

OFFICE OF THE NATIONAL PUBLIC AUDITOR
FEDERATED STATES OF MICRONESIA

**INSPECTION OF CONGRESS FUNDED PUBLIC PROJECTS
IN YAP STATE
FISCAL YEARS 2005 - 2006**

ONPA NO. 2006-06



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National Public Auditor



FEDERATED STATES OF MICRONESIA

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April 26, 2007

His Excellency Joseph J. Urusemal, President
Honorable Member of the FSM Congress
Federated States of Micronesia (FSM)
Palikir, Pohnpei FM 96941

RE: Inspection of Congressional funded public projects funded in Yap State pursuant to Public Law 13-36

We have completed our Inspection of the FSM Congress appropriations for public projects in the State of Yap for fiscal years 2005-06 as funded under Public Law 13-36, as amended. Our objectives were to determine whether: (a) the projects were properly reviewed prior to being funded; (b) the project's management complied with applicable laws, policies, and regulations; and (c) the project's administration, utilization, and expenditures were in accordance with their guidelines or intended purposes. We conducted our inspection in accordance with the Quality Standards for Inspections issued by the U.S. President's Council on Integrity and Efficiency.

We noted that public projects initiated through the Yap Congressional Delegation Office and passed into public laws, are not reviewed or coordinated with the Yap State Governor's office. Yet, the Governor and the State are required to implement and manage these projects irrespective of the State's available resources or the priority the State may assign to these projects. We also noted that project costs are not analyzed with enough scrutiny before being enacted into public law resulting in the authorized appropriation becoming the budgeted amount to spend regardless of how reasonable the amounts are for the projects. With regards to management of public projects, we found instances where oversight was poor or lacking, contracting and financial regulations were not followed, record keeping was absent, and program guidelines were not followed.

Accordingly, the FSM National and the Yap State Governments have little assurance that the Congressional funded public projects in Yap are managed with the State's interest and priority, or compliment the State's infrastructure or development plans. Nor can they be confident that the project costs are reasonable or appropriate. Moreover, management oversight did not ensure that regulations were followed. With enhanced restrictions on Compact funds and with limited resources, FSM funds might have been better used had the Congress members coordinated with the State in the review and selection of projects. Our findings and recommendations are described in detail in the attachment to this letter.

Respectfully yours,

A handwritten signature in blue ink, appearing to read "H. Hainrick", is written over a light blue rectangular background.

Haser H. Hainrick
National Public Auditor

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BACKGROUND

Congress overrode the President’s veto during its Third Regular Session of the 13th Congress to pass Public Law 13-36. The Public Law appropriated \$2.8 million from local revenues (non-Compact) to provide funding for social and economic development projects in the four States of Federated States of Micronesia (FSM). The funds were allocated in proportion to the number of Congressional members (\$200,000 per member). For the State of Yap, \$400,000 was apportioned as follows:

- | | |
|--|-----------|
| 1) Scholarships for Yapese students | \$180,000 |
| 2) Fuel and provisions for travel to Yap’s outer islands | 20,000 |
| 3) Social and economic development projects | 200,000 |

The Public Law was subsequently amended (PL 13-49, 13-66, 14-05) to incorporate various projects and their funding amounts proposed by Yap’s Congressional members. The amendments also included administrative and funding changes, i.e., PL 13-49 changed the funding amount for fuel and provisions for FSM officials to travel to Yap’s outer islands from \$20,000 to \$28,000. See Table 1 below for the CFSM (funded by the Congress of the Federated States Micronesia) project descriptions and appropriations for the State of Yap pursuant to PL 13-36, as amended.

Table 1: CFSM Public Projects for Yap State Pursuant to PL 13-36 as Amended

Project Description	Appropriated
FSM scholarships for Yapese students	\$180,000
Fuel and provisions for outer island travel	28,000
Yap State virgin oil and copra development	30,000
Purchase of printing equipment for a Yap newsletter	20,000
Renovation of the Yap Delegation office	10,000
Purchase of Vehicle for the Yap Delegation office	12,000
Supplemental to Wanyan Gagil women’s house construction	10,000
Amin Village women’s house construction	30,000
Magachgil Village women’s house construction	30,000
Rang Village women’s house construction	30,000
Gilman municipality power extension	20,000
Total	\$400,000

Source: FSM Department of Finance and Administration

The term “social and economic development project” is not defined in the Public Law or by Congress. Nor does Congress provide guidance on which social and economic development projects are appropriate uses of the funds. The Department of Justice (DOJ) advice on this matter indicates that the Law is deficient because it fails to provide sufficient guidance on how to determine what kind of project qualifies for these funds. Historically, “social development projects” typically were infrastructure development projects, while “economic development

