



OFFICE OF THE PUBLIC AUDITOR
REPUBLIC OF PALAU

PERFORMANCE AUDIT REPORT

ON



NGIWAL STATE GOVERNMENT

REPUBLIC OF PALAU

PERIOD COVERED

JUNE 1, 2006 THROUGH SEPTEMBER 30, 2013

Performed by the Office of the Public Auditor

NGWL06-13-P04*opa00

REPUBLIC OF PALAU



Office of the Public Auditor

January 06, 2016
Serial#: opa16-047au

P. O. Box 850
Koror, Republic of Palau 96940
TEL (680) 488-2889/5687
FAX (680) 488-2194
EMAIL admin@palauopa.org
www.palauopa.org

Honorable Ellender Ngirameketii
Governor
Ngiwal State Government
Office of the Governor
Ngiwal, Republic of Palau

Subject: Final Report on the Performance Audit of Ngiwal State Government for the period June 1, 2006 through September 30, 2013.

Dear Governor Ngirameketii:

This report presents the result of our performance audit of Ngiwal State Government for the period from June 1, 2006 through September 30, 2013.


The Office of the Public Auditor (OPA) received your response to the Draft Audit Report. Attached to the response was a receipt for \$1,000 from the Asahi Association of Guam substantiating a payment (donation) to the Association, which the OPA questioned in the Draft Report due to lack of supporting documents. Thus, the OPA will remove the \$1,000 as questioned cost in the final report. Additionally, your response did not address any of the specific findings in the Draft Report or provide corrective action plans to resolve the findings. Pursuant to the Public Auditing Act, your response is unresponsive to the audit findings and recommendations contained in the Draft Report. Nonetheless, the OPA will publish your response in verbatim in the Final Report.

The OPA has established an audit recommendation tracking system to keep track of the status of recommendations issued in this report. Accordingly, the OPA will conduct follow up inspections on your response 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 Preciding Officers of the Olbiil Era Kelulau for their information and disposition.

Office of the Public Auditor

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,



Satrunjho Tewid
Public Auditor
Republic of Palau

NGIWAL STATE GOVERNMENT
June 1, 2006 through September 30, 2013

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FAX (680) 488-2194
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Executive Summary

January 06, 2016

Honorable Ellender Ngirameketii
Governor
Ngiwal State Government
Ngiwal, Republic of Palau

Dear Governor Ngirameketii:

This audit report presents the result of our audit of Ngiwal State Government for the period covering June 1, 2006 through September 30, 2013.

The objective of the audit was to determine whether (1) expenditures were incurred in accordance with national and state government laws and regulations, (2) cash receipts were properly deposited into the state treasury, (3) expenditures and cash receipts were supported by adequate documentation, (4) earmarked CIP grants were expended for purposes for which they were earmarked, and (5) the state has established proper internal controls to ensure that its properties are appropriately safeguarded and its transactions properly recorded.

As a result of the audit, the Office of the Public Auditor (OPA) found number of weaknesses/deficiencies noted below relating to the administration of Ngiwal State funds, 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 these weaknesses/deficiencies.

The summary of findings and recommendations are enumerated below:

Specifically, our audit found that:

First, during the period June 1, 2006 through September 30, 2013, the Governor expended \$13,498.46 without adequate supporting documents such as invoices, contracts, travel documents, etc.,

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Second, the Governor did not follow competitive bidding procedures in the procurement of equipment the value of which totaled \$26,000,

Third, the State was unable to provide personnel files and records for those employees paid by the State,

Fourth, the Governor was unable to provide a fixed asset listing showing fixed asset purchases in fiscal year 2012 and prior years,

Fifth, the Governor did not comply with Ngiwal State Constitution under Article X, Section 2, which states: "The State funds must be audited at the end of each fiscal year",

Sixth, \$9,831.72 of the State funds was used for travel without Travel Authorization forms and travelers failed to file travel vouchers after completion of travel,

Seventh, The Governor failed to prepare and transmit Performance Reports to the Office of the President, Olbiil Era Kelulau, and the Office of the Public Auditor for fiscal years 2007, 2008, 2009, 2010, 2012 and 2013, as required by law,

Eighth, in the wake of the devastation brought upon by super typhoon Bopha, the Governor used a Declaration of State of Emergency to apply emergency procurement guidelines under the Republic of Palau Procurement Law and regulations; however, the law does not give the Governor that authority.

