Uighurs occupied the apartment units and whether the government recovered the value of its investment in the construction of the apartment units.

The cause of the above condition appears to be the deliberate act and order to direct that the Uighur funds be administered separate from and independent of National Treasury. In a letter to Mr. Marino Rechesengel, then-Director of Bureau of National Treasury, dated October 19, 2009, Serial No. 09-584, then-President Johnson Toribiong states "this fund is to be administered separately from and independent of the regular procedures for the disbursement of public funds."

As a result, the government violated the Republic of Palau Procurement Law and Regulations, 40 PNCA, under Section 612, which states in part: ...The Attorney General or in the case of state governments, the State Attorney, if any, shall certify the form and legality of every government contract and change order. Without written contracts or agreements, there are no documented evidence of certifications by the Attorney General as to the form and legality of the above agreements and, furthermore, the government lacks the proper authority to protect and enforce its interests in the above procurements (i.e., recovery of the value of its investment in the construction of the 3 one-bedroom apartment units).

Recommendation

We recommend that all Republic of Palau funds be deposited into and administered from the Bureau of National Treasury to insure that established internal controls within National Treasury are exercised to safeguard compliance with applicable laws and regulations including the Republic of Palau Procurement Law and Regulations and, in particular, the certification by the Attorney General as to the form and legality of every government contract. In addition, we recommend that the Attorney General or the Special Prosecutor further investigate the above transactions and take legal action for violation of the Republic of Palau Laws and regulations, including the recovery of public funds that may have been illegally spent.

Finding No. FY15-05: Violation of the Code of Ethics Act and Conflict of Interest

The Code of Ethics Act under Section (6) (d) states: No employee may use or attempt to use the employee's official position to secure or grant privileges, exemptions, advantages, contracts, or treatment, for himself or others...

In addition, the Procurement Law and Regulations, 40 PNCA, under Section 654, Employee Conflict of Interest, subsection (a) states: It is a breach of ethical standards for any employee of a government agency to participate directly or indirectly in a procurement with that government agency if:

- (1) The employee or any member of the employee's immediate family or a dependent of the employee has a financial interest pertaining to the procurement...

The procurement law and regulations define immediate family as a spouse, parents, child, or siblings and any other person residing in the same household as the employee who is a dependent of the employee or whom the employee is a dependent.

The audit showed that the then-President of the Republic authorized procurements in which two (2) of his siblings had direct financial interest. The schedule below lists the amounts each sibling was paid for the goods and services:

Sibling 1:	Leased Housing	\$	70,000.00
	Construction		29,236.62
	Security Services		12,000.00
	Others		<u>2,110.00</u>
	Total	\$	<u>113,346.62</u>

Sibling2:	Construction (Housing)	\$	55,049.58
	Furniture and Fixtures		2,210.00
	Repair and Maintenance		<u>525.00</u>
	Total	\$	<u>57,784.58</u>

The cause of the above condition appears to be the deliberate act and order to direct that the Uighur funds be administered separate from and independent of National Treasury. In a letter to Mr. Marino Rechesengel, then-Director of Bureau of National Treasury, dated October 19, 2009, Serial No. 09-584, then-President Johnson Toribiong states “this fund is to be administered separate from and independent of the regular procedures for the disbursement of public funds.”

As a result, there is a potential violation of the Code of Ethics Act and Conflict of Interest provisions of the Procurement Law and Regulations.

Recommendation

We recommend that all Republic of Palau funds, be it local revenues, grants, or otherwise, be deposited into and administered from the Bureau of National Treasury in compliance with the Republic of Palau laws. The Bureau of National Treasury has established internal controls policies and procedures the purpose of which is to prevent these types of transactions from occurring. In addition, we recommend the Office of the Attorney General or the Interim Special Prosecutor further investigate the above transactions and take legal action for any violations of the Republic of Palau Laws and Regulations, the Code of Ethics Act and Conflict of Interest in particular.

Finding No. FY 15-06: Open Fuel Charge Account

Fuel supply needs of the government should be subject to competitive bidding to ensure that the government is getting the lowest price/best quality product for its money. In addition, the

use of an "Open" fuel charge account should contain proper controls to ensure that fuel requisitions are properly authorized, for official business, the person and equipment receiving fuel are identified, and invoices are signed by the person receiving fuel.

The Uighurs Resettlement program established an "Open" fuel charge account at a local Gas Station without competitive bidding. In addition, the Uighurs Coordinator failed to institute controls on the account to ensure that fuel requisitions are properly authorized, fuel is justified as to official business, persons and equipment receiving fuel are identified, and invoices are signed by the persons receiving fuel. During the period from November 16, 2009 through December 2, 2011, the government spent approximately \$13,009.65 (refer to **Exhibit II**) on fuel and related products supposedly for taking care of the six (6) Uighurs. Due to inadequate documentation, however, we were unable to determine how much of the \$13,009.65 was actually used for activities in support of the Uighurs resettlement.

The cause of the above condition appears to be the deliberate act and order to direct that the Uighur funds be administered separate from and independent of National Treasury. In a letter to Mr. Marino Rechesengel, then-Director of Bureau of National Treasury, dated October 19, 2009, Serial No. 09-584, then-President Johnson Toribiong states "this fund is to be administered separately from and independent of the regular procedures for the disbursement of public funds."

As a result, the Uighurs Coordinator did not use competitive bidding to obtain the lowest price for gas and to try to cut costs of the program. In addition, because of the lack of controls over the use of the open account, we were unable to assure ourselves that the fuel was used strictly in support of the Uighurs resettlement.

