

**OFFICE OF THE NATIONAL PUBLIC AUDITOR  
FEDERATED STATES OF MICRONESIA**



**COMPLIANCE ISSUES FOUND IN THE ADMINISTRATION AND IMPLEMENTATION  
OF CFSM PUBLIC PROJECTS FUNDED UNDER PUBLIC LAW 21-43 IN YAP STATE;  
KEY OFFICIALS KEEN TO MAKE IMPROVEMENT**

**Inspection Report No. 2021 - 01**



# FEDERATED STATES OF MICRONESIA

## Office of The National Public Auditor

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April 21, 2021

His Excellency President David W. Panuelo  
Honorable Members of the 21<sup>st</sup> Congress  
Federated States of Micronesia

RE: *Inspection of CFSM Appropriations for Public Projects in Yap State through Public Law 21-43*

We have completed our inspection of the appropriations made by the Congress of the FSM to fund public projects in Yap State under Public Law 21-43, as amended.

The Chairman of the Committee on Ways and Means, 21<sup>st</sup> FSM Congress, requested for a review by our office. His primary concern was the \$125,000 appropriation for fuel and provisioning for the FSM National operated vessels and the MV Hapilmohlo-1 vessel to the outer islands in Yap. In addition, the Chairman asked that our office also include within the scope of our review all of the appropriations under the same public law for public projects in Yap State. This report presents the results of our review, which we conducted as an Inspection in accordance with the *Quality Standards for Inspections and Evaluations issued by the Council of the Inspector Generals on Integrity and Efficiency (CIGIE)* in the US federal government.

Based on our inspection, we found that the Governor, as the allottee appointed by the law, through the relevant State departments and offices, as the implementing entities on behalf of the allottee, and in conjunction with the FSM Department of Finance & Administration did not sufficiently carry out their respective due diligence duties in project administration and in funds control and management. Consequently, we found instances of non-compliance with the requirements of the applicable laws and regulations as follows:

1. \$11,669.85 had been spent from the \$125,000 total appropriations for fuel and provisioning for vessels to the outer island in Yap with \$113,330.15 remaining as undisbursed as of July 31, 2020. The designated Project Inspection Official did not certify the payments by documenting a confirmation on the verification he had carried out so we are unable to provide the assurance that project funds were used as intended by law.
2. A bidding waiver was allowed and approved by the allottee for a water project but our inspection found defects with the justifications provided to support the waiver.
3. Payment was authorized and released without compliance with the terms of the contract agreement involving the Maap Water System and the Government.

4. The certification by the designated Project Inspection Officials (PIO) was lacking for some of the projects, thus, transactions were consummated and payments were released absent the assurance that such were in conformity with the purposes and intent of the law.
5. Appropriations to support the financial assistance program for Yapese students attending the College of Micronesia-FSM were disbursed to some students who did not meet the eligibility criteria as established by law.

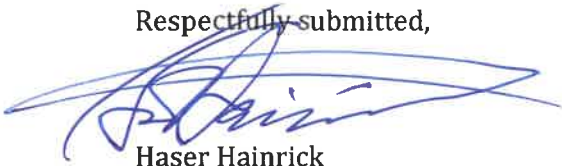
We referred some of the concerns to the Compliance Investigation Division for further review and evaluation particularly those without the necessary inspection by the PIO thus lacking the assurance of their propriety.

The Secretary, Department of Finance & Administration informed the inspection team during the exit conference that PL No. 21-11, adopted in August 2019, effectively exempted the bidding requirements for *"contracts for which the allottee is an entity other than a National Government agency...."* We have concerns that the value for money would be diminished where the bidding requirements are removed from the procurement activities.

Moreover, the Secretary is required by law to maintain a roster of qualified allottees. We made recommendations in this report that the Secretary should exercise his authority to debar and suspend allottees, especially those whose capacity to properly administer the public projects funded by Congress are doubtful as well as reported multiple times by independent audits and inspections.

We appreciate the opportunity to provide this inspection service as requested.

Respectfully submitted,



Haser Hainrick  
National Public Auditor

Xc: Vice President  
Chairman, Committee on Ways & Means, FSM Congress  
Allottees (Governor of Yap State & Interim President of COM-FSM)  
Secretary, Department of Finance & Administration

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**Abbreviations**

\$	United States Dollar
CFSM	Congress of the Federated States of Micronesia
DoFA	Department of Finance and Administration
FMR	Financial Management Regulation
FSM	Federated States of Micronesia
FY	Fiscal Year
PCD	Project Control Document
PIO	Project Inspection Officer
PL	Public Law

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## **1.0 INTRODUCTION**

The Chairman of the Committee on Ways & Means of the 21<sup>st</sup> FSM Congress (the Chairman), had requested for the review of all public projects funded under Public Law 21-43, as amended, in the State of Yap. In his letter, the Chairman raised specific concern about the \$125,000 line item appropriation for “fuel and provisioning of FSM National operated vessels and the MV Hapilmohlo-1 vessel to outer islands Yap.”

The last audit on the CFSM funded public projects in Yap State covered fiscal years 2016 to 2018. This current inspection is specifically on the CFSM funded public projects in Yap State that were appropriated under Public Law 21-43.

### **1.1 Background on the Public Law 21-43**

For Public Law (PL) 21-43, the Congress of the Federated States of Micronesia had appropriated funds from the General Fund to fund eight (8) public projects and social programs in the State of Yap (referred to as CFSM public projects). Out of the eight (8) projects, seven (7) projects were allotted by the Budget Office; however, only three (3) were found to have been expended as of July 2020.

PL 21-43 was amended eight times for the following purposes: 1) replaced original projects with new projects; 2) added new projects; 3) decreased or increased appropriation amounts; 4) changed allottees; and 5) changed the lapse dates.