Recommendations

We recommend that:

First, the Governor exercises strict controls over disbursements to ensure that expenditures are supported by adequate documentation such as invoices, contracts, travel documents, etc.,

Second, the Governor adheres to the Republic of Palau (ROP) Procurement Law and Regulations by applying competitive bidding for any procurement the value of which is \$5,000 or greater,

Third, the Governor ensures that personnel records such as personnel actions and timesheets are maintained to support payroll expenditures,

Fourth, the Governor establishes a fixed asset accounting system to record and account for state properties,

Fifth, the Governor discusses this mandate (annual audit) with the Kelulul a Kiuluul and to come up with a process to ensure that State funds are audited at the end of each fiscal year,

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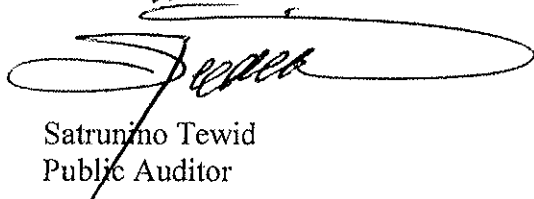
Sixth, the Governor uses Travel Authorization forms to process official travel of the State and instruct travelers to file travel vouchers after completion of travel,

Seventh, the Governor becomes familiar with the requirements of the RPPL No. 6-11, Subchapter IV, Section 371, respecting the preparation and submission of performance reports.

Eighth, we recommend that the Olbiil Era Kelulau amend the ROP Procurement Law and Regulations to designate the State Governors the authority to use emergency procurements when the Governors determine the existence of a threat to public health, welfare, and safety.

Finally, the Office of the Public Auditor would like to thank the staff and management of Ngiwal State Government for the professional courtesy and cooperation extended to us during the audit.

Sincerely,

A handwritten signature in black ink, appearing to read 'Satrunno Tewid', is written over a large, horizontal, oval-shaped scribble or flourish.

Satrunno Tewid
Public Auditor

Background

Ngiwal State is one of the sixteen States of the Republic of Palau (ROP), organized and structured pursuant to Article XI, Section 1 of the Republic of Palau Constitution. On April 1993, the Ngiwal State Constitution was ratified creating the Ngiwal State Government.

There are four hamlets in Ngiwal State – Ngellau, Ngercheluuk, Ngersngai and Ngermechau.

Article VII of the Ngiwal State Constitution vests executive authority in a Governor, who is elected in a state-wide election for a four year term, may serve no more than two consecutive terms, and must live in the State during his or her term(s) in office. The Governor has all the inherent powers and duties of a state executive. Among other duties and responsibilities, the Governor has the power to:

- Administer and execute laws,
- Introduce measures into and approve or disapprove laws passed by the state legislature,
- Propose Ngiwal State's annual budget, and
- Collect taxes and expend public funds pursuant to appropriations.

Legislative authority is vested by Article VIII of the Ngiwal State Constitution in a unicameral legislature called Kelulul a Kiuluul, which consists of seventeen members: The four highest ranking chiefs from Ngercheluuk, the two highest ranking chiefs from each of the hamlets, Ngellau, Ngersngai, and Ngermechau, and seven Legislators who are elected at large for two-year terms.

The Kelulul a Kiuluul has the inherent powers and responsibilities of a state legislature. Pursuant to Article VIII, Section 3, the Kelulul a Kiuluul is empowered to:

- Levy taxes, duties and excises,
- Approve contracts and agreements in which Ngiwal State is a party,
- Amend or modify the annual state budget submitted by the Governor, and
- Approve the expenditure of public funds.

Article VIII, Section 10 governs compensation for members of the executive and legislative branches of the Ngiwal State Government: "The salary and compensation of the members of executive and the Kelulul a Kiuluul shall be established by law. Any law enacted by the Kelulul a Kiuluul providing for an increase in salary and compensations for the Governor or members of the Kelulul a Kiuluul shall become effective only after the next state general election."

Article X of the Ngiwal State Constitution, like the National Constitution, requires that all state revenues be deposited in the State Treasury. Article X also requires an annual audit of Ngiwal State funds.

Objective, Scope, and Methodology

The objective of the audit was to determine whether (1) expenditures were incurred in accordance with national and state government laws and regulations, (2) cash receipts were properly deposited into the state treasury, (3) expenditures and cash receipts were supported by adequate documentation, (4) earmarked CIP grants were expended for purposes for which they were earmarked, and (5) the state has established proper internal controls to ensure that its properties are appropriately safeguarded and its transactions properly recorded.

The audit covered the period from June 1, 2006 through September 30, 2013. However, we were not able to audit Ngiwal State's payroll system from fiscal year 2007 through 2013 due to the destruction of personnel records in the wake of typhoon Bopha. For the same reason, the State was unable to produce a fixed assets listing for the same period; hence, we will rely on alternative audit procedures to test fixed assets.

