Gov. Msg. No. 19-250

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Ralph DLG. Torres
Governor

Victor B. Hocog
Lieutenant Governor

13 JUN 2016

Honorable Rafael S. Demapan
Speaker, House of Representatives
Nineteenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Honorable Francisco M. Borja
Senate President, The Senate
Nineteenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

OFFICE OF THE SENATE
RECEIVED
DATE: 6/13/16
TIME: 4:41 pm
PRESIDENT

Dear Mr. Speaker and Mr. President:

This is to inform you that I have signed into law House Bill No. 19-90, HD1, entitled, "To amend 1 CMC § 2891 and § 2892 and to add a new § 2893 (The CNMI Office of Grants Management); and for other purposes.", which was passed by the House of Representatives and the Senate of the Nineteenth Northern Marianas Commonwealth Legislature.

This bill becomes **Public Law No. 19-49**. Copies bearing my signature are forwarded for your reference.

Sincerely,

RALPH DLG. TORRES

cc: Lt. Governor; Attorney General's Office; Office of Grants Management; Public Auditor; Special Assistant for Administration; Special Assistant for Programs and Legislative Review

Caller Box 10007 Saipan, MP 96950 Telephone: (670) 237-2200 Facsimile: (670) 664-2211/2311

Dom
RECEIVED
6/13/16 4:50 pm

Nineteenth Legislature
of the
Commonwealth of the Northern Mariana Islands

IN THE HOUSE OF REPRESENTATIVES

Sixth Special Session

July 23, 2015

Representative Blas Jonathan "BJ" T. Attao, of Saipan, Precinct 3 (*for himself,* Representatives Roman C. Benavente, Lorenzo I. Deleon Guerrero, Vinson F. Sablan, Ramon A. Tebuteb, and Edmund S. Villagomez) in an open and public meeting with an opportunity for the public to comment, introduced the following Bill:

H. B. No. 19-90, HD1

AN ACT

TO AMEND 1 CMC § 2891 AND § 2892 AND TO ADD A NEW § 2893 (THE CNMI OFFICE OF GRANTS MANAGEMENT); AND FOR OTHER PURPOSES.

The Bill was referred to the House Committee on Judiciary and Governmental Operations, which submitted Standing Committee Report 19-58, D1; adopted January 26, 2016.

THE BILL WAS PASSED BY THE HOUSE OF REPRESENTATIVES ON FIRST AND FINAL READING, JANUARY 26, 2016;
with amendments in the form of H. B. 19-90, HD1 and transmitted to the
THE SENATE.

The Bill was referred to the Senate Committee on Fiscal Affairs.
THE BILL WAS PASSED BY THE SENATE ON FIRST AND FINAL READING, APRIL 29, 2016;
without amendments and was returned to
THE HOUSE OF REPRESENTATIVES.

THE BILL WAS FINALLY PASSED ON JANUARY 26, 2016.

Linda B. Muña, House Clerk

Nineteenth Legislature
of the
Commonwealth of the Northern Mariana Islands

IN THE HOUSE OF REPRESENTATIVES

Second Day, Third Regular Session

January 26, 2016

H. B. No. 19-90, HD1

AN ACT

TO AMEND 1 CMC § 2891 AND § 2892 AND TO ADD A NEW § 2893 (THE CNMI OFFICE OF GRANTS MANAGEMENT); AND FOR OTHER PURPOSES.

Be it enacted by the Nineteenth Northern Marianas Commonwealth Legislature:

Section 1. Title. This Act shall be cited as the "Grants Management Act of 2015".

Section 2. Findings and Purpose. The Legislature finds that as per a June 17, 2015 status report conducted by Debbie Milks, Consultant, Graduate School USA, reasons were cited for reviving and restructuring the Office of Grants Management to include:

Single point of contact for grant correspondence and announcements.

The Legislature finds that the CNMI has come perilously close to losing federal funding due to inattention to federal agencies' request. U.S. agencies may send correspondence to the Governor's office, to their recipient department or the Department of Finance or Office Management and Budget (OMB). Such correspondence can get lost in the rerouting to the appropriate office or party. Both OIA and the U.S. Region IX Outer Pacific Regional Council have requested that the U.S. Insular governments establish a single point of contact for grants.

High numbers of grant findings and high-risk status.

The Legislature finds that the CNMI has for a number of years been cited on an unacceptable number of federal grant compliance findings; an average of 34 findings each year and as of September 30, 2014, cumulative questioned costs amounting to $45M. The Government of Guam in this same period reduced their grant findings from 35 to 5 with an amounted cumulative questioned costs of $53,000. An effective Office of Grants Management could provide the oversight and training needed to help the CNMI Government break this cycle in compliance problems associated with federal grants.

Revised standards for performance management for federal grants.

The Legislature finds that the U.S. Office of Management and Budget issued streamlined guidance for grants, effective December 26, 2014. (2 CFR Chapter I and Chapter II, Parts 200, 215, 220, 225, and 230; The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule).