Two out of the eight amendments were for the public projects in Yap State, which involved replacing an original project with a new project and adding a new project. The amendments that involved the public projects in Yap are PL. 21-103 and PL. 21-158, which amended the original PL 21-43.

### **1.2 Budget**

Congress appropriated \$600,000 under PL 21-43 for the purpose of funding public projects in Yap State. As mentioned above, the Budget Office of the Department of Finance and Administration (DoFA) had already processed and allotted \$580,000 for seven (7) out of the total eight (8) public projects appropriated under PL. The total amount expended on the three (3) active projects were at \$87,721.40 with a remaining balance of \$492,278.60 as of July 31, 2020. Such figures are based on the reports obtained from the Division of National Treasury at the DoFA.

*(Please refer to the [Table 1](#) on the next page for more details of the public projects listed in PL 21-43 in the State of Yap)*

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**Table 1: Details of all the public projects listed for the state of Yap under PL 21-43 as of July 31, 2020**

*(Source: Expenditure Reports from the Division of National Treasury)*

Appropriations for Yap State, PL 21-43						
No.	Project Title	Amount	Allotment	Unallotted	Expenditures	Balance
1	Fuel and provisioning of FSM National Operated vessels to outer islands Yap	125,000.00	125,000.00	-	11,669.85	113,330.15
2	Woleai Atoll Development Authority (WADA) startup operation costs	90,000.00	90,000.00	-		90,000.00
3	Rang, Fanif Inter Village road	55,000.00	55,000.00	-		55,000.00
4	Maap water system	55,000.00	55,000.00	-	46,000.00	9,000.00
5	Yap State Scholarship supplemental	100,000.00	100,000.00	-		100,000.00
6	COM-FSM National Campus Yapese students' financial assistance; PROVIDED THAT, eligibility is based on students that maintain at least a 2.00 GPA and enrolled full-time	50,000.00	50,000.00	-	30,051.55	19,948.45
7	Yap-CAP Community projects matching	105,000.00	105,000.00			105,000.00
8	Costs of base charges for individuals deceased at the Yap Mortuary Services	20,000.00	-	20,000.00		-
	<b>Total</b>	<b>600,000.00</b>	<b>580,000.00</b>	<b>20,000.00</b>	<b>87,721.40</b>	<b>492,278.60</b>

Note: highlighted in the table above are the three (3) out of the eight (8) projects that had been expended and are discussed in this inspection report.

### 1.3 Public Project Administration

The Project Control Document (PCD) is a key control document as clearly specified in the Financial Management Regulation (FMR) that, if prepared accurately and completely, should help in ensuring the CFMS funded public projects achieve accountability, traceability and that oversight for quality and completion exist for the project life cycle.

## 2.0 OBJECTIVES, SCOPE, METHODOLOGY

### 2.1 Objective

The primary objective of this inspection was to determine whether CFMS appropriations for public projects located in Yap State funded under PL 21-43, as amended, were used in accordance with their intended purposes, including compliance with all applicable laws and regulations.

### 2.2 Scope

As of July 31, 2020, the inspection of public projects appropriated under PL 21-43 in Yap State covered only three (3) active public projects due to the fact that the funds for these projects have already been incurring expenditures whereas the other projects, although funds have been allotted, have yet to incur any expenses.

We conducted this inspection pursuant to the authority vested in the National Public Auditor as codified under Chapter 5, Title 55 of the FSM Code which states in part:

*"The Public Auditor shall inspect and audit transactions, accounts, books and other financial records of every branch, department, office agency, board, commission, bureau, and statutory*

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*authority of the National Government and of other public legal entities, including, but not limited to, States, subdivisions thereof, and non-profit organizations receiving public funds from the National Government”.*

### **2.3 Methodology**

We conducted this inspection in accordance with the quality standards for inspections and evaluations issued by the Council of the Inspectors General on Integrity and Efficiency (CIGIE). Those standards require that we plan and perform the inspection to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our inspection objective below.

The following were carried out to determine whether the CFSM funds used were in accordance with their intended purposes including compliance with all applicable laws and regulations:

- (i) We reviewed and assessed all information and records (Appropriation laws and other relevant laws, expenditure reports and support documents) pertaining to the scope of the inspection.
- (ii) We communicated with the key personnel involved with the administration and implementation of the public project.
- (iii) Physical inspection was also conducted on one of the public projects which involved construction. The physical inspection was made possible through the coordinated efforts between our office and the Office of the Yap State Public Auditor given the travel restrictions in place in relation to the Covid-19 pandemic.

### **3.0 PRIOR AUDIT OR INSPECTION COVERAGE**

The report for the last audit conducted on the CFSM public projects located in the State of Yap was issued in August 2019. The last inspection report on CFSM Public Projects for all the four (4) states of the FSM was issued in February of 2015, which covered fiscal year 2013.

### **4.0 CONCLUSION**

Based on our inspection, we concluded that the CFSM appropriated funds that were used for the public projects were not in full compliance with all applicable laws and regulations. Below is the summary of our findings:

- 1. Bidding process was waived without proper justification at the State Government level;
- 2. Funds disbursed appeared not in full compliance with the applicable laws and regulations;
- 3. No certifications of payment requests made by the Project Inspection Official as required by the FMR;
- 4. Financial assistances were awarded to Yapese students without meeting eligibility requirements set forth by law.

Regarding the specific concern raised by the Chairman, we found that about \$11,669.85 had been disbursed out of the total \$125,000 appropriation for fuel and provisioning of FSM National Operated Vessels and the MV Hapilmohlo-1 vessel to the outer islands Yap as of July 31, 2020. There were still \$113,330.15 available balance for this line item appropriation as of our inspection cut-off date as shown in [Table 1](#) above.

The findings and recommendations are discussed in detail in the following pages.