Recommendation

We recommend that fuel supply arrangements be let out to competitive bidding to ensure the government is obtaining the most economical price for its fuel products. In addition, "open" fuel charge accounts should contain sufficient controls to protect the integrity of fuel requisitions. In this respect, fuel requisition forms should have been used to evidence proper authorization, justification as to official purpose, person and equipment drawing fuel are identified, and invoices are signed by the persons getting fuel. In addition, we recommend that all Republic of Palau funds be deposited into and administered from the National Treasury to insure that established internal controls within National Treasury are exercised to ensure compliance with applicable laws and regulations, including the Republic of Palau Procurement Law and Regulations.

Finding No. FY15-07: Procurement and Custody of Household Furniture, Fixtures, and Appliances

The acceptance of the responsibility for the relocation and resettlement of the Uighurs should have been discussed with the United States Government to reach a mutual understanding with respect to the standards or guidelines for the Uighurs living arrangements, security, medical services, education, transportation, etc. to support a more efficient and effective administration of the program and to keep costs and expenses within the amount of the grant provided by the United States for this purpose. These discussions would have enabled Palau, based on the mutually agreed standards or guidelines, to better plan and execute the requirements for the Uighurs living arrangements, security, medical services, education, transportation, etc. to support a more effective process for managing costs and expenses of the program. In addition, because the grants are public funds, the Uighur Coordinator should have coordinated the procurement activities of the program with the National Treasury to ensure that government properties purchased with the grants are properly accounted for, monitored, and returned to the government upon completion or termination of the program. Similarly, expenditure of public funds requires the use of the Republic of Palau Procurement law and Regulations in the procurement of goods and services.

Due to the lack of planning and coordination, the government went on what appears to be a buying spree spending at least \$41,194.76 purchasing household furniture, fixtures and appliances (see Exhibit III) for the Uighurs. In addition, it appears the Uighurs Coordinator did not have a pre-established standard, guideline, i.e., cost, quality, type, etc., with which to guide these purchases to try to cut costs, a concern stemming from lack of planning. Hence, there was no attempt to obtain price quotations from different vendors to demonstrate competition on product price and quality. Moreover, we found situations in which the government may have purchased items that exceeded the needs of the Uighurs. For example, the government purchased a total of 10 beds for the six (6) Uighurs with an average price of \$784 each. Finally, because the Uighur grants were administered outside of National Treasury, the purchases of the household furniture, fixtures, and appliances were not recorded into the National Treasury's accounting records and, as such, bypassed the normal scrutiny and monitoring of the goods by the Division of Property and Supply. Consequently, when we requested to inspect the properties, the Uighurs Coordinator could not justify their whereabouts or disposition, meaning the furniture, fixtures, and appliances valued at \$41,194.76 have not been returned to the proper government authorities.

The cause of the above condition appears to be the deliberate act and order to direct that the Uighur funds be administered separate from and independent of National Treasury. In a letter to Mr. Marino Rechesengel, then-Director of Bureau of National Treasury, dated October 19, 2009, Serial No. 09-584, then-President Johnson Toribiong states "this fund is to be administered separately from and independent of the regular procedures for the disbursement of public funds."

As a result, the Uighurs Coordinator could not account for or locate the properties or explain as to the final disposition of these government properties. In addition, the lack of planning accompanied with uncontrolled level of excesses combined with lack of attitude for frugality may have accelerated the depletion of the Uighurs grants.

Recommendation

We recommend that all grants and other revenues due to the Republic of Palau be deposited into and administered from the Bureau of National Treasury in compliance with the Republic of Palau Constitution and national treasury laws. This process insures that established internal controls policies and procedures within national treasury (i.e., fixed asset tagging and monitoring, etc.) take effect. In addition, we recommend the Office of the Attorney General or the Interim Special Prosecutor further investigate the whereabouts of these properties, seek their recovery, and take legal action for any violation of the Republic of Palau laws and regulations, including misappropriation, abuse, or misuse of government properties.

Finding No. FY15-08: Underutilized Advance Payment for Apartment Units

Advance payment for a long-term apartment lease should be discussed, arranged, and agreed to with the intended users to ensure that the apartment meets their needs and is fully utilized for the full amount of the advance payment during the term of the contract. In addition, the terms and conditions of the contract should provide the government the flexibility to adjust the rental cost based on the number of tenants.

As earlier mentioned, the President entered into a long-term lease agreement to rent an apartment complex to provide the initial living quarters for the six (6) Uighurs upon their arrival in Palau. The apartment complex is owned by a sibling of the President and the lease agreement was executed between the President and his sister-in-law on October 21, 2009. Based on the 3-year term of the Lease Agreement, the lease was due to terminate on October 21, 2012. The lease agreement stipulates that upon execution of the agreement the Lessee (government) shall pay the Lessor (owner) a lump sum of \$63,000 for the initial 3-year term. The lease agreement also stipulates that the Lessor at its sole discretion shall have the option to renew the lease for an additional term of one (1) year. The apartment complex is comprised of two (2) units, one for 2,000 square feet and another for 431 square feet, located on the second and third floor respectively above Bank Pacific in Dngeronger, Koror.

The audit revealed that 2 of the Uighurs vacated the apartment in June 2010, 2 vacated in September 2010, and 1 in October 2010, with only 1 Uighur staying for the full term of the lease and beyond. The government paid an additional \$7,000 for the remaining Uighur who extended his stay to January 2013, for which we were not provided a copy of the renewed lease agreement. Without the renewed agreement, we were unable to determine why the government was still paying the \$1,750 per month rent when only one Uighur was occupying the apartment.