This being a performance audit, we did not conduct audit procedures to assess the fairness of the financial statements of the State or any component or account 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 issued by the Comptroller General of the United States. These 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.

To accomplish the audit objective, we reviewed bank reconciliations, earmarked CIP funds, accounting records maintained by the State and the Bureau of the National Treasury, cash receipts, and payroll and non-payroll expenditures. In performing the review, we conducted specific tests of transactions of these components of the State's accounting system and procedures to assess the adequacy of the State's system of internal controls. We reviewed National and State budget laws, conducted on-site inspection of Ngiwal State's fixed assets, and interviewed appropriate national and state government officials.

Authority to Audit

Article XII, Section 2(b) of the Constitution of the Republic of Palau declares, in part, "The Public Auditor shall inspect and audit accounts in every branch, department, agency, or statutory authority of the national government and in all other public legal entities or nonprofit organizations receiving public funds from the national government." This mandate is implemented through the Public Auditing Act of 1985 (40 PNCA § 200 *et. seq.*), which charges the Public Auditor to "act to prevent and detect fraud, waste and abuse in the collection and expenditure of all public funds." (*Id.*, §224.)

Prior Audit Coverage

The most recent audit of Ngiwal State was a performance audit conducted by the Office of the Public Auditor covering the period October 1, 2005 through May 31, 2006. The current audit being performed by the Office of the Public Auditor provides an update of the audit of the Ngiwal State Government from June 1, 2006 through September 30, 2013.

Finding 1: Inadequate Documentation on Expenditures

A sound system of internal control requires that expenditures be supported by adequate documentation such as invoices, contracts, travel documents, etc. to justify the purpose of the expenditures. In addition, the documents serve as source documents for classification of expenditures to ensure compliance with the State budget.

During the audit, we found the following expenditures were made without adequate supporting documentation:

Date	Check No.	Amount	Description of Payment
11/02/2006	7904	1,298.46	Payroll Timesheets
12/06/2006	124	1,400.00	Office Rental
1/20/2011	2841	200.00	Transportation
04/13/2012	3758	600.00	Food Stuff
12/06/2012	4248	10,000.00	Goods and Services
Total		\$13,498.46	

Management did not properly review disbursement documents to ensure that they contain adequate documentation to justify expenditures and their recording in the accounting records.

As a result, \$13,498.46 of expenditures lacked documentation to justify their official purpose and their recording in the accounting system.

Recommendation

We recommend that the Governor exercises strict controls over disbursements to ensure that expenditures contain the proper supporting documentation to justify their official purpose and their recording in the accounting records.

Finding 2: Procurement

The ROP’s Procurement Law (40 PNCA § 600 *et. seq.*) and related Regulations require that all goods and services be procured in a manner that provides free and open competition. The law specifically requires that all State governments employ competitive bidding for procurements whose value is \$5,000 or greater.

The audit found that in fiscal years 2007, 2010 and 2012, the State of Ngiwal failed to follow competitive bidding requirements when it procured an Isuzu Dump Truck, a 55 Horse Power Speed Boat, and two Nissan Terrano Pathfinders, as detailed in the following table:

Date	Check No.	Amount	Description of Item
04/20/2007	234	2,000.00	Isuzu Dump Truck
08/14/2007	93	3,000.00	Isuzu Dump Truck
08/23/2007	95	7,500.00	Nissan Terrano
11/06/2009	99	7,000.00	55 Horse Power Speed Boat
03/30/2012	3727	4,000.00	Nissan Terrano
08/10/2012	4026	2,500.00	Nissan Terrano
Total		\$26,000.00	

It appears that Ngiwal State’s procurement officer did not understand the requirements of the Republic’s Procurement Law and Regulations as they apply to state procurement activities. Specifically, there was a failure to recognize that the State was required by 40 PNCA § 625(b) to competitively bid the purchases of the above goods.

As a result, the procurement of the above-listed goods did not comply with the ROP’s Procurement Law. Consequently, we were unable to assure ourselves that Ngiwal State received the lowest prices and/or best product quality for the money it expended on these goods. Thus, the State incurred questioned costs of \$26,000.00 arising from its procurement activities.

Recommendation

We recommend that the Ngiwal State’s procurement officer procure goods and services in compliance with the ROP’s Procurement Law and Regulations. Specifically, the State must subject all procurements costing \$5,000.00 or more to competitive bidding as required by Chapter 6 of the Procurement Law, 40 PNCA § 600, *et. seq.* In addition, the State procurement officer should consult with the National Government’s Procurement Officers for guidance and advice on applying the proper procedures for competitively-bid procurements.

