



**OFFICE OF THE PUBLIC AUDITOR
REPUBLIC OF PALAU**

AUDIT REPORT

ON

“REGINA IV REHABILITATION PROJECT”



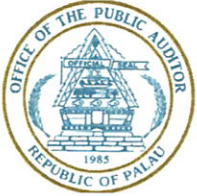
**ANGAUR STATE GOVERNMENT
REPUBLIC OF PALAU**

FOR THE PERIOD OCTOBER 1, 2014 TO PRESENT

Performed by the Office of the Public Auditor

ANG-REGINA-20-01P*00

REPUBLIC OF PALAU



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Honorable Kennosuke A. Suzuky
Governor
Angaur State Government
Office of the Governor
Koror, Republic of Palau

Subject: Final Report on the Audit of Regina IV Rehabilitation Project

Dear Governor Suzuky:

Transmitted herewith is the final audit report on Regina IV Rehabilitation Project.

In lieu of responding to the Draft report, you reserved your response and consented to the former Governor, Mr. Marvin Ngirutang, who was Governor during the repair of Regina IV, to respond to the report. Thus, the former Governor's response is published verbatim in the final report.

If you have any questions regarding the report or subject matters discussed therein, the Office of the Public Auditor will be available to discuss them at your request.

The Office of the Public Auditor would like to thank the staff and management of the Angaur State Government for their cooperation and professional courtesy extended to us during the audit.

Sincerely,

Satrunino Tewid
Acting Public Auditor, ROP

ANGAUR STATE GOVERNMENT
“Regina IV Rehabilitation Project”
Republic of Palau

For the Period October 1, 2014 to Present

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ANGAUR STATE GOVERNMENT
“REGINA IV REHABILITATION PROJECT”
FOR THE PERIOD BEGINNING OCTOBER 01, 2014 TO PRESENT

Introduction

The Office of the Public Auditor at the request of the leadership of Angaur State Government initiated an audit of the Regina IV repair and rehabilitation project. The Regina IV is the sole mode of public transportation by sea for the State transporting passengers and cargo to and from Angaur State. Because of its remote distance from mainland Palau, the State can only be accessed by boat and/or by small propeller aircraft. Angaur is situated 37.8 miles South of Koror with a population of 119 (2015) inhabitants. When the Regina IV was grounded due to mechanical problems and conditions of disrepair, the State had to rely on the state smaller outboard motor boat for transport. This was highly inadequate and unsustainable. Consequently, the state leadership requested funding from the Olbiil Era Kelulau (OEK) to repair and rehabilitate the Regina IV. Angaur State leadership was concerned about the repair and rehabilitation work and the funds expended on the project because upon completion of work and on its return voyage to Palau, the vessel experienced engine and other mechanical problems. The Regina IV was grounded soon after and has been in and out of commission after returning to Palau and the State has spent \$62,902 to repair the engines and, according to the current Governor, more work still needs to be done to get the boat fully operational and seaworthy.

The objective of the audit is to determine whether (1) the contractor’s bid proposal addressed the defects and the repair work was performed in accordance with the scope of work and project specifications, (2) the State monitored, inspected and tested the repair work and (3) the funds were expended in accordance with the intent of the appropriation.

Background

The Regina IV is a motorized water vessel measuring approximately 76 feet. The boat is a landing craft with a ramp/gate bow and a transom stern. The vessel is made of aluminum metal and powered by a twin Caterpillar 3406 diesel engines of 300 BHP. In the past, the State had performed sporadic trouble-shooting and cosmetic repair work on the boat engines and electrical system to keep the boat operational. The years of mounting problems and lack of scheduled maintenance finally caught up with the State and the boat was grounded to undergo a complete overhaul or replacement with financing from the OEK. In the Fiscal Year 2015 Republic of Palau (ROP) Unified National Budget Act, RPPL No. 9-34, the OEK appropriated \$250,000 to repair the propulsion mechanism, auxiliaries and control system of the Regina IV.

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Subsequently, in RPPL No. 9-46, the Unified National Budget for Fiscal Year 2016, the OEK appropriated additional \$250,000 for the repair or replacement of Regina IV. In total, Angaur State was appropriated \$500,000 for the repair or replacement of Regina IV.

The process of reparation and restoration of Regina IV began with the State hiring a marine surveyor and an engineering and design company to conduct a detailed survey and assessment of the Regina IV and providing a report on its condition; defects and problems that warrant repairs or replacement. This assessment served as basis for the issuance of a Request for Proposal (RFP) on April 5, 2016, setting forth the scope of work and specifications for the repair work. In response to the RFP, two (2) companies submitted proposals for the repair and rehabilitation of Regina IV, namely Colorado Shipyard Corporation in amount of \$402,015.14 and Gensan Shipyard for \$50,692.26. After reviewing the two proposals, Angaur State Transportation Commission awarded the contract and project to Colorado Shipyard Corporation.

The Angaur State Transportation Commission was established by Executive Order No. 1 issued by then-Governor Marvin Ngirutang on March 18, 2016, to be responsible for all operations and procurement of all marine transport assets of Angaur State. The Commission was responsible for overseeing the repair work such as inspections, monitoring and reporting on the repair activities. The Commission was comprised of the following members:

<u>Name</u>	<u>Title</u>
<i>Vance Basilius</i>	<i>Chairman</i>
<i>Benito Thomas</i>	<i>Vice Chairman</i>
<i>Levan T. Akitaya</i>	<i>Secretary</i>
<i>Benhart Thomas</i>	<i>Member</i>
<i>Jay S. Alfred</i>	<i>Captain/Member</i>

Budget and Finance

As previously mentioned, in the Fiscal Year 2015 Unified Budget Act, RPPL No. 9-34, the Palau National Congress (OEK) first authorized and appropriated \$250,000 to finance the cost to fix the propulsion system, auxiliaries and controls system of the boat. In the subsequent Fiscal Year 2016 Unified Budget Act, RPPL No. 9-46, the OEK authorized and appropriated additional \$250,000 for repairs or replacement of Regina IV. In total, the OEK authorized and appropriated \$500,000 for the repair and/or replacement of Regina IV. The fund was administered by Angaur State Governor and it was designated as non-lapsing. Other provisions of the law required the proper maintenance of the vessel and that a master/captain and engineer for the boat shall be properly licensed for a vessel of similar engine power.

Contract and Payment

The project for the repair and rehabilitation of the Regina IV was awarded to Colorado Shipyard Corporation of the Philippines. The State’s Contract Agreement with Colorado Shipyard Corporation was executed on July 8, 2016. The contract spells out the scope of work and project specification including the repair and/or replacement of the propulsion and electrical system, hydraulics, navigational equipment, crew quarter, bridge, among other works. The contract provides that a first payment of \$160,000, representing 40% of the total sum due and owing, shall be released to the Contractor upon signing of Contract. The Contractor will be paid the remaining balance in accordance with monthly milestone performance reports provided to Angaur State. The final sum of \$40,000, or 10% of the total sum due and owing, shall be paid upon delivery of the Regina IV to Angaur State and such delivery is then certified by Angaur State and the Division of Transportation as being fully compliant with the required improvements. The contract had an original price of \$400,000, which included a 90-day project timetable. Of the \$400,000, \$35,000 was used for towing charge of Regina IV from Palau to Cebu, Philippine, reducing the contract amount to \$365,000. The reduction was a result of negotiation removing the contractor from the responsibility of towing the boat. On August 25, 2016, then-Governor authorized the project Advisor/Consultant to make three (3) Change Orders with a combined value of \$64,740, therewith increasing the total price of the contract to approximately \$429,740.