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projects” were typically private sector development projects, but not always. The DOJ further contends that where the FSM Congress fails to specify the social and economic development projects funded by an appropriation law (such as PL 13-36 prior to amendments), Congress or the Senators individually, cannot subsequently participate in the process of determining which projects to expend those funds on, as the Supreme Court held in the *Udot* case.¹ More specifically:

Congress may appropriate funds for specific improvement projects or it may legislate rules for determining which projects are appropriate, or a combination of the two. What Congress, or individual congressmen, may not do is involve themselves in the administrative and executive process of determining which projects are to be funded after the money has already been appropriated. After the appropriation bill becomes law, it is the duty of those who execute the law and administer the funds to follow the guidance Congress has given them by consulting the language Congress put in the public law, and any applicable regulations, not by consulting individual congressmen.

Auditor’s note: Public Law 13-36 was amended 3 times to include specific projects identified by Yap Congressional representatives after funds had already been appropriated. The interpretation of the Court ruling as it pertains to CFSM projects is outside the scope of our review.

OBJECTIVES

The objectives of this inspection were to determine whether: (a) the projects are properly reviewed prior to being funded; (b) the project’s management is complying with applicable laws, policies, and regulations; and (c) the project’s administration, utilization, and expenditures are in accordance with their guidelines or intended purposes.

SCOPE AND METHODOLOGY

The review covers Congressional appropriations for public projects in Yap State for fiscal years 2005-06 pursuant to Public Law 13-36 as amended. The review was conducted pursuant to Title 55 FSMC Chapter 5 of the FSM Code and it was conducted in accordance with the Quality Standards for Inspection issued by the PCIE and the ECIE².

The audit fieldwork was conducted at the Department of Finance & Administration (DoF&A), Department of Health, Education & Social Affairs (DHESA), FSM Finance Field Office in Yap, Yap State Office of Administrative Services (OAS), Yap State Department of Public Works (PW&T) Division of Contracts & Engineering Management (CEM), Yap State Office of Planning & Budget (OPB), and the Yap Congressional Delegation Office. Inspection procedures included analyzing project control documents, funding reports, expenditures and contracting practices involving the public projects funded by the Congress in Yap State. Accordingly, we

¹ *Udot Municipality v FSM, et al.*, 10 FSM Intrm. 354 (Chk. 2001), *aff’d*, *FSM, et al. v. Udot Municipality*, 12 FSM Intrm. 29 (App.2003)

² U.S. President’s Council on Integrity & Ethics (PCIE) and the Executive Council on Integrity & Ethics (ECIE)

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reviewed contracts, checks, invoices, and receipts. We also observed the current condition of the construction related projects. We interviewed National and Yap State government officials to validate our analysis. The review included tests of records, transactions, and other procedures that were necessary under the circumstances.

In January 2007, we provided our draft findings at exit meetings held with the Chairman of the Yap Delegation, Governor of Yap including his heads of Planning and Budget, and Contracts and Engineering, and the Assistant Secretary for Education. During our briefings, the officials generally agreed with our findings. During the week of January 29, we provided our formal draft findings to the above individuals, additionally, to the President, and to the Secretaries of DoF&A and DHESA requesting their written comments. Only the Secretary of DoF&A provided written comments, which are attached as Appendix II.

PRIOR AUDITS/REVIEW COVERAGE

This review is the third undertaken by the Office of the National Public Auditor (ONPA) on public projects funded by the Congress of the FSM. The last audit report, *Public Projects Funded by the Congress of the Federated States of Micronesia, Fiscal Years Ended September 30, 1997, 1996, 1995 & 1994* was issued April 7, 1999. Throughout this report, we identified findings that were previously reported.

FINDINGS AND NOTED EXCEPTIONS

**Selection of CFMS Public Projects Should Include State Review
For Better Use and Coordination of Limited Resources**

Public projects in the broadest sense, are intended for public purposes, public uses, social development, economic development or the like. Within this context, the national government and state governments have strategic and development plans that provide guidance and priorities for the use of funds be they Compact funds, foreign assistance funds, or local revenue funds appropriated by Congress. Whichever source of funding, the use of funds for public projects should be consistent with the state's development plans or compliment its purposes. We believe that the State of Yap can achieve its development goals and objectives more effectively if the State Governor and/or his department heads were involved in reviewing CFMS public projects for consistency with state development plans before Congress appropriates funds for these projects.