It appears the cause of the above condition is the lack of communication and understanding between the government and the Uighurs. The government did not discuss with the Uighurs their preferences on housing arrangements before negotiating with the Landlord and committing all the Uighurs to joint living quarters for a 3-year period and paying the \$63,000 advance payment. In addition, the government may have negotiated the lease agreement in a reckless manner by not anticipating that the Uighurs may not agree to the joint living arrangements and negotiating a contingency option for their possible relocation together with an adjustment in rental fee (prorated based on the number of tenants). Moreover, the deliberate act and order to direct that the Uighur funds be administered separate from and independent of National Treasury may have contributed to this problem. In a letter to Mr. Marino Rechesengel, then-Director of Bureau of National Treasury, dated October 19, 2009, Serial No. 09-584, then-President Johnson Toribiong states "this fund is to be administered separately from and independent of the regular procedures for the disbursement of public funds." And, as mentioned in Finding No. FY 15-05, the fact that the President negotiated and executed the lease agreement with his sister-in-law presents a conflict of interest, which may have affected his impartiality to protect the government's interests in the negotiation and the final lease agreement.

As a result, the government did not fully utilize the apartment complex for the full value of the \$63,000 advance payment. In fact, if the \$63,000, or \$1,750 per month rent, was prorated to each Uighur (\$291.67 per Uighur, per month), the rental based on actual occupancy would be as follows:

<u>Uighur</u>	<u>No. of month of occupancy</u>	<u>rent per month per Uighur</u>	<u>Total Rent</u>
Uighur 1: Nov. 2009-June 2010	8	\$ 291.67	\$ 2,333.36
Uighur 2: Nov. 2009-June 2010	8	\$ 291.67	2,333.36
Uighur 3: Nov. 2009-Oct. 2010	12	\$ 291.67	3,500.04
Uighur 4: Nov. 2009-Jan. 2013	39	\$ 291.67	11,375.13
Uighur 5: Nov. 2009-Sept. 2010	11	\$ 291.67	3,208.37
Uighur 6: Nov. 2009-Sept. 2010	11	\$ 291.67	<u>3,208.37</u>
Subtotal			\$ 25,958.63
Add: Extension			<u>\$ 7,000.00</u>
Total			\$ 32,958.63
Less: Advance Payment			<u>\$ 63,000.00</u>
Unused advance payment			<u>\$30,041.37</u>

Recommendation

We recommend that all grants and other revenues due to the Republic of Palau be deposited into and administered from the Bureau of National Treasury in compliance with the Republic of Palau Constitution and national treasury laws. This process insures that established internal controls policies and procedures within national treasury (i.e., competitive bidding and contract

negotiation) take effect. In addition, we recommend the Office of the Attorney General or the Interim Special Prosecutor further investigate the lease agreement and related payments and take appropriate action for any violation of the Republic of Palau laws and regulations, including Code of Ethics Act, conflict of interest, and the recovery of any illegal payments therewith.

Finding No. FY15-09: Security Services

As a paramount concern for the safety of the Uighurs, security service should be well planned, organized, and executed to ensure that no lapses occur and that qualified personnel are assigned to provide the service. In addition, expenditure of public funds requires adherence to the Code of Ethics Act and the Procurement Law and Regulations.

We found that the security component of the Uighurs Resettlement was poorly planned, organized, and executed. Due to lack of planning and organization, the government had to hire off-duty police officers to provide security service for the Uighurs from November 6-20, 2009, after the Uighurs arrived in Palau on or about November 1, 2009. On November 21, 2009, President Toribiong entered into a contract with a private security firm to provide security service for the Uighurs from November 21, 2009 through February 21, 2010 at a rate of \$1,468 per month. For unknown reasons, the contract was abruptly terminated on January 30, 2010, based on a termination letter signed by President Toribiong dated December 30, 2009. Thereafter, a security service company owned by the President's younger sibling was hired to provide security services for the Uighurs. Due to lack of a contract, we were unable to determine the term (duration) and cost of the contract. However, the first payment issued to the company was dated March 16, 2010 for \$1,500, which we were unable to determine the period of service due to lack of documentation. The company was paid a total of \$12,000 for the security services; however, again, we were unable to determine the term (period) and cost of service due to lack of a contract. In addition, per inquiry with the Bureau of Revenue, Customs and Taxation, the company did not have a business license to operate a security service company. In addition, the Uighurs Coordinator was unable to provide a list of the company's employees who worked on the security detail; thus we were unable to determine their existence and qualifications.

The cause of the above condition appears to be the lack of planning and coordination to organize and execute the security service. In addition, the deliberate act and order to direct that the Uighur funds be administered separate from and independent of National Treasury may have contributed to the breakdown of internal controls intended to prevent these problems. In a letter to Mr. Marino Rechesengel, then-Director of Bureau of National Treasury, dated October 19, 2009, Serial No. 09-584, then-President Johnson Toribiong states "this fund is to be administered separately from and independent of the regular procedures for the disbursement of public funds."

As a result, there exists potential violation of the Code of Ethics Act and Conflict of Interest laws by the President hiring his sibling's company to provide security service for the Uighurs as further discussed in Finding No. FY15-05. In addition, we were unable to determine the propriety of security services provided by the company due to the lack of a contract, a business license, and a list of employees providing the security service.