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## **5.0 FINDINGS AND RECOMMENDATIONS**

### **5.1 Finding No. 1: Bidding process was waived without proper justification at State Government level**

According to FSM Code of 2014 Title 55, Chapter 4 (Government Contracts) Section 408; *In case of emergency affecting public health, safety, or convenience so declared in writing by the President upon application by the head of any National Government agency setting forth the nature of the emergency and the danger to the public health, safety, or convenience caused by delay, contracts may be let to the extent necessary to meet the emergency without public advertisement. Such action and the reasons therefor shall immediately be made public by the awarding authority.* Similarly at the State Government level, the provisions above are captured in the Yap State Government Code Title 9 Chapter 5 (State Contracts) Subchapter II (Bidding) Section 523 which states that: *In case of emergency affecting public health, safety, or convenience so declared in writing by the Governor upon application by the head of any State Government agency setting forth the nature of the emergency and the danger to the public health, safety, or convenience caused by delay, contracts may be let to the extent necessary to meet the emergency without public advertisement. Such action and the reasons therefor shall immediately be made public by the awarding authority.*

According to Section 10.2.2(2)(3) (Allotment) of the FMR of the FSM National Government;

*-An Advice of Allotment form shall be completed for each separate project and forwarded to the Allottee and PCD.*

*-Each allotment shall specify an expiration date, after which no obligation may be legally incurred.*

#### **Public Project: Maap Water System (Allotted amount: \$55,000)**

During our review we observed that:

1. There is an undocumented practice that allows the Yap State Government, where required, to use their own State Government laws during instances when they use their own State Government funds to implement FSM Congress appropriated public projects. For these cases, the State Government is allowed to use their own State financial management regulation and laws.
2. Based on the above practice, the bidding requirement was waived following the application by the Yap State Office of Planning and Budget and the subsequent approval by the Yap State Governor in accordance with the Yap State bidding law requirements (Title 9 of the Yap State Code Subchapter II Section 523 on “Emergencies”) with its provisions as cited above.
3. The emergency reasons provided were not sufficient to justify the waiving of the bidding process. One of the justifications provided on the bidding waiver application was that the “safe water supply” was a concern. However, we noted that the water system had actually been established and maintained after it was declared completed in November 2015. The current project was intended for “improvement and upkeep maintenance” as per the subject of the initial request for funding signed and submitted by the Board members of the Maap Municipal Water Authority to the State of Yap Members of the 21<sup>st</sup> Congress.
4. Another justification provided in the application for the waiving of the bidding process was that the appropriation fund was claimed to expire on September 30, 2020. However, upon our review of the Advice of Allotment (which would have been received by the allottee), the actual expiry date of the funds was September 30, 2022. This means that the project funds have two more years of use from the date claimed therefore there was no need to rush the project since

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the water system was actually in place (but rather needed improvement and maintenance as per the initial request by the Board members of the Maap Municipal Water Authority).

**5.1.1 Cause**

- (i) The allottee did not ensure that the project is being administered and implemented under due diligence in accordance with the State of Yap Code and the FSM National Government-approved Advice of Allotment and the PCD. This resulted in the allottee being misled by the State of Yap Office of Planning and Budget to approve the application for waiver of the bidding process.

**5.1.2 Effects**

- (i) Potential financial loss to the FSM National Government as the value for money (part of or whole \$46,000.00 expended amount) could not reasonably be guaranteed due to payments being made for incomplete implementation and not in line with the contract agreement (as confirmed during the physical verification carried out by our Yap State counterparts).
- (ii) Rushing the project within a limited timeframe poses risk of further incomplete works and future problems which can be more costly for the government and health issues to the people. We are referring this matter for further review by our Compliance Investigation Division.

**5.1.3 Recommendations**

We recommend the allottee to:

- (i) Ensure due diligence at all times:
  - a. specifically, in terms of understanding the nature and background of the public project prior to approving requests (such as the application for waiving the bidding process) after the appropriation funds have been made available by the FSM National Government.
  - b. specifically, in understanding the details of the appropriation fund as captured in the FSM Government documents being the approved Advice of Allotment and the PCD.
- (ii) Always include in future Contract Agreements (where relevant such as for construction projects) the responsibility of the contractor capturing photos as evidence of their work phases which needs to be submitted to the allottee and to be re-inspected by the designated PIO.

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**5.2 Finding No. 2: Funds disbursed not in compliance with applicable laws and regulations**

The Project Control Document (PCD) is the governing document for all public projects funded by Congressional appropriations. A PCD must be approved by the FSM Budget Office before funds can be allotted. The PCD specifies, among other things, the purpose, the objectives, 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.

Part 10.2.5 of the FMR further requires that the *Project Inspection Official (PIO) designated in the PCD shall provide project management and oversight so as to ensure the adequate accountability of funds expended and completion of the project.*

Section 3 (Compensation) of the Contract Agreement between the Office of Planning and Budget of the Yap State government (the "Government") and the Maap Water System (the "Contractor") states that the "Government will pay the Contractor in four separate installments based on the progress Contractor has made on the Project. Government will pay Contractor the first installment of \$5,500.00 upon execution of this Contract". Further, the "*Contractor may request the second installment after completing the following work: clearing trees and grubbing into the four villages (Bechiyal, Malway, Nlul, South Talngith).*"

**Public Project: Maap Water System (Allotted amount: \$55,000)**

During our review of the disbursement records for the Maap Water System public project, we found cases of non-compliance with the FMR as follows:

- (i) *Inspection reports were not submitted by the designated PIO;*
- (ii) *Breach of Contract involving the terms of compensation.*

The details of the above non-compliance issues are discussed below:

1. Based on our review of the disbursement records, we noted that the project inspection was not conducted by the PIO who was designated and approved in the original PCD. When enquired, there was no record to support the change for the designated PIO. Importantly, the PIO plays a critical role in ensuring that project funds are used for the purposes and intent of the appropriating law.
2. We also found a breach of the Contractual Agreement between Yap State and Maap Water System as the Contractor. The second installment payment did not follow the terms delineated under the compensation section of the Contract Agreement, which requires that payments should be made only after the completion of the project phase. The site verification conducted by our Yap State OPA counterpart and our own review of the disbursement records revealed that two of the four villages that were required to be cleared off of trees and grubbing showed no signs of these works conducted. However, the second installment was paid to the Contractor in full even though the second phase of the project was not done as required by the Contract.