Terms of Office of Governors

As the Governor of Angaur State Government serves a two-year term, it is essential to present the term of office for each serving governor to put responsibility and accountability into proper perspective during and after the repair of Regina IV as shown below:

<i>Marvin Ngirutang</i>	<i>Jan. 01, 2015 - Dec. 30, 2016</i>
<i>Kenneth Uyehara</i>	<i>Jan. 01, 2017 - Dec. 30, 2018</i>
<i>Kennosuke A. Suzuki</i>	<i>Jan. 01, 2019 - Dec. 30, 2020</i>

Objective, Scope and Methodology

The objective of the audit is to determine whether (1) the contractor’s bid proposal addressed the defects and the repair work was performed in accordance with the scope of work and project specifications, (2) the State monitored, inspected and tested the repair work and (3) the funds were expended in accordance with the intent of the appropriation.

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The scope of the audit covered October 01, 2014 to present. This being a performance audit, we did not conduct audit procedures to assess the fairness of the financial statements of Angaur 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 our audit objective, we collected and reviewed the following: RPPL No. 9-34, 9-46, 9-62, Angaur State's planning and procurement documentations; reviewed and tested Angaur State's contract payments; Angaur State's contract monitoring processes and documentation; contract requirements and related deliverables; and interviewed Angaur State officials and Angaur State Transportation Commission officers and members; reviewed other relevant information and communication documents. We also developed a questionnaire to obtain additional information from former Governor, the Honorable Marvin Ngirutang, former Governor, the Honorable Ken Uehara and Angaur State Transportation Commission's Chairman and members.

Prior Audit Coverage

This was the first time the Office of the Public Auditor conducted a performance audit covering funds appropriated by the Olbiil Era Keulau (OEK, Palau National Congress) to fund the repair or replacement of Regina IV.

AUDIT FINDINGS AND RECOMMENDATIONS

Finding No. 1 ~ Use of Funds for Travel/Per Diem/Stipend and Others

RPPL No. 9-34 states: “The sum total of \$250,000 is hereby authorized to be appropriated and is hereby appropriated for Fiscal Year 2015 for the sole purpose (emphasis added) of paying the cost to fix the Propulsion System and the Auxiliaries and Controls of the Angaur State Boat, the Regina IV”. In addition RPPL No. 9-46 states: “The sum of \$250,000 is hereby authorized to be appropriated and is hereby appropriated for expenditure or obligation for Fiscal Year 2016 to provide additional funding toward the repair or replacement of the Angaur State Boat, the Regina IV.” Furthermore, RPPL No. 9-62 states: “The funds shall be administered by the Governor of Angaur and shall be non- lapsing.”

Our audit revealed that Angaur State Government used a substantial portion of the funds, \$68,436.97, to pay for travel and related expenses including air fare, per diem, stipend and other expenses to the Philippines in connection with the repair of Regina IV. These expenses were incurred by the Transportation Commission members and other state officials to inspect the repair and progress of the work. Specifically, \$46,879.64 was expended for travel, per diem and stipend, \$21,407.33 for travel-related reimbursements for the Advisor/Consultant and \$150.00 for other expenses. Thus, \$68,436.97 of the funds was expended for purposes not in line with the intent of the RPPL No. 9-34 and 9-46. Please refer to Finding No. 2, pages 8-10, for breakdown of travel expenditures.

The cause of the above condition is that then-Governor, the Honorable Marvin Ngirutang, allowed the use of funds for travel in connection with overseeing and inspecting the repair of Regina IV.

As a result, we questioned the entire \$68,436.97 for reason that the funds were not used in accordance with the intent of appropriation laws. We further questioned these expenditures because the Regina IV experienced mechanical and other technical problems on its return voyage to Palau after the repair work, and the problems compounded soon after its arrival resulting in the grounding of the vessel. Subsequently, an additional sum of \$62,902 was expended to repair the engines and other problems, problems that the contractor was paid \$386,766 to fix, and for which the State spent \$68,436.97 to ensure the repair work was properly undertaken. Hence, we consider the \$68,436.97 to be waste of public funds.

Further, it may have been more economical and effective to have hired a local expert (in the Philippines) to oversee and inspect the repair work rather than State employees, considering the costs, \$68,436.97, involved with the latter.

Recommendation: We recommend the Governor who carries the ultimate responsibility for the expenditure of state funds be more conscientious in the use of earmarked funds to ensure that funds are used to accomplish their intended purpose. The funds earmarked by the Olbiil Era Kelulau for the repair of Regina IV, \$500,000, \$68,436.97 was approved by then-Governor, the Honorable Marvin Ngirutang, for travel and travel-related expenses for Commission members and State officials to oversee the repair work. The fact that the Regina IV experienced engine and other mechanical failures on its return voyage to Palau from the Philippines is a testament that members of the Transportation Commission and the Advisor/Consultant failed to ensure that the work was done properly and therefore the \$68,436.97 of expenditures was a waste of State funds. We also recommend that the Office of the Attorney General or the Special Prosecutor further investigate these travel expenditures and take appropriate action for misuse or misappropriation of State funds.

Angaur State Government's (ASG) Response (former Governor Mr. Marvin Ngirutang):

Angaur State was appropriated \$500,000.00 for the Repair of Regina IV. The original cost to repair the Regina IV was \$402,015.14. I was advised that the difference between the actual appropriation and the actual cost can be used to pay for work related to the Regina IV since this grant was non-lapsing.

I was advised that I would need a professional certified mechanic (with the credentials of Stephen Swords or Jim Persinger) to be in Cebu full time to oversee the works of Reginal IV, otherwise Reginal IV will be shortchanged with the quality of parts they will use to reconstruct the engines. This was the common practice done by Palau boat owners when sending their boat to Cebu for repairs. I interviewed the candidates referred to me and discovered that their average fee was \$1,000.00 a day for them to be in Cebu full time. This would cost \$90,000.00 for the 90-day work required in the Contract to refurbish Reginal IV.

At the time we realized that the State could not afford to practice what private companies did. I made an Executive Decision and discharged what the Transportation Commission recommended.

Based on the Recommendations of the Transportation Commission, we sent two members of the Commission, one of them being the Captain of Regina IV, to be in Cebu full and contracted Mr. Stephen Swords to oversee the entire operation on a part time basis. The Commission highly recommended Stephen Swords because the State hired his expertise to go to Australia 20 years ago to design and build Regina IV with an Australian boat maker. This arrangement would be affordable based on the budget. Mr. Swords was to travel back and forth to inspect and approve, on behalf of the Commission, milestone work progress and the two State agents would stay behind to learn and study the way Regina IV will be refurbished and also to be the eyes and ears of the Transportation Commission.