We found that Yap State officials were not involved in reviewing public projects selected by Yap Congress members. The Yap Congressmen selected projects from their constituents or those activities and programs the Congress members felt were important to the community. In their selection, the Congress members considered a project's relevancy and importance to the community, the cost, and the funds available. However, the projects selected were not reviewed independently to determine how relevant the projects are with the Yap State plans or the impact these projects may have on State resources. The State of Yap, and more specifically the State Governor, is tasked to carry out and implement these projects, yet the State is not involved in any

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review of the projects to coordinate and prioritize the projects, commit technical and management resources to the projects, or determine the relevancy to the State development plans.

The Governor is asked to manage and oversee the projects and to provide technical assistance, irrespective of the State's available resources or the priority the State may assign to the projects. For instance, many public projects involve review and engineering assistance from the Contracts and Engineering Management Division (CEM) under the State's Department of Public Works and Transportation. However, with its limited resources, CEM cannot provide timely technical assistance, inspections and overview for both the CFMSM projects as well as the State's own projects. To facilitate getting projects started, other State departments are also designated to administer the projects like the Office of Planning and Budget.

In contrast with Yap's Congress members, the State Governor has various departments and committees (Budget Review Committee and Infrastructure Planning Implementation Committee) that provide input and reviews of public projects before the State approves funding. State finance and budget officials said that though the State does not review CFMSM projects, they welcome the prospect of such a review to coordinate and facilitate joint funding of projects and to ensure the State's strategic and development plans are considered. One Yap Congress member stated that he would like to see more coordination and review with the State in selecting projects. Our previous audit report³ also identified the lack of State review and involvement in selecting CFMSM projects as an issue. With further restrictions on Compact funds and with limited resources, a more coordinated effort in planning and using CFMSM funds might better serve the community, if the State is involved in reviewing these projects before they are enacted into law.

**More Review and Scrutiny of Project Costs Are Needed
Before Congressional Funds are Enacted into Public Law**

Acquiring sufficient and detailed cost estimates is the key requirement for appraising and determining an appropriate funding amount for projects. An analysis of these costs can help determine whether the costs are reasonable and whether the amount of funds is suitable or sufficient. Cost estimates can come from a number of sources including engineering and design offices, appraisers, contractors (cost proposals), consultants or cost estimators and even from previous work experiences. These cost estimates become critical because they often are the basis for the funding amounts proposed into legislation. Once in the legislative bill, the projects and funding amount, when passed by Congress and the President, become specific line items in the public law and cannot be changed unless the law⁴ is amended.

In addition to selecting the CFMSM public projects, the Congress members from Yap also determine the funding amount or appropriations for each project. One Congress member said he relies on cost estimates provided by their constituents, some of which come from contractors

³ See Prior Audit Coverage, page 3

⁴ Congress has amended the Public Law 11 times as of 9/30/06 to incorporate various projects and their funding amounts, and to make administrative or funding changes to the projects.

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solicited by the constituents. In other cases, the Congress members themselves will determine the amount of funding based on the information they have on the project and available funds. But, a big problem according to the Congress member is obtaining reliable cost estimates, especially for construction projects. He also indicated that his Delegation Office does not have the resources to assist his constituents in obtaining the cost estimates.

In reviewing the basis and justification for the projects funded amounts, we noted that the Yap Delegation Office did not have records, or documents including cost estimates that support the individual project appropriation amounts. Based upon our interviews with the Yap Congress member and the Yap Delegation Office Manager, we concluded that not enough review and analysis of a project's estimated costs is performed by the Yap Congress members prior to introducing the projects for Congressional consideration. We previously cited this issue in an earlier audit report as well.

By specifying the funding amounts for each project in the public law, Congress essentially establishes the budget ceiling or target price to spend on the project, even if that amount is unreasonably high. Construction designs, procurements, and services requested are often developed to utilize all the funds since there is little or no financial incentive or government regulatory pressure to reduce the cost of projects once the allotment has been approved. Thus, the projects costs and expenditures will tend to eventually match or come close to matching the appropriations in the public law (See Table 2 below).