Recommendation

We recommend that all grants and other revenues due to the Republic of Palau be deposited into and administered from the Bureau of National Treasury in compliance with the Republic of Palau Constitution and national treasury laws. This process insures that established internal controls policies and procedures within national treasury (i.e., competitive bidding, certification of contracts or agreements by the Attorney General, etc.) take effect. In addition, we recommend the Office of the Attorney General or the Interim Special Prosecutor further investigate the above-mentioned security services to ensure the Republic received the services that it paid for and to take appropriate action for any violation of the Republic of Palau laws and regulations including the Code of Ethics Act and conflict of interest.

Finding No. FY15-10: Vehicles and Other Government Property

The acceptance of the responsibility for the relocation and resettlement of the Uighurs should be discussed with the United States Government to reach a mutual understanding with respect to the standards or guidelines for the Uighurs living arrangements, security, medical services, education, transportation, etc. to support an efficient and effective administration of the program and to keep costs and expenses within the amount of the grant provided by the United States for this purpose. These discussions would have enabled Palau, based on the mutually agreed standards or guidelines, to better plan and execute the requirements for the Uighurs living arrangements, security, medical services, education, transportation, etc. to support a more effective process for managing costs and expenses of the program. In addition, because the grants are public funds, the Uighurs Coordinator should have coordinated the procurement activities of the program with the National Treasury to ensure that government properties purchased with the grants are properly accounted for, monitored, and returned to the government upon completion or termination of the program.

With respect to the transportation needs of the Uighurs, we found the government purchased two (2) vehicles on October 28, 2009; a Green Van for \$6,900 and a Toyota Corolla, 4-door Sedan, for \$6,000. In addition, the government leased a car (a 2009 Hyundai, Tucson SUV, at \$900/month) from November 2009 to May 2010 paying a total of \$5,164 rent. Moreover, the government also purchased a motorbike on December 31, 2009 for \$2,245. When we requested to inspect the equipment, the Uighurs Coordinator was unable to locate or explain the whereabouts of the equipment or their disposition. The Toyota Corolla was later returned to the government.

It appears the cause of the above condition is lack of planning and coordination to establish a reasonable, yet effective transportation system for the Uighurs. In addition, the deliberate act and order to direct that the Uighur funds be administered separate from and independent of National Treasury may have contributed to this problem. In a letter to Mr. Marino Rechesengel, then-Director of Bureau of National Treasury, dated October 19, 2009, Serial No. 09-584, then-President Johnson Toribiong states "this fund is to be administered separately from and independent of the regular procedures for the disbursement of public funds."

As a result, as the custodian of government property purchased with Uighur funds, the Uighurs Coordinator failed to account for, locate, and return the properties to the proper government authorities.

Recommendation

We recommend that all grants and other revenues due to the Republic of Palau be deposited into and administered from the Bureau of National Treasury in compliance with the Republic of Palau Constitution and national treasury laws. This process insures that established internal controls policies and procedures within national treasury (i.e., fixed asset identification, monitoring, and custody) take effect. In addition, we recommend the Office of the Attorney General or the Interim Special Prosecutor further investigate the government properties acquired with the Uighur grants and take appropriate action for violation of the Republic of Palau laws and regulations, including misappropriation, abuse, or misuse of government property.

Finding No. FY15-11: Numerical Sequence of Check Disbursement

Checks should be disbursed in proper numerical sequence to facilitate proper control, monitoring, and bank reconciliation. In addition, voided checks should be retained in its original form to evidence the void and to account for all checks.

The audit revealed that checks were issued out of numerical sequence from the Uighur checking account. For instance, check no. 50 was issued on November 25, 2009, with check no.'s 59 through 89 to follow on the same date; however, check no.'s 51 through 58 were issued on November 26, 2009. Additionally, check numbers were duplicated many times; for example, check numbers series 101 through 175 were used twice. In addition, we noted that several checks (check #'s 115, 129, 136, 741, 749, 759, and 769) were not recorded on the Disbursement Journal as being used. Check Numbers 115, 129, and 136 were duplicated but were only recorded once in the Disbursement Journal.

The cause of the above condition appears to be the deliberate act and order to direct that the Uighur funds be administered separate from and independent of National Treasury. In a letter to Mr. Marino Rechesengel, then-Director of Bureau of National Treasury, dated October 19, 2009, Serial No. 09-584, then-President Johnson Toribiong states "this fund is to be

administered separately from and independent of the regular procedures for the disbursement of public funds.”

As a result, bank reconciliations were not performed and the checking account was exposed to potential manipulation. In addition, due to loose controls over check disbursements, we were unable to determine if check #s 115, 129,136, 741, 749, 759, and 769 were used and, if so, to whom the checks were issued.

Recommendation

We recommend that all grants and other revenues due to the Republic of Palau be deposited into and administered from the Bureau of National Treasury in compliance with the Republic of Palau Constitution and national treasury laws. This process insures that established internal controls policies and procedures within national treasury (i.e., issuance of checks in proper numerical sequence, control over used and unused checks, recording disbursements, etc.) take effect. In addition, we recommend that the Office of the Attorney General or the Interim Special Prosecutor further investigate the above checks (check #s 115, 129, 136, 741, 749, 759, and 769) to determine the propriety of their use and disposition.

Finding No. FY15-12: Questioned Costs

Expenditures should contain proper supporting documents (invoices, receipts, contracts, etc.) and comply with applicable laws and regulations.