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I trusted the qualifications of Mr. Swords to do the work since he was the designer and architect of Regina IV when it was built in Australia. I also believed it was in the best interest of the State to spend the money in on-the-job training for the captain and the crew instead of giving the entire \$90,000.00 to one person.

Regina IV was originally on contract to be finished in 90 days. Instead, it took more than 180 days. This caused additional expenses to maintain the crew and other unforeseen related travel costs.

I authorized the cost for the trip of the Paramount Chief of Angaur, Ucherbelau, to be part of the official work inspection team as he is the Head of State, and by traditional protocol, handles and oversees the Bilas Beluu (public sea transportation). It was part of my campaign promise that in order to restore and strengthen Angaur's traditional heritage, that as Governor, I would promote and uphold traditional leadership rights and duty roles. In the Regina IV project, I believed that it was important and useful for the people for Ucherbelau to be the Honorary Commission Member of the Transportation Commission.

Note that I paid for all my airline tickets except for the Philippine domestic flights to save State funds.

Because the works of Regina IV was extended, the crew had to return to Palau to vote in the National Elections and return to Cebu. There was also family sickness and emergencies for some of the crew that warranted them to return to Palau.

Office of the Public Auditor's (OPA's) Comments: The language of RPPL No. 9-34 is very specific stating in part that the funds shall be used for the "sole purpose" of paying the costs for the repair of Regina IV. The \$68,436.97 was incidental costs of activities related to the repair but not direct costs to the repair of Regina IV. The State did not obtain a legal opinion to support that the \$68,436.97 was allowable or authorized repair costs.

The OPA does not dispute the need for an expert Advisor/Consultant. However, the OPA takes the position that the Consultant/Advisor should have been contracted by the Transportation Commission to provide expert advice to the Commission, as intended by Executive Order No.1. Further, the Consultant/Advisor should have been hired through a contract that spells out his scope of work, method compensation, etc., regardless of the Consultant/Advisor's gesture to volunteer on a pro bono basis. The fact that the Consultant/Advisor was paid/reimbursed \$20,308 without a contract or supporting documents to substantiate the reimbursement is questionable.

Finding No. 2 ~ Travel Policies and Procedures

Official travel paid for with public funds should be governed by policies and procedures to ensure that travel by State officials and employees is undertaken in the best interest of and for the benefit of the State and that travel expenditures are properly accounted for and documented.

During the audit we were told by state officials that Angaur State Government adopted the National Government’s Executive Branch Travel Policies and Procedures, which the State did not provide formal adoption documents. The National Government’s Executive Branch Travel Policies and Procedures sets detailed guidelines on processes for justifying and documenting travel expenditures, including filing travel vouchers and related documentation. Upon review of travel expenditures associated with the repair of Regina IV, however, we found that all travels taken by State Officials including the Transportation Commission were not properly documented by use of travel authorization, filing of travel vouchers and travel-related documents such as boarding passes, invoices, receipts, or trip reports to justify travel expenditures and use of state funds.

The underlying cause of this condition is either Angaur State is not using and enforcing the National Government’s Executive Branch Travel Policies and Procedures or it has not promulgated its own Travel Policies and Procedures and enforcing them.

Due to lack of documentation to support state travel activities associated with the repair of Regina IV, the Office of the Public Auditor questions the entire \$68,436.97 expenditures as Questioned Costs.

The travel expenditures are itemized below:

Date	Check No.	Payee	Check Amount
6/6/2016	Cash	Air Fares for 1st Group to Manila	\$ 5,340.60
6/6/2016	3807	Stipend & Accommodation Expense	\$ 1,600.00
6/6/2016	3808	Stipend & Accommodation Expense	\$ 1,600.00
6/6/2016	3809	Stipend & Accommodation Expense	\$ 1,600.00
6/6/2016	3810	Stipend & Accommodation Expense	\$ 1,600.00
6/6/2016	3811	Stipend & Accommodation Expense	\$ 1,600.00
6/6/2016	3812	Stipend & Accommodation Expense	\$ 1,600.00
6/9/2016	3813	Reimbursement (16-001)	\$ 923.91
7/12/2016	3832	Reimbursement for Travel Expense	\$ 1,103.47
7/18/2016	3836	Stipend & Accommodation Expense	\$ 1,106.00
7/18/2016	3837	Stipend & Accommodation Expense	\$ 1,106.00
7/18/2016	3838	Stipend & Accommodation Expense	\$ 1,106.00
7/18/2016	3809	Stipend & Accommodation Expense	\$ 852.00

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Date	Check No.	Payee	Check Amount
7/18/2016	3841	United Airlines/Official Trip Air Fares	\$ 3,680.47
8/1/2016	3846	Advance Per Diem 8/21-9/21/16	\$ 600.00
8/1/2016	3847	Trip Expense to Cebu	\$ 922.00
8/1/2016	3848	United Airlines/Addtl Ticket to Cebu	\$ 175.27
8/3/2016	3853	Reimbursement; Representation	\$ 894.00
8/3/2016	3854	Reimb. Of Ticket; Ext; Stipend; O-Stay	\$ 491.00
8/3/2016	3862	Eberdong & Sons Co./Discharge Fuel Serv.	\$ 150.00
8/5/2016	3882	Reimbursement for Trip Expense	\$ 799.26
8/15/2016	3899	Inspection Services; Travel Reimb.	\$ 4,483.96
9/2/2016	3941	Per Diem	\$ 600.00
9/9/2016	3950	Per Diem 9/13-10/13/16	\$ 922.00
9/9/2016	3956	West Travel Agency/Air Fare	\$ 1,008.30
9/9/2016	3957	Stipend & Accommodation Expense	\$ 1,070.83
9/29/2016	3990	Cebu-Manila Trip	\$ 2,754.70
9/29/2016	3992	Trip Per Diem to Manila	\$ 1,000.00
9/29/2016	3993	Trip Per Diem to Manila	\$ 1,000.00
9/30/2016	4007	Rep. Fund; Trans. & Crew Stipend w/ Gov.	\$ 1,500.00
10/10/2016	4020	Per Diem 10/13-10/31/16	\$ 380.00
10/10/2016	4021	Per Diem Expense	\$ 560.00
10/18/2016	3505	West Travel Agency/Air Fare	\$ 1,368.49
10/18/2016	3508	Perdiem Services 10/18-30/2016	\$ 260.00
10/18/2016	3509	Perdiem & Services	\$ 812.00
10/25/2016	3522	Reimbursement/Travel, Perdiem, Serv.	\$ 13,121.00
10/27/2016	3540	Reimb. For Cebu-Manila	\$ 225.21
10/31/2016	3544	West Travel Agency/Return Fares	\$ 2,583.00
10/31/2016	3557	Travel Stipend & Perdiem	\$ 466.00
10/31/2016	3558	Stipend & Perdiem	\$ 466.00
10/31/2016	3559	Payroll, Travel Perdiem	\$ 746.00
11/10/2016	3567	Perdiem	\$ 140.00
11/10/2016	3568	Perdiem Services 10/18-30/2016	\$ 140.00
11/10/2016	3569	Perdiem	\$ 140.00
11/11/2016	3580	Stipend for Trip to Cebu & Taiwan	\$ 2,600.00
11/17/2016	3581	Payroll, Perdiem Services	\$ 380.00
11/17/2016	3582	Perdiem Services	\$ 100.00
11/17/2016	3583	Perdiem Services	\$ 100.00
11/22/2016	3588	West Travel Agency/Re-issue Tickets	\$ 50.00
11/23/2016	3598	Reimbursement for Cebu-Manila	\$ 149.45
11/30/2016	Missing check number	Perdiem Services from 11/19/16-12/4/2016	\$ 320.00
12/27/2016	Missing check number	Reimbursement for return ticket	\$ 140.05
Total			\$ 68,436.97