The Legislature finds that a significant change in the new guidance places emphasis on grant recipients being able to demonstrate performance as a condition for receiving a renewal of grant funding. The federal agency must provide grant recipients with performance goals, indicators and milestones. Awarded agencies and grant managers must be able to relate their financial expenditures to their performance accomplishments and when applicable demonstrate cost effective practices.

The Legislature finds that an oversight agency such as the Office of Grants Management is needed to assist and ensure that both financial and performance requirements are met and that reports for both are coordinated.

The Legislature also finds that several governmental agencies' federal grants were suspended for brief to long-term periods or long-term equating to a continued loss to the CNMI Government – loss that could have been avoided. Suspensions were due to audit findings, lack of paper trail, and concerns with allowable expenditures, inconsistences within agencies in relation to indirect cost rates and a lack in receivables in indirect cost revenue, instability in the management of federal assistance by the grantee, lack of structure in regulating all grants, inclusive, but not limited to, the lack of DUNS numbers and a payment

management system within agencies, and the absence of competitive grants being applied for annually.

The Purpose of this Act is to seize all federal grant funding opportunities, take advantage of all federal funds that the Commonwealth is deemed eligible for, and to establish the corresponding need for the CNMI Office of Grants Management and State Clearinghouse within the Office of the Governor.

Section 3. Amendment. 1 CMC §2891 is hereby amended to read as follows:

"**§2891. Office of Grants Management and State Clearinghouse.**

There is within the Office of the Governor a bureau of the government of CNMI, which shall be known as the Commonwealth of the Northern Mariana Islands Office of Grants Management and State Clearinghouse (CNMI OGM-SC).

(a) Notwithstanding any other provision of law to the contrary, the CNMI OGM-SC shall have exclusive purview at the CNMI level over all Federal aid programs, grants, loans, contracts, contributions, appropriations, allotments, advances, direct federal development and other Federal funding sources for line agencies, such as departments, public corporations, and autonomous agencies under the executive branch and excludes independent offices established by the Commonwealth Constitution and Judicial Branch.

(b) The CNMI OGM-SC shall be headed by an Administrator, who shall serve and report directly to the Governor. The administrator shall have at least a bachelor's degree from a U.S. accredited college or university and at least four years' experience in grant writing, grants management, or public administration.

(c) The office's composition and operating budget shall be determined by a percentage of collected indirect cost(s) charges.

(d) The OGM – SC shall be guided through the application of § 502(a)(1) of the Covenant, which makes applicable to the CNMI those laws which provide federal services and financial assistance programs as they apply to Guam, and development of training programs for government staff in grant writing, grant management and compliance, training on federal regulations and requirements, and practices and trends

in federal grant implementation."

Section 4. Amendment. 1 CMC §2892 is hereby amended to read as follows:

"**§2892. Office of Grants Management and State Clearinghouse: Duties and Responsibilities.**

In addition to the duties and responsibilities of the CNMI OGM-SC, as may be prescribed by the Office or the Governor, or by law, the CNMI OGM-SC shall also have the following duties and responsibilities:

(a) Administer the initiation, coordination and review process of all governmental activities within line agencies, such as departments, public corporations, and autonomous agencies under the executive branch and excludes independent offices established by the Commonwealth Constitution and Judicial Branch involving federal financial assistance; and in accordance with U.S. Executive Order 12372.

(b) Ensure that line agencies and departments under the Executive Branch grant proposals for federal assistance are in accordance with plans, policies, programs, objectives and procedures of the government of the CNMI and applicable Code of Federal Regulations. A stamp of approval or clearance letter shall be furnished to signify concurrence from this office;

(c) Review federal grant formulae at the time of the reauthorization of continuing federal grants by the U.S. Congress to ensure that Commonwealth receives an optimized share of funding;

(d) Ensure that proposed government projects for which Federal financial assistance is sought are fiscally and environmentally sound and are in compliance with all applicable Federal laws;

(e) Ensure that the government of the CNMI complies with all applicable Federal laws relating to Federal financial assistance and that there exists sound tracking, management, and financial accountability for all Federal programs awarded;

(f) To develop and maintain a database on all grants received by the CNMI as a state, government and non-government; the database shall include at a minimum, the subject area of the grant, the fiscal year in which the grant applies, the program title, the type of grant (e.g., formula or discretionary), the amount of the grant, the recipient, the grantor agency, any local cash or in-kind matching requirements, any special conditions or restrictions, and the name, title, and contact number of all persons responsible for grant management and administration, both for the CNMI and for the grantor agency;

(g) Perform cost analysis on all Federal aid programs, grants, loans, contracts, contributions, advances, direct Federal development or other Federal funding for financial impact on the government of the CNMI's General Fund, especially if there is a matching requirement or if federal funding will expire. Said analysis shall include indirect costs review, utility charges, and other affected sub-accounts;

(h) Conduct activities for the acquisition of Federal grants and when possible, coordinate to full extent the activities and objectives of an approved grant award. This will include the procurement of equipment, the execution of contracts, and other activities related to the grant, including operations, training and management. This office will also have the capacity to award sub-grants with the concurrence and approval of the Office of the Governor;