**5.2.1 Causes**

- (i) Lack of due diligence by the Allottee to administer and implement CFSM public projects in accordance with applicable laws and regulations.

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- (ii) The Allottee failed to appropriately document his justification and approval of assigning the PIO role to another official apart from the name that was initially submitted by the Allottee himself and which had been approved by the FSM DoFA as part of the review and approval process of the PCD.
- (iii) The DoFA, specifically the Field Office of the Division of National Treasury based in Yap State, did not effectively scrutinize all payment requests to ensure compliance with the requirements of the FMR and the Contract Agreement prior to disbursements of funds.

### **5.2.2 Effects**

- (i) Potential financial loss to the FSM National Government as the value for money (part of or whole \$46,000.00 expended amount) could not reasonably be guaranteed due to inadequate evidence to support the project implementation.
- (ii) We are referring this matter for further review by our Compliance Investigation Division.

### **5.2.3 Recommendations**

We recommend the Secretary, DoFA as part of his mandated responsibilities (delineated under Sections 204 & 205 of the Financial Management Act of 1979 / Title 55 of the FSM Code) should:

- (i) Exercise his authority as per Section 205 (i) of the Financial Management Act which states in part that “He shall have full and complete supervision of all funds of the Federated States of Micronesia, including the power to withhold his approval when necessary to prevent misappropriation of public funds”
- (ii) Take accountability of Finance processes and resources by making the needed changes and a strong stand to help eradicate the culture of having cases of non-compliances throughout the years over the use of National Government funds appropriated for CFSM public projects. These include:
  - a. documenting a procedure as part of the FMR to address steps to be taken by the Allottee when there is a need to re-assign the PIO role to someone else apart from the official that was initially identified by the allottee and approved by the FSM DoFA during the review and approval process of the PCD (prior to implementation).
  - b. strengthening the verification / scrutinization procedures (in the Division of National Treasury) for payment requests to ensure that all relevant supporting documents are sufficient before authorizing payments, keeping in mind the requirements of the approved PCD. (as previously recommended in many past audit/inspection reports for CFSM projects)
  - c. putting in place strict internal control measures to ensure that allottees submit adequate and meaningful evidence (e.g. pictures of the “before” and “after” states of the project phases for projects involving construction etc.) to support project implementation prior to processing payments.
  - d. taking necessary actions (disciplinary or awareness trainings) for those FSM national officials that are identified to have continually breached the FMR and other contractual agreements relevant to public projects.

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- e. contacting the allottee and all other key offices or officials involved in the administration and implementation of the above public project to collectively determine and refund the amount in question to the FSM National Government as it was not used in accordance with the full requirements of applicable FSM laws and regulations.
- f. exercising his authority under suspend or bar allottees from the Roster of Eligible Allottees who have not been complying with the applicable FSM laws and regulations multiple times as it pertains to the administration of public projects.

**5.3 Finding No. 3: No Certification of Payment Requests by the Designated Project Inspection Official (PIO) as required by the FMR**

Part 10.2.4 of the FMR states that “funds subject to Part 10 (Administration of public project appropriations) shall be disbursed only to satisfy obligations legally incurred and due under these regulations. Any request for payment under a design, construction, procurement, or independent consulting contract must be certified by the Project Inspection Official before payment is made”.

**Public Project: Fuel and provisioning of FSM National Operated vessels and the MV Hapilmohlo-1 Vessel to outer islands Yap (Allotted amount: \$125,000)**

Based on our review of the disbursement records along with relevant supporting documents, we found that there were no records or documentations provided by the designated PIO to prove the certification of the procured goods, supplies and materials for the above public project.

**5.3.1 Causes**

- (i) DoFA did not properly review PCDs and payment requests to ensure that they were in line with the requirements of the FMR.
- (ii) Poor oversight and monitoring by the allottee over the administration and implementation of the public projects.

**5.3.2 Effects**

- (i) Potential financial loss to the National Government – part of or the whole expended amount of \$11,669.85 may have been improperly disbursed and expended. At the same time, funds may have also been exposed to waste, misuse, abuse or the potential for fraud given that no independent certification was made. We are referring this matter for further review by our Compliance Investigation Division.
- (ii) Continued transportation issues for the people living in the outer islands of Yap that rely heavily on the subject vessels.

**5.3.3 Recommendations**

We recommend that the Secretary DoFA as part of his mandated responsibilities (delineated under Sections 204 & 205 of the Financial Management Act of 1979 / Title 55 of the FSM Code) should:

- (i) hold the Division of Budget responsible for ensuring due diligence prior to the approval of the PCD. This includes the thorough verification of the PIO and other key personnel who

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- are initially identified for the administration and implementation of public projects to ensure that they are competent for the role and verified upon in accordance with the FMR.
- (ii) strengthen the capacity of the Division of National Treasury including all its Field Offices located throughout the FSM States by carrying out trainings and promoting compliance and good governance in order to assist them effectively scrutinize / thoroughly review payment requests in accordance with the FMR and other pertinent laws and regulations.
  - (iii) hold the allottee accountable for ensuring that the designated PIO is diligently fulfilling his/her duties and responsibilities given that it serves as an important role for oversight, monitoring and compliance purposes.
  - (iv) contact the allottee and all other key offices or officials involved in the administration and implementation of the above public project to collectively determine and refund the amount in question to the FSM National Government as it was not used in accordance with the full requirements of the applicable laws and regulations.
  - (v) suspend or debar allottees from the Roster of Eligible Allottees who have failed to comply with the applicable FSM laws and regulations multiple times as it pertains to the administration of public projects.