The audit revealed that \$255,895.54 of Uighur Grants expenditures lacked adequate supporting documents such as contracts, bid documents, invoices, receipts, etc. and/or were incurred in violation of the Code of Ethics Act, the Procurement Law and Regulations and other applicable laws and regulations. Please refer to **Exhibit IV** for schedule of Questioned Costs.

The cause of the above condition appears to be the deliberate act and order to direct that the Uighur funds be administered separate from and independent of National Treasury. In a letter to Mr. Marino Rechesengel, then-Director of Bureau of National Treasury, dated October 19, 2009, Serial No. 09-584, then-President Johnson Toribiong states “this fund is to be administered separately from and independent of the regular procedures for the disbursement of public funds.”

As a result, we questioned \$255,895.54 of the Uighurs grants expenditures due to inadequate supporting documents and/or non-compliance with the Code of Ethics Act, the Procurement Law and Regulations and other applicable laws and regulations.

Recommendation

We recommend that all grants and other revenues due to the Republic of Palau be deposited into and administered from the Bureau of National Treasury in compliance with the Republic of Palau Constitution and national treasury laws. This process insures that established internal controls policies and procedures within national treasury (i.e., proper supporting documents for disbursement of funds, competitive bidding, Code of Ethics Act, contracting, etc.) take effect. In addition, we recommend that the Office of the Attorney General or the Interim Special Prosecutor further investigate the expenditures (questioned Costs) and take appropriate action for any improper expenditures and/or violations of the Republic of Palau Laws and regulations.

Finding No. FY15-13: Non-Compliance with Intent of Appropriation Law

Funds should be expended in accordance with the intent of the appropriation legislation.

The Olbiil Era Kelulau in RPPL No. 9-7 authorized and appropriated \$30,000 to supplement the Uighurs Resettlement. The language of the appropriation legislation reads: "The sum of \$30,000 is hereby authorized to be appropriated and is appropriated for expenditure and obligation for fiscal year 2013 for the purpose of supporting housing and living allowances for the Uighur detainees."

The audit revealed that \$15,915 of the funds were used to purchase air fare and passports for a party of four (4) Uighurs (three men and wife of one of the men) for the purpose of dispatching them to their final destination.

It appears that the government was desperate to find a permanent resettlement for the Uighurs and, as such, used the funds to send the Uighurs to their final destination.

As a result, the funds were not used in accordance with the intent of the appropriation legislation.

Recommendation

We recommend that the National Government expend public funds in accordance with the intent of the appropriation legislation.

RESPONSE FROM INTERIM UIGHUR CARETAKER:

Your office released on 21 July 2015 a DRAFT Performance Audit Report on Uighur Resettlement Grants, and having been the caretaker of the Uighurs in a particular period covered by the

DRAFT PAR, I wish to offer the following response to Finding No. FY15-13: Non-Compliance with Intent of Appropriation Law-

- 1. The initial request that led to the specific budgetary appropriation discussed in your specific PAR findings sought for general budgetary support to provide for the ongoing livelihood and repatriation support of the Uighurs, in accordance with their desire, demand and request. The primary reason for not disclosing this particular nature of the request was in line with our obligation to ensure the Uighurs' security and prevent them from any danger.*
- 2. Finally, whilst we maintain that we expended public funds in accordance with intention of the public fund appropriation, it is important to note the long-term savings the Republic realized under its specific, partial utilization of the subject appropriation. We further maintain the Republic expended the subject funds in accordance with its public fund governing law and in meeting its obligations under bilateral agreement with the United States of America.*

CONCLUSION

In accepting to receive the Uighurs for temporary resettlement in Palau, the Republic of Palau demonstrated a humane gesture inherent in its traditions and provided assistance to the United States. In exchange, the government of the United States provided to the Republic of Palau a grant in amount of \$589,998 (\$98,333 per Uighur) as financial assistance for the resettlement of the Uighurs, as memorialized in a Diplomatic Note. Pursuant to the Diplomatic Note, the grant is to be expended solely for the resettlement of the Uighurs by the Government of Palau at the discretion of the President of Palau, subject to applicable Palau Law. In addition, Palau requested and received from third-party sources additional grants totaling \$112,624 to assist the Uighur resettlement.

Instead of depositing into and administering the Grants from the Bureau of National Treasury, as required by Republic of Palau laws, then-President, Honorable Johnson Toribiong, authorized and directed then-Director of the Bureau of National Treasury to establish a separate bank account to be administered separate from and independent of the regular procedures for the disbursement of public funds. Importantly, the Bureau of National Treasury maintains policies and procedures (internal controls, checks and balances) to insure the propriety of transactions that are processed through it, including compliance with applicable laws and regulations.

Depositing and administering the Uighurs grants separate from and independent of National Treasury bypassed these critical internal controls. Complicating the problem was the lack of discussions between Palau and the United States to reach a mutual understanding in respect to the standards or guidelines for the Uighurs living arrangements, security, medical services,

education, transportation, and so on and so forth, to support an efficient and effective administration of the program. These discussions would have enabled Palau (based on mutually-agreed standards or guidelines) to better plan, organize, coordinate, and execute the Uighur resettlement and to be more effective in managing program costs and expenses.

The lack of planning accompanied by lack of internal controls set the stage for uncontrolled and unchecked expenditures. Public laws governing procurement, ethics, conflict of interest, and certification of funds were circumvented in the interest of expediency and personal gain. As a result, the Office of the Public Auditor questioned \$255,895.54 of expenditures due to inadequate supporting documents and/or non-compliance with Republic of Palau laws and regulations. These uncontrolled and unchecked expenditures combined with certain level of excesses would soon accelerate the depletion of the U.S. grant to the point that Palau was forced to request financial assistance from third-party sources to supplement the Uighur resettlement.

