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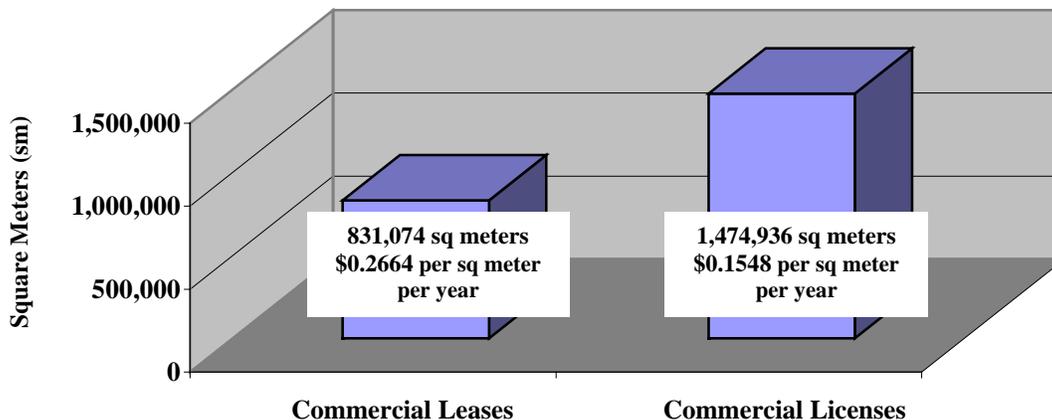
EXECUTIVE SUMMARY

Non-Appropriated Funds of the Chamorro Land Trust Commission Report No. 05-09, December 2005

Our audit found that the Chamorro Land Trust Commission's (Commission) former and current Administrative Directors and Boards did not provide an effective system of checks and balances to ensure that (1) commercial licenses of Chamorro homelands were awarded in accordance with rules and regulations, (2) revenues derived from commercial leases and licenses were collected and spent in the best interest of the Commission's beneficiaries, (3) lessees' loans guaranteed by the Commission were monitored, and (4) financial statements were prepared for the Legislature as required by law. Specifically, the Commission:

- Issued commercial *licenses*, without any guidelines, instead of commercial *leases*, because the Commission did not establish commercial lease rules and regulations as required by Public Law 23-38. As a result:
 - The Commission issued 28 licenses totaling 1,474,936 square meters for **less than 16 cents per square meter per annum**, which was 42% less than the three commercial leases approved by the Legislature. The three leases totaled 831,074 square meters for less than 27 cents per square meter annually.

Commercial Leases and Licenses Comparison



- 18 licenses totaling 369,033 square meters were awarded without Board approvals; 18 licenses totaling 1,112,900 square meters were not reviewed by legal counsel reviews, and 13 licenses totaling 1,026,154 square meters did not have appraisal reports.
- Favorable terms and conditions to some commercial licensees may have been granted:
 - A raceway park, the largest licensed property (1,011,714 square meters), generates less than 4 cents per square meter annually. This is the second lowest rental rate of \$0.0033 per square meter per month. Rental payments were waived for two years and the licensee adhered to a written yet, unsigned addendum, resulting in lost Commission revenue of \$89,550. Further, the raceway park was allowed to retain 50% or \$104,027, of proceeds derived from the sale of the property's coral.
 - A privately operated landfill license, the second largest licensed property (352,872 square meters) generates 15 cents per square meter annually, and is the third lowest rate per square

meter for the second largest piece of property. The license was issued on December 31, 2002, just one day prior to the change in administration. The licensee paid the required \$30,000 sign-up fee. However, the license failed to specify a time restriction for the licensee to obtain permits. The balance of \$70,000 remains unpaid while the licensee continues to occupy the land.

- The Commission allowed a licensee to operate a privately owned telecommunications business without a license. A license was later issued and the licensee only then remitted \$21,115 for delinquent rent.
- Did not establish a system for monitoring commercial revenues to ensure that all commercial occupants were current in their obligations. We estimated that the Commission may not have collected revenues of \$420,345 from October 1, 1999 through September 30, 2004.
- Did not establish a system of checks and balances over disbursements. As a result, \$179,427 was either not procured competitively, or represented a questioned use of funds spent for unauthorized travel, an employee party, an unaccounted 10 kilowatt generator and camcorder, and extensive vehicle repairs due to lack of maintenance. Additionally, the Commission office lease was not advertised and competitively bid and \$42,162 was improperly expended over the life of the lease.
- Lacked a system of monitoring \$6.5 million in loans guaranteed by the Commission. As a result, the Commission had to assume a defaulted borrower's loan totaling \$72,970 including interest in 2003. The defaulted borrower continues to occupy the property and has yet to remit any payments. Although it is unlikely that all of the \$6.5 million in loan guarantees will default at the same time, without financial statements, it is difficult to ascertain the Commission's ability to meet these contingent liabilities.
- Did not publish its audited financial statements and report finances to the Legislature as required by law. As a result, \$1,692,013 of proceeds from commercial leases and licenses from October 1, 1999 through September 30, 2004 was not reported.

These conditions occurred because the former and current Administrative Directors and Boards did not provide sufficient oversight and monitoring over the Commercial Division and demonstrated a lack of understanding of the importance of checks and balances.

Other matters not related to our audit objectives that came to our attention include: (1) the Commission has not yet established the Chamorro Land Trust Operations Fund required by P.L. 28-68, and (2) the Board had not yet conducted the semi-annual performance evaluation of the Administrative Director as required by law.

Our recent audits have revealed that small entities with checking accounts often lacked an understanding of the importance of internal control, i.e. checks and balances. While we recognize it is the prerogative of the Legislature to authorize entities to have checking accounts, we urge the Legislature to reconsider the policy of allowing small entities to have non-appropriated checking accounts and designate the Department of Administration to account for the funds.

A draft report was provided to the Commission's Administrative Director and Chairman of the Board in November 2005. Both the Administrative Director and Chairman generally agreed with the findings and recommendations in the report and have provided an action plan to address these issues.



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