Table 2: Project Descriptions and Amounts Expended for Individual Projects

Projects Descriptions	Amount	Expensed/ Obligated	Balance
FSM scholarships for Yapese students	\$180,000	\$180,000	0
Fuel and provisions for outer island travel	28,000	27,829	171
Yap State virgin oil and copra development ^a	30,000	0	30,000
Purchase of printing equipment for a Yap newsletter	20,000	20,000	0
Renovation of the Yap Delegation office	10,000	9,819	181
Purchase of Vehicle for the Yap Delegation office	12,000	12,000	0
Supplemental to Wanyan Gagil women's house construction	10,000	10,000	0
Amin Village women's house construction	30,000	29,500	500
Magachgil Village women's house construction	30,000	28,630	1,370
Rang Village women's house construction	30,000	30,000	0
Gilman municipality power extension	20,000	20,000	0
Total	\$400,000	\$367,778	\$32,222

Source: FSM Department of Finance and Administration reported as of 9/30/06

Note: a) Although \$30,000 was appropriated, no funds were allotted for use because the new business was not ready for funding.

To establish a reasonable and appropriate price for the project, a cost estimate and analysis should be done at the beginning of the funding process before the project is incorporated into public law. The following three examples illustrate how appropriated funds can become the budget ceiling and target price for the projects; can encourage a contractor's price proposal to

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match the appropriated amount; or can create spending authorizations to use the full amount of funds.

Women's House Projects

Congress appropriated \$30,000 each for the construction of three women's houses in Yap for social and other uses by women in the villages. The three houses are different in design features, size, floor plans, window styles, some with verandas, and others with different flooring material. Despite these differences or the fact that the Federal Emergency Management Agency (FEMA) assisted in funding the concrete foundation for two houses, the contracted amounts and expenditures either matched or came close to matching the \$30,000 allotments (See Table 2, also Table 4 in the Appendix).

Gilman Power Extension/Relocation Project

Congress appropriated \$20,000 for rerouting an existing power line (installing and connecting nine power poles) for the purpose of hazard mitigation in the Gilman Municipality of Yap. The contractor originally provided a price proposal of \$17,507 for this project, indicating that the cost estimate would be valid for a period of two years. After funds were appropriated and within a year after their initial proposal, the contractor submitted another price proposal that increased their overall cost estimate by some \$2500, matching the full appropriation amount. A Memorandum of Agreement (MOA) was signed with the contractor for the full \$20,000. (See Appendix for further details on the project's exceptions).

Fuel and Provisions for Travel by FSM Officials to Outer Islands

Congress appropriated \$28,000 for fuel and provisions for travel by FSM officials to Yap's outer islands. Two trips were made in May and October 2005 by FSM government officials aboard an FSM Surveillance Patrol vessel. Authorized expenditures amounted to \$2,330 for fuel and over \$21,000 for food items. Open purchase orders (obligations) totaling over \$7,000 would have allowed additional spending above the full appropriation amount had they been fully used. This over-obligated position was corrected with closure of the open purchase orders and a final closeout of the project by FSM Finance. (See Appendix for further details on the project's exceptions).

**Better Management and Oversight of Projects
Are Needed To Ensure Compliance with Regulations**

The Financial Management Regulations (FMR) and more specifically, the Project Control Document (PCD) under FMR Part X, section 10 is the governing document for all public projects that receive funding from Congressional appropriations. Before funds can be allotted, a PCD must be approved by the FSM Budget Office. The PCD specifies, among other things, the purpose, the objectives, and benefits expected, project budget, funding source, and types of expenditures to be made. It also lists responsible officials, such as the allottee, administering agency, project manager, and inspection official. The allottee signs the PCD certifying that the project will comply with all FSM regulations.

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In eight of the projects we reviewed, there were some elements of the FMR not followed, among them, PCDs was not submitted or incomplete, contract advances exceeded maximum limit, and no inspection officials were designated. The following Table 3 provides an overview of the specific exceptions noted on projects where management did not comply with financial management regulations.

Table 3: Noncompliance Issues Found on CFSM Funded Public Projects

		Project Names							
Source Code & FMR Part	Non Compliance Issues (Exceptions)	Scholarships for Yapese Students	Fuel & Other Provisions	Equipment for Yap Newsletter Publisher	Renovation of Yap Delegation Office	Amin Village Women's House	Magachgil Village Women's House	Rang Village Women's House	Gilman Municipal Power Extension
1.7(a)	Double Payment				X				
10.2	No PCD/ PCD Incomplete	X	X	X	X				
10.2(d)	No Inspection Official Designated	X	X	X	X				
10.2(e)	No Assurance by the Allottee (PCD)	X	X				X		
10.5	Advances Exceed FMR Allowable 10%-15%			X		X	X	X	X
10.7(d)	Unallowable Costs					X	X		
10.9	No Project Close Out Performed	X		X	X	X			
55 FSMC § 221	Over Obligation		X						