Recommendation: We recommend that Angaur State either formally adopt the National Government’s Executive Branch’s Travel Policies and Procedures or promulgate its own travel policies and procedures. Whichever travel policies are adopted, the Governor should strictly enforce the policies to ensure that state-funded travels are conducted in accordance with the travel policies. At a minimum, state officials on official travel should be required to file a travel voucher within a specified period after completion of travel. The travel voucher should include, at a minimum, supporting documents such as a Travel Authorization, boarding passes, invoices and receipts and trip report to support authorized travel expenses. Any official who fails to file a travel voucher should be required to reimburse the state for the travel advance issued and outstanding and should be prohibited from future travel until he/she rectifies the problem. Finally, we recommend the Office of the Attorney General or the Office of the Special Prosecutor further investigate the above travel expenditures and take appropriate action for expenditure of state funds without the proper justification and supporting documents.

ASG’s Response: *Angaur State did not have in place Official Travel Policy and elected to use the National Government Executive Branch Travel Policies and Procedures. My Office tried its best to collect airline boarding passes and other travel related documents from officials who took trips to do oversights on Regina IV. But we were not successful.*

Based on this Finding, future official travel will go through the National Government Travel Desk where it can be properly done and avoid problems like what this Finding stated.

OPA’s Comments: If Angaur State elects to use the National Government’s Executive Branch’s Travel Policies and Procedures, it should formally adopt them by executive order and/or other authoritative measure.

Finding No. 3 ~ Centralized Record-Keeping System

Standard internal control practices dictates that records pertaining to expenditure of State funds should be obtained, filed and stored to ensure that expenditures are properly accounted for and justified. Hence, those responsible should ensure that all records pertaining to the collection and expenditure of public funds are properly organized, filed and maintained in an orderly fashion for easy retrieval and use.

During the audit, we found that documents such as Notice of Award to Contractor, Contractor’s monthly milestone performance reports, travel documents, etc., in connection with the repair of Regina IV were not provided for our audit because either the State misplaced or lost the documents or did not obtain the documents in the first place.

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The Angaur State did not coordinate and collaborate with the Transportation Commission on the repair of Regina IV to ensure that all documents pertaining to procurement, travel and related activities were properly obtained and filed.

Without proper records and documents associated with the repair work of Regina IV, detailed expenditures and related incidental information could not be substantiated to support the activities of the project for the repair of Regina IV.

Recommendation: We recommend that in future projects or programs, the Governor direct the treasury department to coordinate its work with the responsible state agency (e.g., Transportation Commission) to ensure that all records pertaining to expenditure of funds including procurement, contracts, travel, etc. are properly obtained, filed and secured to support activities of projects and programs and available for use as references for future undertakings. In addition, the state treasury should be keeping files on state contracts which should include, at a minimum, (a) purchase requisitions, (b) public notices, (c) invitation for bids or proposals; (d) bids; (e) bid evaluations, (f) contracts etc. to support compliance with the Republic of Palau Procurement Law and Regulations.

ASG's Response: *The Secretary of the Transportation Commission, Mr. Levan Akitaya, kept records of all the meetings of the Commission. I sent him with the State's attorney, Ms. Vameline Singeo, Commission Chairman Vance Polycarp, and Ucherbelau to meet Colorado Shipyard to sign the Contract. The Transportation Commission was of the understanding that their job was to "advise" the Governor on the repair of Regina IV. I do believe they did not think it was their job to do record keeping and be on hands on every detailed work of Regina IV. This was my own observation. The bulk of the Commission's work was done by then State Treasurer Ken Uyehara, Stephen Swords, Chairman Vance Polycarp, and the Governor's Office Manager Ethel Arurang. The Commission Members relied on State Treasurer and Stephen Swords to do the hard work.*

OPA's Comments: The State Treasury serves as the centralized depository for State funds, disbursement of funds and records. For records purposes, this centralized system ensures that records are maintained, controlled and safeguarded in a centralized location at the State Department of Finance/Treasury.

Finding No. 4 ~ Oversight over the Repair of Regina IV

Good management practices require that roles and responsibilities pertaining to the repair of Regina IV, or similar state projects, be clearly identified and defined to ensure clear lines of responsibility, accountability and authority for decision-making to avoid confusion, delays and conflict.

In the audit of the repair of Regina IV, the OPA found that then-Governor, the Honorable Marvin Ngirutang, on March 18, 2016, issued Executive Order No.1 creating the Angaur State Transportation Commission to oversee all operations and procurement of all marine transport assets of Angaur State. Thereafter, then-Governor hired a Consultant/Advisor to oversee the repair of Regina IV without a contract defining scope of work, duties and responsibilities and compensation and/or reimbursement. Consequently, we observed certain activities undertaken by the Consultant such as making changes to the repair work and making Change Orders usurping the Commission's responsibilities and authority. Thus, we were unable to determine which entity (Commission or Consultant) had decision making authority over the project, which caused some delays at certain points during the repair work. In addition, without a contract we were unable to determine the scope of the Consultant's responsibilities and authority, which also caused confusion with the contractor. Moreover, the hiring of Consultant/Advisor counteracts and subdues the intent of Executive Order No. 1, which charges the Transportation Commission with oversight responsibility on all operations and procurement of all marine transport assets of the State.

The cause of the above condition is that the then-Governor, the Honorable Marvin Ngirutang, established a Transportation Commission by Executive Order and thereafter hired a Consultant/Advisor without a contract defining scope of work, duties and responsibilities and authority.

The above condition created confusion with respect to responsibility over the boat repair and decision-making authority, especially with respect to communicating with the contractor, such as making changes to the repair work, for example. This confusion contributed to delays in the work and miscommunication with the contractor. The confusion was exacerbated by the fact that the Consultant/Advisor did not have a contract with the State spelling out his scope of work and duties and responsibilities.