**5.4 Finding No. 4: Financial Assistance were awarded to Yapese Students without meeting Eligibility Requirements set forth by law**

Public Law 21-43 including all its amendments appropriated a certain public project for the purpose of awarding financial assistance to Yapese Students studying at COM-FSM. The project title is “COM-FSM National Campus Yapese students’ financial assistance; PROVIDED THAT, *eligibility is based on students that maintain at least a 2.00 GPA and enrolled full-time.*”

**Public project: COM-FSM National Campus Yapese students’ financial assistance; PROVIDED THAT, eligibility is based on students that maintain at least a 2.00 GPA and enrolled full-time (Allotted amount: \$50,000)**

Upon further review of the records and relevant information obtained from the COM-FSM National Campus, we found that some students that received financial assistance did not meet the eligibility requirements that are required by Public Law 21-43. A few students were not enrolled on a full-time status and yet, were awarded. However, we would like to point out that our enquiries also revealed that most of the students that were awarded had only a few more credits to be earned in order for them to graduate. It would not make any sense for a student who has only a class or two, to finally graduate and earn their degrees, to register for additional courses just so they can be considered as full-time students and be eligible to receive such financial assistances. We feel that the law should be amended to accommodate such circumstances that are the realities of a college academic settings.

Nevertheless, we maintain the fact that the allottee has a major role to play in ensuring that the criteria set by the appropriating law is complied to.

**Office of the National Public Auditor**  
**COMPLIANCE ISSUES FOUND IN THE ADMINISTRATION AND IMPLEMENTATION OF CFSM PUBLIC**  
**PROJECTS FUNDED UNDER PUBLIC LAW 21-43 IN YAP STATE; KEY OFFICIALS KEEN TO MAKE IMPROVEMENT**  
**Inspection Report No. 2021 - 01**

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**5.4.1 Causes**

- (i) Ineffective monitoring and oversight by the Allottee in ensuring that such funds being awarded to Yapese Students were in compliance with the eligibility requirements as set forth by Public Law 21-43.
- (ii) The DoFA particularly the National Treasury Division did not effectively scrutinize the payment requests to ensure compliance with all applicable laws and regulations prior to disbursements.

**5.4.2 Effects**

- (i) \$2,346.02 was awarded to students that did not meet the eligibility requirements set forth by the law. The funds could have been saved for other eligible Yapese students who may deserve such financial assistance.

**5.4.3 Recommendations**

We recommend that the Secretary, DoFA as part of his mandated responsibilities (delineated under Sections 204 & 205 of the Financial Management Act of 1979 / Title 55 of the FSM Code) should:

- (i) ensure that the all allottees of public funds should be diligent in their duties and responsibilities when administering and implementing public projects and at the same time, to be fully aware of the laws and regulations put in place to guide the processes involved in the administration of such public projects.
- (ii) hold the Division of Treasury accountable for the effective review and scrutiny of payment requests along with all relevant and adequate supporting documents in line with FMR and other requirements before processing payments.
- (iii) Contact the allottee to refund the amount of \$2,346.02 to the FSM National Government as it was used not in accordance with the requirements of the public law.

**Office of the National Public Auditor**  
**COMPLIANCE ISSUES FOUND IN THE ADMINISTRATION AND IMPLEMENTATION OF CFSM PUBLIC**  
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**6.0 MANAGEMENT RESPONSES**

**6.1 FSM Department of Finance & Administration Responses**



Secretary of Finance  
&  
Administration

**GOVERNMENT OF THE  
FEDERATED STATES OF MICRONESIA**  
**Department of Finance and Administration**  
P.O. Box PS 158  
Palikir, Pohnpei FM 96941  
Tel: (691) 320-2640/5852 Fax: (691) 320-7728  
E-mail: fsmsofa@mail.fm

March 26, 2021

Haser Hainrick  
National Public Auditor  
Palikir, Pohnpei  
FSM 96941

*Haser*  
3.26.2021



Dear Mr. Hainrick:

Please refer below our management response to your audit findings on your inspection report for CFSM public projects for Yap State per Public Law 21-43.

**5.1 Finding No. 1:** Bidding process was waived without proper justification at State Government level.

**Management Response:** We take note of this finding and will implement recommendations to ensure that all Non-National Allottees execute their due diligence for the purpose of improvement and compliance with all applicable laws and regulations.

**5.2 Finding No. 2:** Funds disbursed appeared not in compliance with applicable laws and regulations.

**Management Response:** Funds are disbursed on a reimbursement basis, where State of Yap use their own funds and procure in line with State procurement regulations, and National Government reimburse the State where expenditures are in line with the intended purpose of the Law, and project outputs are achieved. FSM Department of Finance & Administration is gradually pulling back disbursement to be directly out of our National Treasury field Office to ensure all procurement follow National FMR.

**5.3 Finding No. 3:** No Certification of Payment Requests made by the Designated Inspection Official (PIO) as required by the FMR.

**Management Response:** The Head of the Planning Office is designated as the project inspection official and also the allottee's official designee, who reviews and certifies inspection reports by staff in his Office. We take note of your recommendation and we'll review our current processes to ensure thorough compliance with inspection requirements.



