

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

*CCM
Schneider*

18492

FILE: B-202206

DATE: June 16, 1981

MATTER OF: Northern Mariana Islands Commission on
Federal Laws

DIGEST: The Northern Mariana Islands Commission on Federal Laws, although it receives its appropriations from the Department of the Interior, is an independent entity in the Legislative Branch and not an Executive Branch agency. Therefore, it is not subject to administratively imposed hiring, travel, or office equipment procurement freezes applicable to Executive Branch agencies. As an independent entity, its Executive Director may sign purchase orders and travel authorizations. It may not, however, use Interior Department forms for those purchases since it is not a component of Interior. It may not rent office space on its own unless it receives a delegation from the General Services Administration. The Federal Property and Administration Services Act is applicable to Federal entities in all branches of the Government. 40 U.S.C. § 472 (1976).

We have been asked several questions by the Northern Mariana Islands Commission on Federal Laws which explore its relationship to the executive branch and, in particular, to the Department of the Interior.

The Commission was established pursuant to the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, which was enacted in Pub. L. No. 94-241, approved March 24, 1976, 90 Stat. 263, 48 U.S.C. § 1681 ~~et.~~ (1976). Section 504 of this Covenant establishes the Commission and its duties:

"The President will appoint a Commission on Federal Laws to survey the laws of the United States and to make recommendations to the United States Congress as to which laws of the United States not applicable to the Northern Mariana Islands should be made applicable and to what extent and in what manner, and which applicable laws should be made inapplicable and to what extent and in what manner. The Commission will consist of seven persons (at least four of whom will be citizens of the Trust Territory of the Pacific Islands who are and have been for at least five years domiciled continuously in the Northern

[Issues Raised by Northern Mariana Islands Commission on Federal Laws]
017275

Mariana Islands at the time of their appointments) who will be representative of the federal, local, private and public interests in the applicability of laws of the United States to the Northern Mariana Islands. The Commission will make its final report and recommendations to the Congress within one year after the termination of the Trusteeship Agreement, and before that time will make such interim reports and recommendations to the Congress as it considers appropriate to facilitate the transition of the Northern Mariana Islands to its new political status. In formulating its recommendations the Commission will take into consideration the potential effect of each law on local conditions within the Northern Mariana Islands, the policies embodied in the law and the provisions and purposes of this Covenant. The United States will bear the cost of the work of the Commission."

The remainder of the provisions of Article V (sections 501 to 506) deal with the applicability of present laws to the Northern Marianas.

A number of the issues raised by the Commission relate to the applicability of restrictions on hiring, travel and equipment purchases which were administratively imposed on the executive branch of the Government. For the reasons discussed below, since the Commission is not in our view an executive branch agency, these restrictions do not apply to it.

The Commission consists of seven persons, the majority of whom must be citizens of the Trust Territory of the Pacific Islands and must have been domiciled on the Islands for at least five continuous years at the time of their appointments. Among these persons must be at least one person who can represent the Federal interest in the applicability of the United States laws in the Northern Mariana Islands.

Under the heading "Territorial Affairs, Administration of Territories" in the Department of the Interior and related agencies appropriation act, 1981, Interior receives appropriations to fund the Commission:

"For expenses necessary for the administration of Territories under the jurisdiction of the Department of the Interior, \$72,284,000, of which (1) not to exceed \$68,000,000 shall be available for * * * expenses of the Northern Mariana Islands Federal Laws Commission as authorized by law (Public

Law 24-241, 90 Stat. 272), to remain available until expended; * * * Pub. L. No. 96-514, approved December 12, 1980, 94 Stat. 2957, 2968-2969.

In addition to receiving the Commission's appropriation as part of the lump sum provided for the administration of territories, the Department of the Interior provides administrative services to the Commission, including personnel, procurement, payroll and travel services. Commission expenses are charged to an account maintained on its behalf by Interior. The arrangements with Interior are provided in the Commission's bylaws, adopted May 7, 1980.

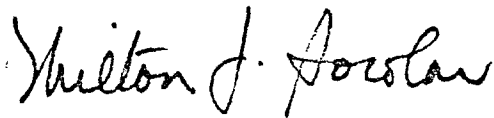
The placement of the Commission's appropriations within the Department of Interior appropriation, without more, would argue in favor of its being an agency within the executive branch. On the other hand, by virtue of its maintaining a continuing trustee responsibility over the Islands until they achieve Commonwealth status, Interior is the United States Government agency in the best position to provide needed housekeeping services for the Commission. Accordingly, we feel this practical consideration determined the placement of the Commission's appropriations and, hence, that this placement should not be controlling in determining its status.

Instead, we feel that the Commission's mission--reporting to the Congress on laws of the United States which should be applicable in the Northern Mariana Islands--is the major criteria. The Commission, although its members are appointed by the President, does not answer either to the Department of the Interior or to the President. Since its sole function is to advise the Congress, we think it very clear that the Commission is a legislative branch agency and not an executive branch agency.

As a legislative branch agency, any hiring, travel, and equipment procurement freezes which may be administratively placed on executive branch agencies do not apply to the Commission. For example, we note that the Presidential memorandum of January 20, 1981, announcing a hiring freeze was addressed to the heads of executive departments and agencies.

It appears to us that in making any future determinations of its authorities to carry out its duties, the Commission should be treated just like other independent agencies in the Legislative Branch. Therefore, its Executive Director, if authorized by the Commission, may sign purchase orders and travel authorizations. On the other hand, we see no authority for the Commission's proposal to use Interior Department purchase order forms since it is not a component of Interior. (This would not prevent Interior itself from making the purchases on the Commission's behalf as part of the administrative services it is required to perform for the Commission.)

The Commission's final question is whether it may rent privately-owned office space until space under the control of the General Services Administration becomes available in July 1981 at the earliest. As an entity in the Legislative Branch, funded entirely from appropriations, the Commission is subject to substantially the same authorities and restrictions about rental of space as most Federal agencies and instrumentalities. The Federal Property and Administrative Services Act applies to all three branches of the Government. 40 U.S.C. § 472 (1976). Without specific authority to rent space in its own name or that of the United States, we conclude that the Commission should make arrangements for office space through the General Services Administration, unless the GSA grants it a delegation of authority pursuant to section 3(b) of the Reorganization Plan No. 18 of 1950, 64 Stat. 1270, 40 U.S.C. § 490 nt. (1976), or Interior obtains the necessary authority on the Commission's behalf, as part of its administrative services pursuant to section 11 of the Commission's bylaws.



Acting Comptroller General
of the United States