The Bureau of National Treasury was established by the Republic of Palau Constitution to serve as a centralized treasury for the deposit and disbursement of public funds irrespective of source. The National Treasury system has built-in checks and balances (policies and procedures, internal controls) to insure the propriety of transactions that are processed through the system, including compliance with applicable laws and regulations. By depositing and administering the Uighur grants separate from and independent of National Treasury, the grants activities and expenditures were devoid of these critical checks and balances, exposing the grants to potential fraud, waste and abuse.

Therefore, in conclusion, the Uighurs grants should have been deposited into and administered from the Republic of Palau National Treasury.

RESPONSE FROM MINISTER OF FINANCE:

Your office released on July 21, 2015, a DRAFT Performance Audit Report on Uighur Resettlement Grants, and the Ministry of Finance wishes to provide the following responses to both the overall contents and a particular finding of the Report:

- 1. While the Ministry of Finance is the legal caretaker of public funds and upholds all laws and regulations governing expending of public funds, it is not in any specific position to appropriately respond to the general contents and overall findings of the Report and must note for the record that it was not part of any administration of the subject funds under my tenure as the Minister of Finance from 2013, except for the following;*
- 2. The Ministry of Finance wishes to officially note that the set of public funds of subject discussion under **Finding No. FY15-13 (Non-Compliance with Intent of Appropriate***

Law) was spent in compliance with the original intent and request of the Executive Branch that was presented to the Olbiil Era Kelulau. A full, appropriate response will be directed to you from Rhinehart Silas who served as the caretaker of the Uighurs from 2013 to 2015.

EXHIBIT I

Uighur Resettlement Grants Schedule of Payments without a Contract or Agreement

	<u>Total Amount Paid</u>	<u>Purpose</u>
	\$ 3,000.00	Apartment for 6 months (\$500/mo.)
	\$ 730.45	Payroll, assistant
	\$ 12,000.00	Security Service
	\$ 5,937.50	Apartment Rental (Nov. 2010-Sept. 2011)
	\$ 55,049.58	Construction of Uighurs Housing
	\$ 3,300.00	Apartment Rental @ \$550/mo. (Nov. 2009-April 2010)
	\$ 1,416.00	Apartment Rental (June-August 2010)
	\$ 11,750.00	Apt. Rental, 3 Units @ \$500/mo. (Sept. 2010-March 2011)
	\$ 26,164.33	Renovation of Toribiong's Apartments
	\$ 8,550.00	Apartment Rental, (Oct. 2011-April 2013)
	\$ 21,607.00	Accounting Fees
	\$ 7,000.00	Apartment Rental (Oct, 2011-Jan 2012)
Total	<u>\$ 156,504.86</u>	

EXHIBIT II

Uighur Resettlement Grants					
Schedule of Open Fuel Charge Account Drawdown					
Type	Date	Num	Memo	Account	Amount
Check	11/16/2009	037		632 · Fuel & Oil	227.13
Check	11/19/2009	042		632 · Fuel & Oil	186.30
Check	12/01/2009	098	Petty Cash	632 · Fuel & Oil	20.00
Check	12/11/2009	106	fuel	632 · Fuel & Oil	181.35
Check	12/14/2009	112		632 · Fuel & Oil	83.00
Check	01/08/2010	143	Fuel	632 · Fuel & Oil	184.50
Check	04/05/2010	160	fuel	632 · Fuel & Oil	640.18
Check	01/29/2010	172		632 · Fuel & Oil	416.05
Check	04/28/2010	178	fuel	632 · Fuel & Oil	414.00
Check	05/27/2010	202	For April	632 · Fuel & Oil	812.17
Check	07/05/2010	238		632 · Fuel & Oil	351.50
Check	07/29/2010	255		632 · Fuel & Oil	477.20
Check	08/19/2010	278		632 · Fuel & Oil	547.35
Check	09/16/2010	308		632 · Fuel & Oil	533.36
Check	10/29/2010	350		632 · Fuel & Oil	505.72
Check	11/15/2010	368		632 · Fuel & Oil	481.31
Check	12/30/2010	425		632 · Fuel & Oil	457.44
Check	01/21/2011	445		632 · Fuel & Oil	519.50
Check	02/21/2011	466		632 · Fuel & Oil	654.90
Check	03/17/2011	503		632 · Fuel & Oil	553.20
Check	04/26/2011	534		632 · Fuel & Oil	646.78
Check	05/19/2011	559		632 · Fuel & Oil	651.00
Check	06/21/2011	577		632 · Fuel & Oil	540.00
Check	07/19/2011	600		632 · Fuel & Oil	558.00
Check	08/09/2011	613		632 · Fuel & Oil	634.38
Check	09/15/2011	648		632 · Fuel & Oil	636.60
Check	10/18/2011	672		632 · Fuel & Oil	633.73
Check	12/02/2011	703		632 · Fuel & Oil	463.00
Total				\$	13,009.65