The lack of management attention and oversight allowed a double billing by a contractor to go unnoticed resulting in a double payment by the Government for the same work performed. Inattention also allowed government assets that were no longer used for a project's intended purpose and funds owed to the government to remain with the grantee without management taking steps to retrieve the equipment and unused funds. The examples are described below:

Double Billing/Double Payment

The Yap Congressional Delegation Office was responsible for contracting the \$10,000 renovation work on the Delegation building and approving the work performed. However, no scope of work, cost proposal, or contract was drawn up. Without also having an inspection official to sign off on work completed, the contractor requested payment twice for the same work performed (\$2,580.80). The two payments were approved and processed by the Delegation Office and submitted to the FSM Finance Representative Office for payment. The FSM Finance Office processed two separate checks drawing from two separate Delegation accounts (operations and CFSM public project funds).

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Funds Owed to the Government

The Office of Planning and Budget signed a Memorandum of Agreement (MOA) advancing \$20,000 to a Yap newsletter publisher to purchase printing equipment. Shortly after purchasing the equipment for \$13,421, the publisher ceased publishing the newsletter. The PCD signed by the publisher affirms that the purchased equipment will remain property of the government and may be available for use in support of another project. Therefore, on November 7, 2006, we requested the Director of OPB, to take necessary steps to recover the equipment and the balance of unused funds owed to the Government. The equipment presently resides with the grantee as well as the remaining balance of \$6,579. Subsequent to our notice to OPB to retrieve the equipment and in January 2007, the publisher started republishing the newsletter. The \$6,579 remaining from the equipment purchase, however, is still owed to the Government (See Appendix for further details on the project's exceptions).

**Clearer Guidance of Scholarship Awards
Could Help Match Awards to Student Needs**

Congress appropriated \$180,000 for scholarships to Yapese students, with certain conditions for how the funds are to be used (tuition, books, and on-campus room and board expenses), the maximum amount that can be awarded to each student, and an alternative means to select recipients if the scholarship board is inactive. The FSM Scholarship Board (Board) is composed of five members representing each of the FSM States and the National Government. Each Board member is appointed by the President and has a term of two years. The duties of the Board include selecting and recommending qualified recipients for scholarship, determining the amount and number of awards per year, and establishing and recommending policies and procedures for the accountability of the scholarship funds.

Our review of the Scholarship Board's guidelines and criteria used to select student awards, and an interview with the acting Board Chairman, revealed that the Board did not perform their duties according to their guidelines. Board members did not review individual student applications or determine whether the students met all the qualifying factors for award. Instead, the Board members relied upon the FSM scholarship administrator to screen the applicants and provide a list of candidates for their signature approval. Included on the list besides the student's name, was the amount of scholarship award, the name of the college or intended school, and the student's grade point average (GPA). In all cases, the students on the lists were approved. For convenience and expediency, the lists were sometimes faxed to the Board members for their signature.

A student's GPA is an indicator of how well the student is doing academically and is required on the student's application. However, it was not a factor used by the Board or the administrator in selecting candidates for scholarship awards. The criteria require only that a student have a GPA acceptable to the school in attendance. Other requirements include proof of school admission, citizenship, and financial status. The application further required the student submit an ID photo, transcripts from their school, and an acceptance letter from the college. Although some students did not comply with these requirements, they were still awarded scholarships. Because of the lack of a minimum GPA standard and other requirements either not adhered to or dismissed, the

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scholarship award appears little different from a student applying for an education grant or financial assistance.

We also reviewed the FSM scholarship program's administration to determine how well the scholarship program was managed irrespective of the scholarship Board. We reviewed student applications, traced scholarship checks to the individuals, verified Board member signature approvals, and interviewed the scholarship administrator. We found a general lack of adherence to administrative guidelines resulting in: 1) scholarships were awarded to students who did not submit all required documents with their applications; 2) students used different application forms including one for financial assistance; 3) someone other than a Board member signed the cover sheet approving a list of scholarship recipients; and 4) a student received scholarship awards in excess of the maximum dollar amount allowed. (See Appendix for further exceptions noted)

The exceptions we noted with the administration of the scholarship program are due in part to the lack of clear guidance for scholarship awards and the administrator's inattention to the guidelines themselves. A clearer distinction on scholarship awards with other types of financial aid available to students could be helpful in matching funds to student needs, in our opinion.