Recommendation: We recommend that in the future when undertaking major and/or complex projects similar to the repair of the State boat, if the Governor elects to create a commission by executive order to oversee the project, the Governor should defer the decision-making and authority to the Commission, be it to hire a Consultant, request assistance from the National Government or otherwise. If the Governor disagrees with the decision of the Board, meetings

with the Board should take place to discuss the issues until a consensus is reached. In the case of Regina IV, however, to preempt the Board by hiring a Consultant/Advisor only created confusion in the roles and responsibilities, the decision-making process, which caused unnecessary delays. Finally, based on our observation, the State lacked the capacity to administer a project of this complexity and cost, which required the proper expertise to plan and execute the work. Accordingly, the appropriation of funds by the Olbiil era Kelulau to fund the repair and rehabilitation of Regina IV should have included a language to assign an appropriate national government agency with the technical expertise to oversee and/or provide technical assistance to the State, especially considering that \$500,000 of public funds was appropriated for the project.

ASG's Response: *The Transportation Commission needed Stephen Swords to be the key person overlooking the refurbishment of Regina IV. Members of the Commission have known Stephen Swords for a long time and believe he is the person to do the job on their behalf. Stephen Swords, however, could not commit to this project as he was busy with another project. It was the Commission who agreed to the pro-bono working arrangement with Stephen Swords. This is why there was no written Contract. The idea was to have Stephen Swords review the monthly milestone completion before the work continues. The State was to pay for this travel expenses only.*

OPA's Comments: The OPA does not dispute the need and/or expertise of the consultant but rather the process by which he was hired. The Consultant should have been hired by the Transportation Commission to work for the Commission in the spirit of Executive Order No. 1. Furthermore, the Consultant should have been hired via a contract spelling out his scope of work and compensation/reimbursement arrangement, among other things.

Finding No. 5 ~ Special Advisor/Consultant to the Governor

Sound procurement practices dictate that procurement of consulting services be subject to competitive procurement and the services be documented in a contract or agreement spelling out the scope of work, method and amount of compensation, term of service, method of billing, etc., to protect the interest of the State and the integrity of the procurement.

In the repair of the Regina IV, the OPA found that then-Governor, the Honorable Marvin Ngirutang, after creating the Angaur State Transportation Commission hired a Consultant/Advisor to advise the Governor on the repair work of the Regina IV without a contract or agreement delineating the scope of work, method and amount of compensation, reporting, etc., to support payment of services and role in the project. In addition, the Consultant/Advisor was hired without competitive bidding. According to State officials, the Advisor/Consultant was hired on a pro bono basis with the understanding that the State would

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reimburse his expenses associated with providing expert advice on the repair of Regina IV. Hence, we found that the Advisor/Consultant was reimbursed a total of \$20,308 without proper supporting documents or a contract justifying the reimbursement.

According to members of the Transportation Commission, the then-Governor and members of the Commission had prior knowledge of the experience and expertise of the Advisor/Consultant and did not see the need to enter into a contractual agreement with him. They added that the Consultant/Advisor had previously served as a consultant on the initial construction of Regina IV and perceived funding to be an issue and therefore no written agreement was executed and the Consultant agreed to serve on a pro bono basis.

Without a written agreement, the State has no concrete basis to hold the Consultant/Advisor accountable for specific deliverables that were agreed upon and for which the Consultant/Advisor would be reimbursed for expenses incurred. And considering that the Regina IV experienced mechanical and structural failures on its return voyage to Palau and was grounded again shortly upon arrival, the Office of the Public Auditor questions all payments, \$20,308, made to the consultant/advisor on the basis that the reimbursements lacked proper supporting documents to prove that the expenses were incurred by the consultant in the line of performing the agreed services.

Recommendation: We recommend that in the future when the state needs services of an expert, the Governor enters into a contract spelling out the terms of service such as the scope of work, compensation, method of billings, etc. to ensure the interest of the State is properly protected. In addition, when the estimated cost of service is greater than \$10,000, the state should subject the procurement to competitive bidding.

ASG's Response: *Stephen Swords scope of work as a consultant is attached.*

OPA's Comments: The attached Scope of Work is the same scope of work submitted by the consultant in the initial evaluation and assessment of Regina IV to identify problems and weaknesses, which served as basis for the Scope of Work on the Request for Proposal for the Repair of Regina IV.

Finding No. 6 ~ Plan for Overseeing and Monitoring Repair work

A written plan or guideline is essential for overseeing and monitoring the repair of Regina IV to ensure the contractor adheres to the scope of work and the quality of the repair work. In addition, daily activity and progress reports should be prepared to document the status of work and to support the commission's follow-up meetings and discussions. This will also facilitate reporting by the Transportation Commission to the Governor and the Governor to provide feedback to the Commission and to report the progress of work to citizens and other stakeholders.

During our audit, we found that the Transportation Commission approached the repair of Regina IV without a plan on how to carry out the oversight and monitoring responsibilities. There was no documented evidence (minutes of meetings) to show that members of the Commission, Governor and Consultant met to discuss plans and/or approach on how to oversee, monitor and inspect the repair work. Such matters as who would be on-site to monitor and inspect the work, observe and document tests results, take daily activities and progress reports, monitor the project timetable, etc., were not spelled out in a plan or discussed in the Commission's meetings. In addition, there was no evidence of meetings amongst the members of the Commission and the Consultant/Advisor to ensure a united approach to oversee the repair. We further noted that a representative/observer of the commission was on site taking daily, hand-written journals of the work surrounding the repair of the boat; however, there were no requirements with respect to the format or content of the daily activity reports. No document was provided to show the responsibilities of Commission members with respect to overseeing and monitoring the repair work, as was the case with the Consultant/Advisor. Funded by a \$500,000 appropriation by the Olbiil Era Kelulau, a plan or guideline should have been the logical and critical starting point for overseeing and monitoring the repair work. And although a member of the Commission was taking daily activity reports to document the repair work; the Commission did not use the write-ups as basis for the Commissions discussions regarding the progress and quality of work, change orders, delays and other related issues.

The cause of the above condition is that the then-Governor, the Honorable Marvin Ngirutang, the Commission and Consultant did not meet to discuss, formulate and agree on a plan for overseeing and monitoring the repair of Regina IV.

As a result, the then-Governor, the Transportation Commission and the Consultant/Advisor approached the Project without a plan on how to oversee and monitor the work to ensure the success of the repair and rehabilitation of the boat; ensuring quality, timeliness, and that work is undertaken in accordance with the contract. The fact that the Regina IV experienced engine and other mechanical problems on its return voyage to Palau, and was soon grounded again after its arrival, is a testament that the oversight and inspections by the Transport Commission and the Consultant failed, resulting in the wasteful use of over \$400,000 of public funds. Subsequently,

the State has had to hire another contractor to fix the boat engines and other deficiencies at a cost of \$62,902, with more work expected to follow according to the current Governor.