EXHIBIT III

**Uighur Resettlement Grants
Schedule of Furniture, Fixtures and Appliances**

<u>Check Date</u>	<u>Check No.</u>	<u>Items</u>	<u>Quantity</u>	<u>Price Ea.</u>	<u>Total Price</u>
10/30/2009	2	Chair Resin Hi-Back Sage	16	22.39	358.24
		Grill Weber 18.5IN 1-touch gold	1	166.75	166.75
		TV, RCA 32IN HD LCD	1	679.95	679.95
		Dining Set, Belle Maison W/4 Chr	4	549.99	2,199.96
		Vertical Blind 43"X91"	1	133.91	133.91
		Vertical Blind 87"X100"	1	206.81	206.81
		Vertical Blinds 103"X91"	4	246.30	985.20
		Arm Chair, #942-29, #912-146	2	80.98	161.96
		Coffee Table, Studio Version ESP	2	86.99	173.98
		Side Tabel, Studio Version ESP	7	54.79	383.53
		Sofa Set, Lynnette Dgreen	1	899.00	899.00
		Sofa Set, Topher 4 Sectional	1	1,200.00	1,200.00
		Total		\$	7,549.29
11/19/2009	4	Vacuum, Hoover Upright 1CT/1	1	199.95	199.95
11/3/2009	13	Aircondition & Installation		1,057.85	1,057.85
11/3/2009	18	Aircon, Tautung		6,579.00	6,579.00
11/11/2009	25	Dell OptiPles 760MT (4GB)	1	1,930.00	1,930.00

EXHIBIT III

Uighur Resettlement Grants Schedule of Furniture, Fixtures and Appliances					
<u>Check Date</u>	<u>Check No.</u>	<u>Items</u>	<u>Quantity</u>	<u>Price Ea.</u>	<u>Total Price</u>
11/11/2009	27	Lenovo Thinkpad (Laptop)	1	1,100.00 \$	1,100.00
11/16/2009	32	Freezer, 7 cuft GE FCM7DUWW	1	369.00	369.00
		Cooler, RM 48qt victory red value PK/2	1	55.95	55.95
				Total	\$ 424.95
11/16/2009	38	Closet	7	300.00	2,100.00
		Shoe Case	1	150.00	150.00
		Self-Cabinet	1	125.00	125.00
				Total	\$ 2,375.00
11/19/2009	40	Vacuum, Carpet		373.97 \$	373.97
11/19/2009	41	Rug	2	149.00	298.00
		Carpet, Canyon Oriental	2	99.99	199.98
		Rug, Dalyn Bordeaux	1	249.00	249.00
		Basin, Plastic 40X13cm	1	115.95	115.95
				Total	\$ 862.93

EXHIBIT III

**Uighur Resettlement Grants
Schedule of Furniture, Fixtures and Appliances**

<u>Check Date</u>	<u>Check No.</u>	<u>Items</u>	<u>Quantity</u>	<u>Price Ea.</u>	<u>Total Price</u>
11/19/2009	44	Washer, Toshiba Autor Super Spin 11KG	1	509.00	509.00
		Dryer, Electric Frigidaire super Capacit	1	619.00	619.00
			Total	\$	1,128.00
11/23/09	47	Cell Phones	8	93.75	\$ 750.00
11/26/2009	53	Fan, Lasko 16"	3	40.95	122.85
		Chair, High Back Blue	3	89	267.00
		Folding Table, White 6', 30"X72"	1	84.95	84.95
			Total	\$	474.80
11/26/2009	55	Carpet, Canyon Oriental	2	103.99	\$ 207.98
10/28/2009	94	Range, Electric Self Clean Hotpoint	1	609.00	609.00
		Refrigerator, 18 cuft frigidaire	1	779.00	779.00
			Total	\$	1,388.00
10/28/2009	96	Queen Size Bed	4	749.00	2,996.00
		Full Size Bed	2	649.00	1,298.00
		Twin Size Bed	1	549.00	549.00
		Queen Size Comforter (bed in a bag)	4	79.99	319.96

EXHIBIT III

**Uighur Resettlement Grants
Schedule of Furniture, Fixtures and Appliances**

<u>Check Date</u>	<u>Check No.</u>	<u>Items</u>	<u>Quantity</u>	<u>Price Ea.</u>	<u>Total Price</u>
		Full Size Comforter (bed in a bag)	2	69.99	139.98
		Twin Size Comforter (bed in a bag)	1	59.99	59.99
		Good Night Sleep Pillows 18X28	13	15.00	195.00
					5,557.93
				Less 5% Discount	(278.00)
				Total	\$ 5,279.93
12/3/2009	100	Cabinets		503.96	\$ 503.96
12/31/2009	128	Table		350.00	\$ 350.00
9/20/2010	313	TV cabinet, K/D Wange	2	32.95	65.90
		Cabinet, Wardrobe 2 doors wange	1	109.00	109.00
				Total	\$ 174.90
1/17/2011	429	Dining Table, 5pc camel back jon	1	249.00	249.00
		Dining Table, 5pc lotus Jon 1ct	1	249.00	249.00
		Dining Table Set, Table w/4 chairs	1	199.95	199.95
					697.95
				Discount	(24.90)
				Total	\$ 673.05