(i) Identify all grants that the CNMI is eligible to receive but has not applied for, and to determine whether the CNMI should submit a future application;

(j) Provide training to government agency staff in grant writing and grant management and administration and other technical assistance to agency staff and other interested organizations;

(k) Conduct activities directly related to indirect cost associated with Federal assistance. Indirect cost is for use on grants, contracts, and other

agreements with the Federal Government to which 2 CFR 225 applies, subject to the limitations in Section II.A. of this agreement. The rate shall be negotiated by the U.S. Department of the Interior, Interior Business Center, and the CNMI OGM-SC;

(l) With the exception of the CNMI Public School System, the Northern Marianas College, Commonwealth Health Care Corporation (CHCC), Northern Marianas Housing Corporation (NMHC), Commonwealth Utilities Corporation (CUC), Office of the Attorney General, Office of the Public Auditor and Commonwealth Ports Authority (CPA) and notwithstanding any other provision of law to the contrary, no application for any Federal aid programs, grants, loans, contracts, contributions, advances, direct Federal development, or other Federal funding shall be submitted or deemed approved on behalf of the government of the CNMI or any agency, division, office, department or instrumentality thereof, or any public corporation, without the final approval of the Administrator of the CNMI Office of Grants Management and State Clearinghouse.

(m) Assist agencies with suspended or terminated grant awards through direct communication and involvement of federal grantors.

(n) Shall take part in activities of the single audit committee.

(o) Compile and compose grants on behalf of the Governor and executive line agencies."

Section 5. Amendment. Title 1, Division 2, Part 1, Chapter 17 of the Commonwealth Code is hereby amended by adding a new subsection 2893 to read as follows:

"**§ 2893. Operating Budget and Scope of Operations.**

The CNMI OGM-SC shall be funded by an apportionment of all indirect cost(s) collected at a rate of 40% of total indirect cost revenue or reimbursement by fiscal year with a 1% annual percentage decrease for the next five years until it gets to 35% and shall be credited to the Office of Grants Management's Business Unit Account No. 1043 and all other activities, of/or related to federal and local assistance.

Provided further that concurrently 20% of the office's budget shall be deposited into a special account for sub grants. The CNMI OGM-SC shall promulgate rules and regulations for awarding sub grants and shall be the expenditure authority of the funds within the special account for sub grants.

(a) the CNMI OGM-SC shall be permitted the carry-over of funds from year to year with the approval of Office of the Governor;

(b) the Administrator of the CNMI OGM-SC shall have the authority to release, expend, disburse, and award sub-grants and other funds as deemed necessary;

(c) the Administrator of the CNMI OGM-SC shall have expenditure authority for all funds relating to CNMI OGM-SC; and

(d) the office shall be comprised of, but not limited to, the following:

(1) Office of Grants Management Director / Administrator;

(2) State Clearinghouse Director/Assistant Administrator;

(3) Grants Manager(s);

(4) Grants Specialist(s);

(5) Grant Writer(s);

(6) Compliance Officer(s);

(7) Administrative Assistant(s)/ Officer(s)/ Specialist(s)."

Section 6. Fiscal Year. Provided that the continuity of funds outside the scope of the General Funds, funds realized under this Act shall be without fiscal year limitation(s).

Section 7. Transition. Fifteen (15) days after this Act shall become law, any and all powers previously held by any other agency, council, board, office, officer or instrumentality of line agencies, such as departments, public corporations, and autonomous agencies under the executive branch and excludes independent offices established by the Commonwealth Constitution and Judicial Branch, with regard to the application for, receipt, disbursement, administration, oversight and review of any federal aid programs, grants, loans, contracts, contributions, advances shall be transferred to the CNMI OGM-SC.

Section 8. Provisions. All line agencies of the executive branch affected by this law shall comply with its policies provided, however, that all federal drawdowns shall be in

consultation with the Administrator of the Grants Management Office or his/her designee. Failure to adhere to any provisions listed above shall be subject to consequences including, but not limited to, criminal retribution and other disciplinary actions deemed necessary by legislative law. All grant records, government and non-government, shall be made available to the CNMI OGM-SC upon request.

Section 9. Reporting. A detailed, comprehensive report of government and non-government grant awards associated with this act shall be reported to the Presiding Officers of the Legislature by the Administrator of the Grants Management Office or his/her designee at the end of each Fiscal Year. Provided further, that the Presiding Officers of the Legislature shall provide and present to the full body of their respective Houses.

Section 10. Severability. If any provisions of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 11. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation, or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of the Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this Act becomes effective.

Section 12. Effective Date. This Act shall take effect upon its approval by the Governor, or its becoming law without such approval.

Attested to by: _____
Linda B. Muña, House Clerk

Certified by: _____
SPEAKER RAFAEL S. DEMAPAN
House of Representatives
19th Northern Marianas Commonwealth Legislature

Approved this 13th day of June, 2016

_____
RALPH DLG. TORRES
Governor
Commonwealth of the Northern Mariana Islands