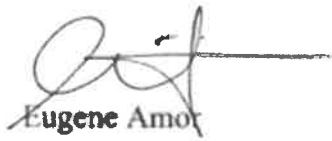
**Office of the National Public Auditor**  
**COMPLIANCE ISSUES FOUND IN THE ADMINISTRATION AND IMPLEMENTATION OF CFMS PUBLIC**  
**PROJECTS FUNDED UNDER PUBLIC LAW 21-43 IN YAP STATE; KEY OFFICIALS KEEN TO MAKE IMPROVEMENT**  
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**5.4 Finding No. 4: Financial Assistance were awarded to Yapese Students without meeting Eligibility Requirements set forth by law**

**Management Response: We agree that only eligible students should receive assistance under this program and the Allottee should adhere to project plans outlined in the PCD. We will contact the Allottee to collect what is wrongfully disbursed herein, and continue to provide training to strengthen compliance.**

Thank you,

  
Eugene Amor  
Secretary

**Office of the National Public Auditor**  
**COMPLIANCE ISSUES FOUND IN THE ADMINISTRATION AND IMPLEMENTATION OF CFSM PUBLIC**  
**PROJECTS FUNDED UNDER PUBLIC LAW 21-43 IN YAP STATE; KEY OFFICIALS KEEN TO MAKE IMPROVEMENT**  
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**6.2 Yap State Government, Office of Planning and Budget (OPB) Responses**



*OFFICE OF PLANNING & BUDGET*  
**YAP STATE GOVERNMENT**  
*P.O. Box 471*  
*Colonla, Yap*  
*Federated States of Micronesia*  
**96943**

*Phone: (691) 350-2145/2166*

*Fax: (691) 350-4430*

**Memorandum**

March 29, 2021

Mr. Haser Hainrick  
FSM National Public Auditor  
Palikir, Pohnpei  
FM, 96943

Dear Mr. Hainrick:

We would like to extend our gratitude in providing us a glimpse of the audit report regarding appropriations under CFSM PL21-43 into the State of Yap, specifically OPB-implemented projects. We wholeheartedly agree with the findings enumerated in regards to the following:

- Maap Water System
- Fuel & Provisions of FSM National Operated Vessels to Outer Island Yap

Attached herewith is our official response to the respective audit findings of OPB-implemented projects and we hope it will guide a way forward that is conducive to transparency and good governance. If there are any questions or clarifications regarding the attached responses, please do let us know. Kammagar!

Best regards,

Victor Bamog  
Office of Planning & Budget, Director

Xc: Project File

**Office of the National Public Auditor**  
**COMPLIANCE ISSUES FOUND IN THE ADMINISTRATION AND IMPLEMENTATION OF CFMS PUBLIC**  
**PROJECTS FUNDED UNDER PUBLIC LAW 21-43 IN YAP STATE; KEY OFFICIALS KEEN TO MAKE IMPROVEMENT**  
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<b>CFMS Appropriations for Yap State PL#21-43</b>			
No.	Findings	Project Title	Audit Response
5.1	Bidding process was waived without proper justification at State Government level	Maap Water System	<p>We agree with the findings with some clarifications and will continue to practice due diligence in the implementation of public projects. See clarifications below :            Title 55, Section 403 was amended (Congressional Act No.12-11) "to clarify that competitive bidding requirement applies only to contracts for which the allottee is a National Government agency".</p> <p>There was a misinformation that the water system was completed in November 2015. The system was not completed as it states in the finding, therefore the concern of a safe water supply was deemed a valid justification for waiving the bidding process.</p> <p>We agree that the second justification to rush due to expiration date was not sufficient as it is an oversight of the Division of Planning that the expiration date was September 30, 2022.</p>
5.2	Funds disbursed appeared not in compliance with applicable laws and regulations	Maap Water System	<p>We agree with the findings with some clarifications and will continue to practice due diligence in the implementation of public projects.</p> <p>1. Because the designated PIO documented and approved on the PCD was on medical leave, a staff from OPB Division of Planning was tasked to conduct and sign off on the inspection. If allowed in the PCD guidelines OPB will put two PIOs in each project PCD in case one is sick and the project needs to continue.</p> <p>2. An inspection report was sent verifying that the four villages were cleared before the 2nd installment payment was made. Photographs were taken of the sites at the time of inspection. The physical verification done by the Yap State counterpart took place months after which subsequently shows signs of growth in two of these villages.</p>
5.3	No certification of payment requests made by the Designated Inspection Official (PIO) as required by the FMR	Fuel and provisioning of FSM National Operated vessels to outer Islands Yap	<p>We agree with the findings. The Project Inspection Official signs off on projects; fuel &amp; provisions are operation costs, thus, not requiring the inspection of the PIO. We will ensure PIO will sign off documents in the future for fuel &amp; provision operations.</p>
5.4	Financial Assistance were awarded to Yapese Students without meeting eligibility requirements et forth by law	COM-FSM National Campus Yapese students' financial assistance; PROVIDE THAT, eligibility is based on students that maintain at least 2.0 GPA and enrolled full time	<p>We agree with the findings. However, Public Law 21-43 specified that the allottee of the funds appropriated under subsection 2(f) shall be the President of the COM-FSM institute. COM or National will provide details on findings.</p>

**Office of the National Public Auditor**  
**COMPLIANCE ISSUES FOUND IN THE ADMINISTRATION AND IMPLEMENTATION OF CFSM PUBLIC**  
**PROJECTS FUNDED UNDER PUBLIC LAW 21-43 IN YAP STATE; KEY OFFICIALS KEEN TO MAKE IMPROVEMENT**  
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**6.3 College of Micronesia, FSM, COM-FSM Responses**



**COLLEGE OF MICRONESIA-FSM**

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P.O. Box 159, Palikir, Pohnpei  
Federated States of Micronesia 96941  
[www.comfsm.fm](http://www.comfsm.fm)

Phone: (691) 320-2480/2481/2481

Fax: (691) 320-2479

*Office of the President*

March 3, 2021

Mr. Haser H. Hainrick  
National Public Auditor  
P.O. Box PS-05  
Palikir, Pohnpei FSM 96941

Dear Mr. Haser:

Please find enclosed the official response of College of Micronesia-FSM to the inspection report of the Yap CFSM Funded Public projects and specifically finding 5.3 Financial Assistance awarded to Yapese Students without meeting Eligibility Requirements set forth by law.