Recommendation: We recommend that in the future, when administering a project of similar complexity and cost, the Transportation Commission should work with the Governor to formulate a written plan to guide the work of the commission. The plan should be presented and concurred to by the Governor and, a Consultant, if any, to ensure that all parties agree that the plan will accomplish its objective; to ensure the quality and timeliness of the repair of Regina IV, for example. The Plan should identify and define the roles and responsibilities of each member and provide guidelines on other critical functions, such as documenting daily activity and progress reports, results of test runs and inspections, to name a few. In addition, the role of the Consultant /Advisor and scope of work should be spelled out in a contract to avoid confusion and potential duplication of efforts. Finally, based on the documented evidence that the OPA reviewed surrounding the repair and rehabilitation of Regina IV, the OPA was convinced that Angaur State lacked the capacity and expertise to administer a project of this complexity and cost. The funding, oversight and monitoring over the project should have been retained at the National Government until project completion and the boat turned over to the State.

ASG's Response: *The crew sent weekly Report on the Regina IV to me and I shared this information with Chairman Vance Polycarp and Stephen Swords. They in turn communicated to the crew directly.*

OPA's Comments: We were only provided the handwritten daily activity report taken by one of the members of the Commission on-site. The issue is that the Commission, Consultant and the Governor did not formulate a written plan or guideline on how to conduct the oversight and monitoring of the repair work. And considering the cost of the project, over \$400,000, a plan would have provided those on the ground monitoring the project on what to inspect, when to inspect, the format for reporting results of monitoring and inspection, required follow up and such other essential processes and procedures to ensure the success of the project.

Finding No. 7 ~ Inspection and Progress Report on Repair Work

Report on inspection and progress of work is essential to ensure that the Commission, Governor, public and other stakeholders are apprised of the status of the repair work; problems and delays, timetable, compliance requirements and other issues surrounding the repair of Regina IV.

We found no documented evidence to show that the Transportation Commission/Consultant provided periodic inspection and progress reports to Commission members and then-Governor, the Honorable Marvin Ngirutang, to keep them apprised of progress of work, problems or issues

encountered and to support payments to the contractor. In addition, the Governor disbursed payments to the contractor without the required milestone reports from the contractor showing progress of work and without certification from the Transportation Commission attesting to progress of work. These reports are essential to support decision-making responsibilities by the Commission and the Governor over the repair of the State boat. For example, progress, inspection and milestone reports are critical to support actions by the Commission if the contractor is not meeting the required timetables or issues regarding the quality of workmanship or materials. The reports are also essential when inspections uncover problems or defects that should be reported and followed up by the Commission.

The then-Governor, the Honorable Marvin Ngirutang, Commission and Consultant did not meet to formulate a plan and approach for conducting the oversight and monitoring of the repair of Regina IV.

Without these reports, the Commission and the Consultant cannot effectively keep track of completed work, work-in-progress and pending work. The reports also are essential for reviewing and verifying milestone reports required under the contract and billings to ensure that the state is paying for services that it received. Finally, the progress and inspection reports provide a basis for discussion between the Governor, the Commission and the Consultant regarding the progress of the repair work and problems or issues that require corrective action and follow up.

Recommendation: We recommend that in the future, when administering a project of similar complexity and cost, the Transportation Commission should put together a written plan to guide the work of the commission. The plan should be presented and concurred to by the Governor and a Consultant to ensure that all parties agree that the plan will accomplish its objective; to ensure the quality and timeliness of the repair of Regina IV, for example. The Plan should identify and define the roles and responsibilities of each member and provide guidelines on other critical functions, such as preparing inspection and progress reports. Finally, based on documented evidence the OPA reviewed surrounding the repair and rehabilitation of Regina IV, the OPA was convinced that Angaur State lacked the capacity and expertise to administer a project of this complexity and cost. The funding, oversight and monitoring of the project should have been retained at the National Government until project completion and the boat turned over to the State.

ASG's Response: *I agree.*

OPA's Comments: No further comments

Finding No. 8 ~ Contract Change Orders

Change Orders should be negotiated and approved by those designated the authority and responsibility to execute Change Orders.

We found that then-Governor, the Honorable Marvin Ngirutang, on March 18, 2016, issued Executive Order No.1 creating the Angaur State Transportation Commission to oversee all operations and procurement of all marine transport assets of Angaur State. Pursuant to the Executive Order, the Transportation Commission should be in charge of all procurement activities relating to marine transport assets of the State, including contracting and related change orders.

With respect to Regina IV repair and restoration project, we noted that three (3) Change Orders were executed to amend the original contract as follows: The first (1st) and third (3rd) Change Orders were merged for a cost of \$46,740. The second (2nd) Change Order was for \$18,000, bringing the total cost of change orders to \$64,740. We found that the Commission did not have a lead role in negotiating the Change Orders; instead, then-Governor, the Honorable Marvin Ngirutang, directed the Consultant to lead the discussions and negotiations on the Change Orders. The Three Change Orders increased the cost of the contract from \$365,000 to \$429,740. In addition, as previously mentioned, the Consultant/Advisor did not have a contract with the State so his authority to represent the State in the Change Order discussions and negotiations was questionable, so too was the legal form and substance of the Change Orders, which apparently lacked legal counsel review and certification.

The cause of the above condition is that then-Governor established the Angaur State Transportation Commission and preempted the Commission by appointing a Consultant/Advisor to lead the Change Order negotiations. In addition, the role and responsibility of the Consultant/Advisor was unclear without a contract. Moreover, the State did not retain an attorney to review and certify documents, e.g., contracts and change orders, for legal form and substance.

As a result, we were unable to determine the legal authority and validity of the Change Order negotiations undertaken by the consultant/advisor on behalf of Angaur State without a contract spelling out his duties and responsibilities. In addition, no documentation was provided to show that the Transportation Commission endorsed the terms of the change order, nor were the change orders certified by the State's legal counsel for legal form and substance.

Recommendation: We recommend the Governor adhere to State policies when executing state projects, such as complying with Executive Order No. 1 creating the Angaur State Transportation Commission to oversee all operations and procurement of all marine transport assets of Angaur State. By appointing a Consultant/Advisor to participate in overseeing the repair and leading the negotiations on the change orders, then-Governor preempted the Commission of performing its legal responsibilities under the Executive Order. If a consultant was to be contracted, it should have been carried out under the authority of the Commission, which the Commission would then hire under a contract to work for it.

ASG's Response: *The State retained Ms. Vameline Singeo to be the attorney to review the Contract with Colorado Shipyard. The decision to approve the work change orders were derived by the Transportation Commission's reliance on Stephen Swords' recommendation. I in turn relied on Stephen Swords expertise and State Treasurer Ken Uyehara's assurance to me that there were funds to cover the changes.*

OPA's Comments: Per our review of the contract, the contract does not contain the attorney's signature to evidence review for legal form and substance. Similarly, the Change Orders were not in orderly legal format and lacked certification for legal form and substance. The bottom line is that the contract and change orders should have been approved by the Angaur State Transportation Commission in line with the spirit of Executive Order No. 1 and certified for legal form and substance by the Commission's attorney.