Finding 3: Protection of State Records and Properties

State records, documents, and computerized equipment and accessories should be properly stored and kept in secure location and, in time of natural disasters, extra precautions should be taken to ensure that the records, documents, and equipment are safeguarded to avoid damages/loss.

The audit revealed that all of Ngiwal State employees’ personnel files and payroll records, for those employees paid directly by the State, were damaged/lost when typhoon Bopha struck Palau on December 2, 2012. Due to the damage/loss of these files and payroll records (personnel actions, timesheets, etc.), we were unable to apply audit procedures to determine the accuracy and reliability of the State’s payroll expenditures during the audit period. According to the Treasurer, Ngiwal State has begun rebuilding its personnel records and files and plans to implement a new payroll accounting system for fiscal year 2013.

As a result, due to lack of personnel and payroll records, we were unable to audit payroll expenditures of those employees paid by the State.

Recommendation

We recommend that the Governor establish policies and procedures for securing and safeguarding State records and properties. In particular, during natural disasters extra precautionary measures should be taken to secure such properties to avoid damages/loss. In addition, the Governor should direct the State Treasurer to continue to build and improve the State's payroll system.

Finding 4: Fixed Assets

State records, documents, computerized equipment and other properties should be properly stored and kept in secure location and, in time of natural disasters, extra precautions should be taken to ensure that the records, documents, and equipment are safeguarded to avoid damages/loss.

The State was unable to provide a complete listing of its fixed assets purchased in fiscal year 2012 and prior years. According to State officials, an inventory had been conducted but the inventory listing was damaged/destroyed during typhoon Bopha. However, the State was able to produce a list of fixed assets for fiscal year 2013.

The loss of the State's fixed asset records was caused by a national catastrophe, which the State was ill-prepared for.

As a result, due to lack of records, we applied alternative audit procedures to determine the existence and condition of fixed assets during the period June 01, 2006 through September 30, 2012.

Recommendation

We recommend that the Governor establish policies and procedures for securing and safeguarding State records and properties. In particular, during natural disasters extra precautionary measures should be taken to secure such properties to avoid damages/loss. In addition, the Governor should direct the State Treasurer to continue to build and improve the State's fixed asset accounting system. The system should include the following:

- (1) Conduct a comprehensive inventory of the State's fixed assets purchased in current and prior years,
- (2) Identify assets that are no longer operational, survey such assets and remove from the fixed asset accounting system,
- (3) Prepare a card for each asset which should include the following information: Cost (or best estimate), purchase date, vendor, department, estimated useful life, etc.
- (4) Conduct periodic inventory of the fixed assets and update the records accordingly.

Finding 5: Annual Audit of State Funds

Ngiwal State Constitution under Article X, Section 2 states: “The State funds must be audited at the end of each fiscal year.”

The audit revealed that Ngiwal State has not been in compliance with the annual audit mandate for several years. The last audit of Ngiwal State was conducted for the period covering October 1, 2005 to May 31, 2006. The audit was conducted by the Office of the Public Auditor. Since then, there has not been an annual audit of Ngiwal State as required by Article X, Section 2 of the State Constitution.

It appears the cause of the above condition is that the Office of the Governor and the Kelulul a Kiuluul (State Legislature) are not collaborating to formulate a process by which Ngiwal State funds are audited at the end of each fiscal year. Instead, State officials have been relying on the Office of the Public Auditor to carry out the audit of the State.

As a result, the State has not been in compliance with the annual audit requirement mandated by the State’s Constitution.

Recommendation

We recommend the Governor discuss this mandate (annual audit) with the Kelulul a Kiuluul and to come up with a process to ensure that State funds are audited at the end of each fiscal year. One point of discussion, among others, is how the audit is to be funded and included in the Governor’s submission of the annual state budget. The Office of the Public auditor is available to provide the necessary assistance to help the State fulfill this mandate.

Finding No. 6: Travel

Travel policies and procedures provide important guidelines on how State funds are to be used to fund official travel including applicable per diem rates of travel destination, authorized travel expenses, filing of travel voucher after completion of travel, trip reports, etc. to justify expenditure of State funds.

The audit found that \$9,831.72 of State funds was used to send an entourage of fifteen (15) State representatives to Guam to commemorate the grand opening of the Asahi State Community Center. However, the State did not use the Travel Authorization forms to process the costs of travel but instead used a Disbursement Voucher to pay by lump sum the costs of air fare for the participants. In addition, the fifteen travelers failed to file the required travel vouchers after completion of travel.