The college has provided an explanation for the four students awarded funding and not being enrolled full-time along with supporting documents. The college has also included actions taken by to college to ensure there will not be a repeat of this finding.

If you have any questions, please do not hesitate to call me at 320-2480 ext. 119. Thank you.

Respectfully yours,

*Karen Simion*

Karen Simion,  
Interim President.

Enclosure

CC: Brandon Rodriguez, Auditor-In-Charge/Lead Inspector  
Vice President for Admin. Services, COM-FSM  
Comptroller, COM-FSM

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Accredited by the Accrediting Commission for Community and Junior Colleges  
Western Association of Schools and Colleges

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**Office of the National Public Auditor**  
**COMPLIANCE ISSUES FOUND IN THE ADMINISTRATION AND IMPLEMENTATION OF CFM PUBLIC**  
**PROJECTS FUNDED UNDER PUBLIC LAW 21-43 IN YAP STATE; KEY OFFICIALS KEEN TO MAKE IMPROVEMENT**  
**Inspection Report No. 2021 - 01**

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College of Micronesia-FSM

**Response to Inspection of CFM Public Projects Appropriated  
in Public Law 21-43 for the State of Yap**



Submitted by:  
Karen Simion, Interim President  
March 4, 2021

Submitted to:  
**Office of the National Public Auditor, Federated States of  
Micronesia**

**Office of the National Public Auditor**  
**COMPLIANCE ISSUES FOUND IN THE ADMINISTRATION AND IMPLEMENTATION OF CFSM PUBLIC**  
**PROJECTS FUNDED UNDER PUBLIC LAW 21-43 IN YAP STATE; KEY OFFICIALS KEEN TO MAKE IMPROVEMENT**  
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This report serves as the official response of the College of Micronesia-FSM to Finding No. 3: Financial Assistance were awarded to Yapese Students without meeting Eligibility Requirements set forth by law, in the Inspection Report Yap PL 21-43.

The project specifies that National Campus Yapese students may receive financial assistance provided the students maintain at least a 2.00 GPA and are enrolled full-time. However, four students not enrolled full-time received financial assistance. An explanation for each of these four students is provided below.

**Student #1:** Student majored in Nursing and graduated F2019. The student needed only four courses to graduate as of spring 2019 – NU 225, NU 235, NU 245 and SC 180. The student took one course (NU 225) in spring 2019 (7 credits). This course requires 3 hours of lecture each week and 10 hours of practical in a hospital setting. This course is a pre-requisite to the next courses NU 235 and NU 245, which have similar requirements. Student took SC 180 in summer, which was 4 credits, but considered full time since it is a science with lab. The student took NU 235 and NU 245 to graduate in fall 2019. (See attached graduation announcement). She is currently employed at Yap State Hospital.

**Student #2:** Student majored in Nursing and graduated F2019. The student needed only three courses to graduate as of spring 2019 – NU 225, NU 235, and NU 245. The student took one course (NU 225) in spring 2019 (7 credits). This course requires 3 hours of lecture each week and 10 hours of practical in a hospital setting. This course is a pre-requisite to the next courses NU 235 and NU 245, which have similar requirements. The student took NU 235 and NU 245 to graduate in fall 2019. (See attached graduation announcement). She is currently employed at Yap State Hospital.

**Student #3:** Student majored in Agriculture and Natural Resource Management. The student needed nine courses to graduate as of spring 2019. The student took 7 credits (2 courses) spring 2019. One of these courses, AG 140, was pre-requisite to AG 290 and AG 299. Other needed courses were biology, chemistry and statistics. Each of these courses is difficult to register for due to limited faculty and high demand. If the student doesn't register first day of early registration, the course will be full. If a student has to wait for financial assistance due to outstanding balance, it makes it even more difficult to register for these high demand courses. Student registered for biology summer of 2019, again considered a full load at the college because the course has a lab that meets three times each week in the summer compared to one time each week in a regular semester. AG 290 requires the student to develop and implement an agri-business plan. The student took the final four required courses in spring 2020 and graduated. (<http://www.comfsm.fm/news/GradSpring2020.pdf> pg. 3 or See attached page from graduation announcement.)

**Student #4:** Student majored in Hospitality and Tourism Management. The student had a summer 2019 cumulative GPA of 2.71. As such, the student was in good academic standing end of summer 2019 (or term immediately prior to fall 2019) as referenced to the college's [Board Policy No. 3106](#), or academic standards as stipulated in p.119 of the [2019-2020 COM-FSM General Catalog](#) which provides "Good academic standing is defined as having a cumulative grade point average (GPA) of 2.0 or above.

## Office of the National Public Auditor

### COMPLIANCE ISSUES FOUND IN THE ADMINISTRATION AND IMPLEMENTATION OF CFSM PUBLIC PROJECTS FUNDED UNDER PUBLIC LAW 21-43 IN YAP STATE; KEY OFFICIALS KEEN TO MAKE IMPROVEMENT

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As of fall 2019, the student needed only six courses to graduate: EN 120B, HTM 120, HTM 150, HTM 230, HTM 170 and HRM 250. However, the student enrolled last fall 2019 in only three of these six remaining courses to graduate: EN 120B, HTM 150, and HRM 230. The student couldn't take any of the other three (HTM 120, HTM 170 and HTM 250) so the student can carry full-time load because:

1. HTM 170 was not offered last fall 2019.
2. HTM 120 was not offered last fall 2019.
3. HTM 250 or facilities management and practicum is a terminal course, which requires successful completion of prescribed HTM major courses.