Finding No. 9 ~ Performance Bond

Article X (9) of the Contract Agreement between Angaur State Government and Colorado Shipyard Corporation states: The Contractor shall provide a performance bond for the entire amount of the contract in favor of Angaur State. The bond shall guarantee the satisfactory completion of all work and improvement agreed to in this contract by the scheduled time. This performance bond shall remain in effect until the expiration of the warranty. Such performance bond shall be secured and proof provided to Angaur State within fifteen (15) days after the execution of this agreement. Further, Article X (8), Warranty, states: The contractor warrants and guarantees the work and improvements on Regina IV for all parts and services for a period of one year. Finally, pursuant to Executive Order No. 1, the Angaur State Transportation Commission should be responsible for certifying and accepting the project completion report attesting to the satisfactory completion of all works in connection with the repair and rehabilitation of the Regina IV.

During the audit, the OPA found that then-Governor, the Honorable Marvin Ngirutang, sixteen (16) days before the end of his term in office, without consultation with the Angaur State Transportation Commission and the Consultant/Advisor, signed a document purporting to be a project completion report, dated December 14, 2016, certifying and accepting as completed the work of the contractor and releasing the State boat from the contractor's premises. Consequently, after release from contractor's premises and during its return voyage to Palau, the Regina IV experienced engine and other mechanical problems. Shortly after arriving in Palau, the boat underwent inspection by an independent marine surveyor and found other deficiencies in the repair work. In addition, shortly after being commissioned to operate again in Palau, the boat experienced further engine and other mechanical problems and was grounded again. After learning of these problems, the State failed to enforce the performance bond provisions stipulated in the contract, which carried a one (1) year expiration period.

The cause of the above problem is that then-Governor preempted the Angaur Transportation Commission and signed a purported project completion report not knowing the outstanding problems and issues surrounding the boat repair. In addition, the incoming Governor, The Honorable Ken Uyehara, who assumed the governorship in January 2017, neglected to enforce the provisions of the contract relating to performance bond by pursuing and collecting on the insurance for unsatisfactory performance by the contractor.

As a result, Angaur State failed to enforce its rights under the contract with respect to performance bond and the obligation of the contractor to perform, which the performance bond (surety) guarantees satisfactory performance by the contractor. In all, the contractor was paid a total of \$386,766, which Governor Ngirutang signed a document accepting and certifying the work as complete; however, the boat experienced engine and other mechanical problems on its return voyage to Palau and was soon grounded again shortly after its arrival.

Recommendation: We recommend that in the future, when administering a project of similar complexity and cost, the Transportation Commission should collaborate with the Office of the Governor to formulate a written plan to guide the work of the commission. In addition, the State should have included the State's legal counsel to discuss the legal aspects of the contract such as performance bond and warranty provisions to protect the State against unsatisfactory performance by the contractor. In this particular project, it is evident that the contractor's work was unsatisfactory and the Governor should have directed its legal counsel to pursue legal remedies under the provisions of the performance bond. Finally, based on the documented evidence that the OPA reviewed surrounding the repair and rehabilitation of Regina IV, the OPA was convinced that Angaur State lacked the capacity and expertise to administer a project of this complexity and cost. The management of funds and monitoring of repair work should have been retained at the National Government until project completion and the boat turned over to the State.

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ASG's Response: *To the contrary, I always consulted with the Transportation Commission and with Ken Uyehara and Stephen Swords. I believed in shared-responsibilities. I was advised and encouraged by the incoming Governor Ken Uyehara that we needed to sign off on the Acceptance of Regina IV on the following reasons:*

- 1. There was that 1-year Warranty*
- 2. We can hold the 10% of the payment if anything is wrong*
- 3. The weather was going to get worse and failure to depart would cost the state money*
- 4. The Olbiil Era Ngeaur was adding pressure to return the boat*

I personally did not agree with these recommendations. I aired my concern that we will be stuck with an inoperable boat in Palau because of the lack of expertise if the engine problems were not fixed and tested again and again. Here we are now with Regina IV parked in Fisheries. I have attached some communication about the Acceptance period.

OPA's Response: The problem is there is no documentation to support deliberations and collaboration among the parties; Governor, Transportation Commission and the Consultant, to agree on the course of action to resolve the problems and issues noted during the last sea trial and final inspection to ensure that the problems were properly addressed. It is also apparent from reviewing email communications between the State and contractor as to who is responsible for observing the sea trials and signing and accepting the sea trial reports, a critical function of the inspection process. The OPA presumed that the Transportation Commission, in line with Executive Order No. 1, would be the responsible agency to sign the Project Completion Report and Acceptance. However, that was not the case and the matter was not discussed among the parties to ensure that all works and problems had been resolved before signing the acceptance agreement. In addition, the document that purports to be a Project Completion Report and Acceptance should have been certified by the State attorney as to form and content before signing by the Governor.

Finding No. 10 ~ Warranty for the Repair of Regina IV

Article X (8) of the Contract Agreement States: The contractor warrants and guarantees the work and improvements on Regina IV, for all parts and services for a period of one year.

During the audit, we found that the Regina IV on its return voyage to Palau after the repair work experienced engine and other mechanical problems. Shortly after arriving in Palau, the boat was inspected and, despite some repair defects found by an independent marine surveyor, the boat was commissioned to operate again. However, soon thereafter, the boat experienced engine and other mechanical problems and was grounded again. The Regina IV was grounded at the

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Fisheries Dock awaiting engine and other mechanical repairs. The Colorado Shipyard Corporation (CSC), the contractor, sent two teams to Palau to do follow up repair work on the engines and other deficiencies but was unsuccessful and left Palau without returning. In addition, we found no evidence to show that the former Governor (Mr. Ken Uyehara) had made attempts to communicate with CSC to enforce the warranty provisions of the contract by compelling the contractor to correct the work defects or take action to collect on the performance bond insurance.

The cause of the above problem was that the Commission and the then-Governor, the Honorable Ken Uyehara, were not prepared to deal with this eventuality, post-repair work problems. The State was not prepared to move forward to exercise its rights under the contract in the event of non-performance or unsatisfactory performance by the contractor. The State did not use a legal counsel to prepare to deal with this eventuality.

The effect of the above problem is that the Angaur State Transportation Commission and the then-Governor, the Honorable Ken Uyehara, failed to exercise the legal recourse stipulated under Article X (8), Warranty, to compel the company to correct the repair defects and/or pursue collection on the insurance on the performance bond. Consequently, the State has had to use \$62,902 of its funds to fix the engine and other deficiencies, money which could have been recouped from the performance bond insurance.

Recommendation: We recommend that in the future, when administering a project of similar complexity and cost, the Transportation Commission should collaborate with the Office of the Governor to formulate a written plan to direct the work of the commission. In addition, the State should have included the State's legal counsel to work on and to discuss the legal aspects of the contract such as performance bond and warranty provisions to protect the State against unsatisfactory performance by the contractor. Finally, based on the documented evidence that the OPA reviewed surrounding the repair and rehabilitation of Regina IV, the OPA was convinced that Angaur State lacked the capacity and expertise to administer a project of this complexity and cost. The management of funds and monitoring of repair work should have been retained at the National Government until project completion and the boat turned over to the State.