RECOMMENDATIONS:

We recommend that:

1. Yap Congressional Members:
 - A. Should include the State Government in a review of CFSM public projects before selecting and submitting them to Congress. A more coordinated effort in planning and reviewing public projects can increase the likeliness that proposed projects are consistent with the State's development plans and have the support of the State's management to oversee projects.
 - B. Should obtain sufficient justification and documentation for cost estimates, cost/benefits analyses, or feasibility studies to support a reasonable basis for individual project funding amounts proposed into Congressional legislation.
2. The FSM Secretary of Finance and Administration direct the FSM Finance Representative Office in Yap:
 - A. Recover the double payment (\$2,580.80) from the contractor who performed the renovation on the Delegation office.
3. The FSM Budget Office ensure that the Project Control Documents are properly filled out, including the designation of the project inspection official before funds are made available.

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RECOMMENDATIONS (Continued):

We recommend that:

4. The FSM Secretary of Health, Education, and Social Affairs:
 - A. Provide clear distinctions between the different types of financial assistances provided to FSM students with the view to clarify the applicable administrative guidelines and criteria for the different types of available assistances;
 - B. Update policies, guidelines and criteria for national scholarship awards and for how the Scholarship Board should carry out its responsibilities;
 - C. Ensure that the Board follows guidelines and criteria for the selection of scholarship recipients.

5. The Director of Yap State Office of Budget and Planning:
 - A. Ensure that the project manager and inspection official are identified on all public projects.
 - C. Retrieve the unused funds of \$6,579 from the publisher of a newsletter. We formally requested this action be taken by the Director of OPB in a letter dated November 7, 2006.

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APPENDIX I: Project Descriptions and Exceptions Noted for Specific Projects

Gilman Power Extension/Relocation Project

Congress appropriated \$20,000 to reroute an existing power line (installing and connecting nine power poles) for the purpose of hazard mitigation and ease of maintenance and servicing in the Gilman Municipality. The contractor/agent appears to be the only entity that can provide the rerouting services and they requested an advance before work could be started. The administering agency relied on the contractor to set the price, set the conditions, and to oversee the project. A result of this is the following example of a contractor's price proposal that was subsequently increased to the higher funding amount; a contractor that received an advance of funds in excess of what is allowable; and a project that has been on hold for nearly a year until landowner easements are obtained. Exceptions noted were:

1. The contractor originally provided a price proposal of \$17,507 for this project, indicating that the cost estimate would be valid for a period of two years. Funds were appropriated for \$20,000 a few months later. Subsequently when a Memorandum of Agreement was signed, the contractor had increased the cost estimate by some \$2500, matching the full appropriation amount.
2. A Memorandum of Agreement (MOA) was executed on 2/16/06 for \$20,000 allowing work to begin. However, the contractor did not obtain all landowner easements so work has not yet begun as of 1/18/07.
3. The contractor requested and received an advance of \$15,000 (75 % of allotment), which exceeds the 10-15 % allowable under financial regulations for construction projects. No expenditures have been charged on the project with the funds still recorded on the contractor's books as unearned income.
4. The MOA required the contractor to submit quarterly performance reports for monitoring purposes, but the contractor did not comply with this requirement.

Network Newspaper Equipment

Congress appropriated \$20,000 for a project to purchase printing equipment for a newsletter publisher. Shortly after purchasing the equipment for \$13,421, the grantee (publisher) ceased publishing the newsletter and was no longer using the equipment for its intended purpose. We requested the Director of the Office of Planning and Budget on 11/7/06 to retrieve the equipment along with the unused balance of funds. Subsequent to our request letter to OPB and after nearly two years suspension, the publisher began republishing the newsletter. Exceptions noted were:

1. The PCD lists the grantee as the administering agency. This conflict of management responsibilities allows the grantee (publisher) to be the overseer of those funds as well.
2. The publisher's last published newsletter was February 11, 2005 but restarted it publication in January 2007. However, the unused balance of \$6,579 from the equipment purchase has not been returned to the government.

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3. Under an MOA, the grantee received the full \$20,000 (100%) advance payment that exceeds the financial regulations allowance of 10 percent.
4. The MOA required the grantee to submit quarterly performance reports for monitoring purposes, but the grantee did not comply with this requirement.

Fuel and Provisions for Travel by FSM Officials to Outer Islands

Congress appropriated \$28,000 for fuel and provisions for travel by FSM officials to Yap's outer islands. Two trips were made in May and October 2005 by FSM government officials aboard an FSM Surveillance Patrol vessel. No one kept record or proper accounting of the food provisions or where or how the food items were distributed on the outer islands.