The Governor failed to use Travel Authorization forms to process official travel of the State and did not follow up to ensure that travelers filed the required travel vouchers after completion of travel.

Due to lack of travel vouchers, we were unable to determine the propriety of travel expenditures and whether the purpose of travel was accomplished. Hence, we question the entire \$9,831.72

Recommendation

We recommend the Governor use Travel Authorization forms to process official travel of the State. In addition, the Governor should instruct and require travelers to file Travel Vouchers after completion of travel.

Finding No. 7: Performance Report

The Republic of Palau's Budget Reform Act of 2001 (RPPL No. 6-11) requires that each State Government funded by appropriations from the National Government shall prepare and submit a Performance Report to the President, the Olbiil Era Kelulau (OEK), and the Office of the Public Auditor.

Ngiwal State did not prepare and transmit Performance Reports for fiscal years 2007, 2008, 2009, 2010, 2012 and 2013 as required by RPPL No. 6-11.

We believe that the State may not have been aware of the Republic of Palau's Budget Reform Act of 2011 (RPPL No. 6-11) and its requirements.

As a result, Ngiwal State did not comply with the requirements of RPPL No. 6-11, Subchapter IV, Section 371.

Recommendation

We recommend that the Governor comply with the intent of the Republic of Palau's Budget Reform Act of 2011 (RPPL No. 6-11) by preparing and submitting its Performance Report to the appropriate offices.

Finding No. 8: Declaration of State of Emergency/Lack of Competitive Bidding

The ROP's Procurement Law (40 PNCA § 600 *et. seq.*) and related Regulations require that all goods and services be procured in a manner that provides free and open competition. The law specifically requires that all State Governments employ competitive bidding for procurements whose value is \$5,000 or greater.

We found that in the aftermath of super typhoon Bopha the Governor declared a State of Emergency, which was concurred to by the Ngiwal State Legislature. With the State of Emergency the Governor established a \$10,000 prepaid account at a local store for the State to obtain emergency supplies and materials to help with the relief and recovery efforts. There

was no competitive bidding process in the selection of the vendor with whom to establish the prepaid account.

The Republic of Palau Procurements Law and Regulations designates only the President of the Republic the authority to use emergency procurement when the President determines the existence of a threat to public health, welfare, or safety.

As a result, the Governor did not comply with the ROP Procurement Law and Regulations in the procurement of supplies and materials in connection with the super typhoon Bopha relief and recovery efforts.

Recommendation

We recommend that the Olbiil Era Kelulau amend the ROP Procurement Law and Regulations to designate the State Governors the authority to use emergency procurements when the Governors determine the existence of a threat to public health, welfare, and safety.

Ngiwal State Government's Response: *Alii, on behalf of the Ngiwal Government and the People of Ngiwal, Happy New Year to you and the entire personnel of the Republic Auditor Office, may this year bring peace and prosperity to all of you.*

Through, this communication, I thank you and your bombastic team for conducting the Audit of the State, as a result the state now have a clear picture of the past and the current practice in administering state fund. The recommendations give us a good direction, in implementing corrective measures in accordance to the requirements. The Audit report will now be additional guidelines to administer state fund, enhancing the trainings that your office have provided to the state treasurer in the area of Procurement Law, Budget Planning, Quick Books PRO 2015, Quick Books Accounting Software, just to name few. The audit positioned us well to implement and maintain balance funding and all the require reports to the National Government and your Office.

During our meeting in your office on November of last year, I indicated that finding sixth in page 2, was a special deal with United Air line that covers Airfare, Hotel Accommodation and Breakfast for 15 packs. Ngiwal Club in Guam assisted in providing meals. Individual travelers were not provided per diem as a normal practice this was done to safe state fund. The state would have spent more than \$20,000.00 without this deal. Ms. Lola Ngemaes of the United Airline assist the state in securing this special deal.

In respond to the finding eight, page 2, as I stated during our meeting the State Attorney's legal advice, at the time was in the absence of the state law or regulation the National Law/Regulation applies.

In closing, the stated respond and document is what I can provide to your office now. The state attorney is still on vacation and cannot provide a legal respond. In regards to the

Office of the Public Auditor

findings related to the past Ngiwal State Administration, all the documents provided to your office are the available documents in the state office.

OPA's Comments: The above response did not address the specific findings (Findings 1-8) in the Draft Report and, likewise, failed to provide corrective action plan to remedy each of the finding.



**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

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)