EXHIBIT III

Uighur Resettlement Grants						
Schedule of Furniture, Fixtures and Appliances						
<u>Check Date</u>	<u>Check No.</u>	<u>Items</u>	<u>Quantity</u>	<u>Price Ea.</u>	<u>Total Price</u>	
1/17/2011	430	Queen Size Bed	3	999.00	\$ 2,997.00	
3/3/2011	482			2,210.00	\$ 2,210.00	
3/9/2011	489	Studio Accents Shelf	3	55.75	167.25	
		Washer, Artic Air Twin -Tub 9KG	1	175	175.00	
				Total	\$ 342.25	
3/9/2011	491	TV, RCA 26" LCD Flat Panel	2	499.00	998.00	
		TV, Samsung 26IN HD LCD WDSRN	1	499.00	499.00	
		TV, Coby 32IN HD LCD Flat	1	499.00	499.00	
				Total	\$ 1,996.00	
3/24/2011	507	Night Stand, Sauder 2 door 1 drawer	1	121.95	121.95	
		TV Stand, W/Swivel Matte Black	1	56.95	56.95	
		Night Stand, falls village spiced pine	1	54.10	54.10	
		Cabinet, TV Wange	1	32.95	32.95	
				Total	\$ 265.95	
		Total			\$ 41,194.76	

EXHIBIT IV

Uighur Resettlement Grants Schedule of Questioned Costs	
No.	Amount
1	\$ 900.00
2	\$ 6,000.00
3	\$ 908.87
4	\$ 1,930.00
5	\$ 618.56
6	\$ 1,200.00
7	\$ 730.45
8	\$ 900.00
9	\$ 900.00
10	\$ 1,500.00
11	\$ 399.00
12	\$ 223.81
13	\$ 1,500.00
14	\$ 1,500.00
15	\$ 1,500.00
16	\$ 1,500.00
17	\$ 1,500.00
18	\$ 1,662.50
19	\$ 4,000.00
20	\$ 7,831.00
21	\$ 1,425.00
22	\$ 1,150.00
23	\$ 1,425.00
24	\$ 1,425.00
25	\$ 550.00
26	\$ 500.00
27	\$ 1,100.00
28	\$ 1,416.00
29	\$ 4,500.00
30	\$ 200.00
31	\$ 1,500.00
32	\$ 1,500.00
33	\$ 750.00
34	\$ 1,500.00

EXHIBIT IV

Uighur Resettlement Grants Schedule of Questioned Costs	
No.	Amount
35	\$ 900.00
36	\$ 1,850.00
37	\$ 600.00
38	\$ 100.00
39	\$ 100.00
40	\$ 100.00
41	\$ 100.00
42	\$ 100.00
43	\$ 100.00
44	\$ 7,000.00
45	\$ 4,275.00
46	\$ 100.00
47	\$ 100.00
48	\$ 184.02
49	\$ 600.00
50	\$ 100.00
51	\$ 600.00
52	\$ 600.00
53	\$ 2,400.00
54	\$ 2,850.00
55	\$ 600.00
56	\$ 600.00
57	\$ 700.00
58	\$ 700.00
59	\$ 600.00
60	\$ 1,425.00
61	\$ 700.00
62	\$ 700.00
63	\$ 600.00
64	\$ 1,202.00
65	\$ 10,000.00
66	\$ 15,000.00
67	\$ 26,164.33
68	\$ 25,000.00

EXHIBIT IV

Uighur Resettlement Grants Schedule of Questioned Costs	
No.	Amount
69	\$ 30,000.00
70	\$ 63,000.00
Total	\$ 255,895.54

EXHIBIT V

<p align="center">Uighur Resettlement Grants</p> <p align="center">Schedule of Payments to Accountant</p>		
Date	Check #	Amount
11/12/2009	28	\$ 600.00
11/26/2009	57	\$ 600.00
12/17/2009	116	\$ 600.00
1/20/2010	158	\$ 600.00
2/25/2010	121	\$ 600.00
4/1/2010	151	\$ 600.00
5/6/2010	188	\$ 600.00
6/4/2010	212	\$ 600.00
7/8/2010	239	\$ 600.00
8/11/2010	264	\$ 600.00
9/9/2010	299	\$ 600.00
10/7/2010	331	\$ 600.00
11/9/2010	364	\$ 600.00
12/2/2010	400	\$ 600.00
1/6/2011	427	\$ 600.00
2/8/2011	458	\$ 600.00
3/4/2011	484	\$ 600.00
4/1/2011	520	\$ 600.00
5/18/2011	555	\$ 600.00
6/2/2011	567	\$ 600.00
7/13/2011	591	VOID
7/25/2011	601	\$ 600.00
8/9/2011	614	\$ 600.00
9/2/2011	639	\$ 600.00
10/7/2011	660	\$ 600.00
11/17/2011	692	\$ 600.00
12/2/2011	701	\$ 600.00
1/5/2012	725	\$ 600.00
2/16/2012	750	\$ 600.00
3/6/2012	767	\$ 600.00
4/4/2012	778	\$ 600.00
5/7/2012	794	\$ 600.00
6/7/2012	808	\$ 600.00
7/3/2012	830	\$ 600.00
8/6/2012	851	\$ 600.00
9/13/2012	859	\$ 600.00

EXHIBIT V

Uighur Resettlement Grants Schedule of Payments to Accountant		
Date	Check #	Amount
10/12/2012	874	\$ 100.00
11/1/2012	888	\$ 100.00
12/12/2012	901	\$ 100.00
1/4/2013	913	\$ 100.00
2/19/2013	926	\$ 100.00
3/11/2013	934	\$ 100.00
3/29/2013	940	\$ 100.00
Total		\$ 21,700.00



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

OFFICE OF THE PUBLIC AUDITOR
REPUBLIC OF PALAU
P. O. BOX 850
KOROR, REPUBLIC OF PALAU 96940

Ground Floor
Orakiruu Professional Building
Madalaii, Koror, Palau

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E-MAIL ADDRESS: admin@palauopa.org

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

(Closed on Legal Holidays)