Items purchased and cost of the items:

Fuel	\$ 2,331
Provisions (food items):	
1000 50-lb bags of rice	15,482
100 cartons of cigarettes	1,850
200 cases of sugar	1,740
Betel nuts	358
Grocery items and bakery goods	474
Restaurant bill	153
Items not specifically identified	<u>494</u>
Total	\$22,882

Exceptions noted were:

1. A PCD was not submitted for the project nor were key individuals identified for overseeing the project.
2. An Advice of Allotment was released without a PCD. Instead, a written request by the allottee (the President) to release the funds was accepted by the FSM Department of Finance & Administration.
3. There was no record keeping or accounting of the food provisions or its distribution.
4. FSM finance records as of 6/30/06 showed expenditures and obligations exceeding the allotment by \$2,754. This negative position represents an over-obligated position of open purchase orders exceeding the allotment. Closeout of open purchase orders will eliminate negative position. Over obligating, is a violation of the FSMC Section 221.
5. Open purchase orders (obligations) from supply stores totaling over \$7,000 would have allowed additional spending above the appropriation amount had they been fully utilized.

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Renovation of the Delegation Office

Congress appropriated \$10,000 for repairs and renovation of the Delegation office building. There was no scope of work, cost proposal, or contract drawn up for the renovation work. Exceptions noted were:

1. The PCD did not specify who the administering agency, the project manager or the inspection official would be for the project.
2. An inspection official was not assigned to inspect the contractor's work or certify the payment voucher before the payment was authorized. The contractor submitted a voucher detailing the work performed and requested a \$9819.50 payment only after the work was completed.
3. The contractor double billed the Delegation Office for the same work performed (\$2,580.80). Payment were approved and processed by the Delegation Office without an inspection official, and submitted to FSM Finance for payment. Two separate checks were processed by FSM Finance drawing from two separate Delegation accounts (operations and CFSM funds).
4. A final project closeout to reconcile expenditures and obligating documents with the allotment has not been performed although final payment was made on 3/17/05.

Yap State Virgin Oil and Copra Development Project

Congress appropriated \$30,000 for this project but funds have not been allotted because development of this new business has not proceeded far enough for use of these funds. The project originated from the State Governor's office with the intent to help develop the virgin oil and copra business in the outer islands.

Note: These funds will be reallocated to another project according to the Yap Congressman.

Construction of Women's Houses in Yap

Congress appropriated \$30,000 each to three women's village house projects in Yap, while a fourth had a \$10,000 supplemental allotment to provide electrical hook-up to power, a water catchments system and to cover a short fall of funding from a previous appropriation. The three house projects received a waiver from the bidding law. Pricing may not be the only consideration for contracts especially when the village chief requested that a local contractor should be the recipient. See Table 4 below for descriptions of the three women's house projects.

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Table 4: General Comparison of Yap Women’s House Projects

Description	Amin	Magachgil	Rang
Cost Factors			
Project bids	Waiver granted	Waiver granted ^A	Waiver granted
Approximate square feet of floor space ^B	912 sq. ft. (rectangular building)	688 sq. ft. (L shaped building)	540 sq. ft. (rectangular building)
Cost per square feet ^C	\$32.35	\$41.61	\$55.55
Funding			
CFSM funding	\$30,000	\$30,000	\$30,000
Contract & Inspection Costs			
Contract amount	\$29,500	\$28,630	\$30,000
Added inspection expenses	500	1,200	
Total cost^D	\$30,000	\$29,830	\$30,000
Payments in Advance			
Percent of contract	\$14,000 47%	\$8,589 30%	\$15,000 50%

^A Three price proposals were received; the lowest proposal was selected and used in negotiating a lower scope of work to meet the funding limit

^B Square footage based on dimensions from PCD & floor plans

^C Cost per square foot is based upon the contract dollar amount divided by the house’s square footage

^D Total cost does not include FEMA funding for the Amin house (\$11, 334) and the Rang house (\$4,142)

In addition to pricing issues, the following exceptions were noted:

1. Contractors were awarded advances ranging from 30% to 50%, exceeding the 15% maximum allowable for construction work.
2. The inspection official’s expense for overtime and fuel was included in the projects costs even though not allowed under the FMR Part X section 10.
3. The three projects received waivers from bidding requirements citing an “emergency affecting public health, safety, or convenience.” Some of the reasons provided to justify the emergency waivers were:
 - a. The funds will lapse as of 6/30/06
 - b. Delays in implementing the project
 - c. To hire local people to work on the project

Note: We question whether the waivers were proper given the reasons provided above. For one, the funding has no expiration limits and therefore was incorrectly cited as having a lapse date. Secondly, a delay in implementing the project is not sufficient reason unless the impact adversely affects public health, safety, or convenience. Third, hiring local people may be included as a prerequisite condition in the request for proposal or included in the contract terms and conditions, but it is not a sufficient reason to forgo bidding.