ASG's Response: *I agree*

OPA Comments: No further comments

Finding No. 11 ~ Final Inspection of Regina IV

A final inspection of Regina IV should have been conducted to ensure satisfactory completion of all works followed by a project completion report certifying that the contractor has satisfactorily completed all works and acceptance by Angaur State Government.

We found that the then-Governor, the Honorable Marvin Ngirutang, Transportation Commission and the consultant did not conduct a final inspection of Regina IV in Cebu, Philippines before its departure to Palau. Instead, the Governor, in lieu of a final inspection report, signed a document purporting to be or resembling a project completion report containing a punch list of works completed and deficiencies identified during the sea trial that had been corrected. The document contains a statement at the end of the punch list stating the following: “All works have been inspected and considered to meet the contractual requirements. Colorado Shipyard Corporation confirms punch list items identified from the December 6, 2016 sea trial have been repaired and certifies punch list items to be functioning properly. The Regina IV is hereby accepted and will depart from Cebu to Palau as soon as possible.” The punch list statement is suspect of flaw as it states “Colorado Shipyard Corporation confirms” when rightfully it should be the customer who confirms satisfactory completion of all works. The then-Governor, Honorable Marvin Ngirutang, signed the document knowing that certain aspects of the sea trial failed and not retested and that final inspection had not been carried out. The State did not provide a final inspection report that should have served as a basis for a project completion report, which the Governor and the contractor would certify to attest to completion of all works and for the Governor to accept as completed before the departure of Regina IV from Cebu, Philippines.

These conditions occurred because there was no written plan for overseeing and monitoring the repair of Regina IV and the lack of coordination and collaboration among Angaur State Representatives; Governor, Commission Members and Consultant/Advisor, to ensure that proper inspections were carried out and documents prepared and signed to bring the project to proper closure. In addition, the State did not engage its legal counsel to anticipate potential issues and to be prepared to defend and protect the State’s interest in the contract.

Due to absence of a final inspection report, the Regina IV was delivered to Palau by Colorado Shipyard Corporation (contractor) representatives, encountering various problems along the way such as oil and water leakages from the engine, broken crank shaft, ramp not operating properly, navigation system failure, among other problems.

Recommendation: We recommend that in the future, when administering a project of similar complexity and cost, the Transportation Commission should collaborate with the Office of the Governor to formulate a written plan to direct the work of the commission. In addition, the State should have included the State's legal counsel to discuss the legal aspects of the contract such as a project completion report to be certified by the Governor or the Transportation Commission attesting to the satisfactory completion of all works. Finally, based on the documented evidence that the OPA reviewed surrounding the repair and rehabilitation of Regina IV, the OPA was convinced that Angaur State lacked the capacity and expertise to administer a project of this complexity and cost. The funding, oversight and monitoring should have been retained at the National Government until project completion and the boat turned over to the State.

Conclusion

Angaur State Boat, Regina IV, is the main source of transportation for the people of Angaur transporting people and cargo to and from the state. After years of cosmetic repair and neglect, due to lack of funds, the absence of scheduled maintenance finally caught up with the state and the boat began experiencing mechanical, structural and other problems and was constantly grounded for safety reasons. Through a request from the state leadership, the Olbiil Era Kelulau (Palau National Congress) appropriated the sum of \$500,000 for the repair or replacement of Regina IV. The State opted to repair the boat and put out a bid for the repair and rehabilitation of the state boat. After bid evaluations, the project was awarded to Colorado Shipping Corporation of the Philippines.

To oversee the repair work of Regina IV then-Governor, the Honorable Marvin Ngirutang, created Angaur State Transportation Commission through an Executive Order. Certain members of the Commission and other state officials and leaders went to the Philippines for an introductory meeting, tour the contractor's facilities and discussions on the approach and methodologies for the repair work. However, in addition to the Commission, the Governor also appointed a Consultant/Advisor to oversee the project without a contract.

A member of the Commission was on-site to perform daily inspections on the work. At some point during the repair work, it was determined that Change Orders were necessary to include other works that supposedly were not included in the initial scope of work and therefore three (3) Change Orders were effected, increasing the cost from \$365,000 to \$429,740.

There were no formal progress reports and members of the Commission did not document meetings to discuss the ongoing progress of the repair work or problems encountered. In addition, there was no documentation to show that inspections were conducted by the Commission to show repair deficiencies and corrective action taken. Sea Trials were conducted

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and problems were noted however there were no documentation to show the specific problems observed and the nature of those problems. Furthermore, there was no evidence to show that follow up inspections were conducted to demonstrate that problems observed during the sea trials were corrected by the contractor.

Based on the audit, and the deficiencies noted above, the Office of the Public Auditor came to the underlying conclusion that Angaur State lacked the capacity and capability to administer a project of this magnitude and complexity. The National Government, the Olbiil Era Keulau in particular, took a big risk by appropriating funds and responsibility for the repair and rehabilitation of Regina IV directly to the State. The funds should have been administered by a Ministry or Agency of the National Government with the expertise and capacity to manage these types of projects.

As a result, the \$500,000 appropriated by the Obiil Era Keulau for the repair and restoration of Regina IV was not properly planned and executed, critical inspections and tests were not properly conducted and documented, a final inspection was not undertaken and a purported project completion report was executed by then-Governor, the Honorable Marvin Ngirutang, despite outstanding problems with some of the repair work. As a result, the Regina IV upon its return to Palau from Cebu, Philippines by Colorado Shipyard Corporation (Contractor) representatives experienced engine and other mechanical problems during the voyage and upon delivery to Angaur State. The Contractor sent a follow up team to Palau to fix the problems but was unable to successfully repair the problems and soon after departed back to the Philippines. The Regina IV resumed operations but was soon grounded again due to engine and other mechanical failures.

To date the Regina IV continues to undergo repair work and the State has spent \$62,902 on repairs and plans to conduct further repair work, work which the contractor was paid a total of \$386,766 to fix. We also mention that a performance bond was executed by the contractor as insurance to guarantee satisfactory performance and, despite the apparent failure by the contractor to perform on the contract, the successor Governor, Ken Uyehara, following then-Governor, the Honorable Marvin Ngirutang's end of term in office on December 31, 2016, failed to enforce the provisions of the performance bond and collect on the insurance.

ASG's Conclusion Response: *I have attached email exchanges between myself and Colorado Shipyard and between Stephen Swords and Colorado Shipyard which may shed some light to the problems that were on going during the project time. I would like to point out that Colorado Shipyard promised that Regina IV would have another 20-year life after it was fixed. If this promise was not made clear during the Contract negotiations I would not have agreed to a compromise and allow for the two reconstructed Caterpillar engines.*

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As for the Acceptance of Regina IV, I made the decision to break the impasse between the Commission and Colorado Shipyard and sign off on Regina IV to return to Palau. This was based on the One Year Warranty and the 10% hold of the total payment.

Looking back from today, it seems that the decision taken then with regards to the refurbishment of Regina IV were not the best. I am a proud citizen of Angaur and I cannot just walk away from the Regina IV project that is incomplete.



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

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

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