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FSM Scholarships for Yapese Students

The Scholarship Board awarded \$180,000 to 35 students with awards ranging from \$1250 to \$7000 during the 2004 - 2005 school years. Exceptions noted were:

- 1) A written request by the allottee (President) to the FSM Finance Office requesting release of funds for the scholarships was submitted and accepted, without a Project Control Document.
- 2) The scholarship administrator and the Board member from Yap state were unable to define or describe how they determined whether a student was Yapese for purposes of scholarship eligibility.
- 3) A Board member approved a family member's scholarship award.
- 4) Someone other than the Board member signed a Board member's signature approving 14 scholarship candidates, of which four awardees were funded under the current appropriation.
- 5) Applicants filed for scholarships using three different application forms.
- 6) Some of the scholarship awards included applicants who did not provide all the required documents in their applications. The following Table 5 lists the number of omissions in student applications.

Table 5: Required Documents Not Filed With Student Applications

Type of Omission	Number of Awardees
No identification photo	11
No transcripts	2
No acceptance letter	3

- 7) Scholarship checks are 2-party checks requiring endorsement from the college where the student is attending and the student's signature. In one instance, however, a student picked up the check from the Finance office, and cashed it without having it co-signed by the college.
- 8) Two scholarship awards totaling \$10,500 were given to the same student within a seven months timeframe exceeding the maximum allowable limit of \$7,000 stipulated in P.L. 13-36.
- 9) The Board approved two scholarship awards for \$1,500 each, but the two students received checks of \$1,250 each.

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APPENDIX II: Response from FSM Department of Finance and Administration



Secretary of Finance
&
Administration

March 2, 2007

Mr. Haser H. Hainrick
National Public Auditor
FSM National Government
Palikir, Pohnpei State, FM 96941

**GOVERNMENT OF THE
FEDERATED STATES OF MICRONESIA
Department of Finance and Administration**

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Dear Mr. Hainrick:

We have examined the draft report on the CFSM public projects funded under FSM Public Law No. 13-34 for the State of Yap for fiscal years 2004-2006. We appreciate the opportunity afforded us to review and comment on the report. We offer the following observations:

A. Double Payment

We agree with the finding and recommendation and have instructed our National Treasury field office in Yap to recover the double payment in the amount \$2,580.80 from the Contractor.

B. and C. Incomplete Project Control Documents (PCD)

With regard to incomplete Project Control Document (PCD), the Division of Budget has been made aware of this problem and further instructed to review and ensure PCD completeness before issuing allotments of project funds.

- d. No assurance by the allottees
- e. Advances exceed FMR allowable
- f. Unallowable cost
- g. No project close-out perform

We agree with these findings and recommendations. Our Yap Finance representative office has been instructed to comply with applicable policies and regulations concerning disbursement of public funds. We will conduct periodic follow up and training on CFSM public project fund expenditures to prevent the re-occurrence of these related problems.

Sincerely,


Nick L. Andon
Secretary

Office of the FSM Public Auditor
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Exhibit I – Women’s House Projects



Rang Village Women’s House Project



Magachgil Women’s House Project



Wanyan, Gagil Women’s House Project



Amin Village Women’s House Project

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NATIONAL PUBLIC AUDITOR'S COMMENTS

We wish to thank the staff of the Yap Delegation Office, Yap State OPB, CEM/DPW&T, DoF&A, and DHESA, for their assistance and cooperation during our review.

In conformance with general practice, we provided a copy of the draft report to the President and the Chairman of Yap Delegation. We also provided pertinent portions of the draft report to the Governor of Yap State, FSM Secretary of DoF&A, the Secretary of DHESA, the Yap State Directors of OPB, and CEM Division of the DPW&T for their review and comment. They generally agreed with our findings.

In addition to providing copies of this report to the President and Members of the Congress, we also sent copies to the Governor of Yap State and Department of Justice. We will make copies available to other interested parties upon request.

If there are any questions or concerns regarding this report, please do not hesitate in contacting the office. Contact information for the Office can be found on the last page of this report, along with the National Public Auditor (ONPA) and staff who made major contributions to this report.



Haser H. Hainrick
National Public Auditor

April 26, 2007

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ONPA CONTACT AND STAFF ACKNOWLEDGEMENT

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Donald Yamada, Audit Supervisor
Eric E. Elias, Auditor-In-Charge
Keller Phillip, Staff Auditor
Aisi Mori, Staff Auditor

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