#### **Actions taken by the college will include**

- (i) Provide follow-up training with financial aid personnel on eligibility requirements for the financial assistance to Yapese students in PL 21-43;
- (ii) Request financial aid office to separate sources of financial awards;
- (iii) Lobby members of FSM congress to potentially amend PL 21-43 to allow for financial assistance to graduating students who do not need to take a full credit load or for students who are not able to register for full load due to course availability or pre-requisite requirements.
- (iv) Refund \$2,346.02 to the National Government.

**Office of the National Public Auditor**  
**COMPLIANCE ISSUES FOUND IN THE ADMINISTRATION AND IMPLEMENTATION OF CFMS PUBLIC**  
**PROJECTS FUNDED UNDER PUBLIC LAW 21-43 IN YAP STATE; KEY OFFICIALS KEEN TO MAKE IMPROVEMENT**  
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## **7.0 ONPA EVALUATION OF MANAGEMENT RESPONSE**

We requested for a management response from the Allottees and the Secretary of the Department of Finance and Administration (DoFA). All the management responses generally agreed with the findings and recommendations in the report.

However, we would like to clarify some statements made in the management responses as follows:

### **1.0 5.3 Finding No. 3: No Certifications of payment requests made by the Designation Project Inspection Official (PIO) as required by the FMR.**

#### **1.1. Response by FSM DoFA:**

The head of Planning Office is designated as the Project Inspection Official and also the Allottee's official designee, who reviews and certifies inspection reports by staff in his office. We take note of your recommendation and we'll review our current processes to ensure thorough compliance inspection requirements.

#### **1.2. ONPA Evaluation:**

We evaluated the management response and decided to retain the finding based on the following:

There were no specific records or documentations indicating the necessary certification needed to be made by the designated PIO other than the usual supporting documentations for processing payment requests. ONPA feels that there should be some form of documentation by the designated PIO to confirm the verification that he had carried out. This also provides the assurance that he or she has certified the items to be purchased were in line with their intended purpose as per the appropriation law. This is to ensure accountability by the PIO on his role for the project.

### **2.0 5.2 Finding No. 2: Funds disbursed appeared not in compliance with applicable laws and regulations.**

#### **2.1. Response by Office of Planning and Budget (OPB), Yap Sate Government :**

We agree with the findings with some clarifications and will continue to practice due diligence in the implementation of public projects.

1. Because the designated PIO documented and approved on the PCD was on medical leave, a staff from OPB Division of Planning was tasked to conduct and sign off on the inspection. If allowed in the PCD guidelines OPB will put two PIOs in each project PCD in case one is sick and the project needs to continue.

2. An inspection report was sent verifying that the four villages were cleared before the 2nd installment payment was made. Photographs were taken of the sites at the time of inspection. The physical verification done by the Yap State counterpart took place months after which subsequently shows signs of growth in two of these villages.



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2.2 ONPA Evaluation:

We evaluated the management response and decided to retain the finding based on the following:

1. We maintain our position that there should have been some form of record or official written communication made by the Allottee with regards to any changes to person assigned the role of the PIO given the fact that the name was submitted in the PCD which had already been processed and approved by the FSM DoFA. Such a role is very critical and vital to the implementation of public projects given that the PIO is the eyes on the ground and the one who should be providing assurance that the public projects had been administered and implemented in accordance with applicable laws and regulations.

2. Based on the coordination efforts between FSM OPA and YAP OPA, we found that there were in fact two villages that were left incomplete in terms of the scope of work delineated in the contract agreement, as physically verified by the Yap State OPA staff. The photos provided to us and those that were used for payment requests were not adequate or meaningful enough to meet the conditions for payments as spelled out in the contract agreement. We felt that payments should have been held off until meaningful, adequate and clear evidence (photos) has been provided by the Allottee.

We were also informed that there was a delay involving the works for the other two villages that resulted in a request (by the Maap Water system officials) for an extension under some unclear circumstances. Additionally, the relieving PIO also informed us that the two villages had already started the necessary works required and were ongoing. However, we want to point out that that the payment installment had already been disbursed prior to our knowledge and understanding of the current status of the two villages that appeared to be incomplete and “ongoing” as updated by the relieving PIO during our enquiries. We therefore could not provide reasonable assurance that the required work for the two villages were actually completed prior to payments being made as required in the terms and conditions of the Contract Agreement.

**Office of the National Public Auditor**  
**COMPLIANCE ISSUES FOUND IN THE ADMINISTRATION AND IMPLEMENTATION OF CFMS PUBLIC**  
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**8.0 NATIONAL PUBLIC AUDITOR COMMENTS**

We would like to thank the management and staff of the FSM Department of Finance and Administration and the Allotees (Yap State Governor/Yap State OPB and COM-FSM Interim President) and their supporting staff that were involved in the administration and implementation of the public projects for their assistance and cooperation during the course of the inspection.

We also acknowledge the assistance of the management and staff of our Yap State counterpart (Yap OPA) for assisting us with physical inspection during the Covid-19 emergency and travel restrictions period that prevented us from carrying out the inspection ourselves.

We have provided copies of the final inspection report to the President and members of the FSM Congress, the Secretary of Finance and Administration and the Allotees of all the public projects appropriated for Yap State under Public Law 21-43 for their use and information. Furthermore, 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 to contact our office. Contact information for the office can be found on the last page of this report along with the National Public Auditor and staff that made major contributions to this report.



Haser H. Hainrick  
National Public Auditor

April 21, 2021

**Office of the National Public Auditor**  
**COMPLIANCE ISSUES FOUND IN THE ADMINISTRATION AND IMPLEMENTATION OF CFSSM PUBLIC**  
**PROJECTS FUNDED UNDER PUBLIC LAW 21-43 IN YAP STATE; KEY OFFICIALS KEEN TO MAKE IMPROVEMENT**  
**Inspection Report No. 2021 - 01**

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**9.0 ONPA CONTACT AND STAFF ACKNOWLEDGEMENTS**

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**ONPA CONTACT**                      Haser H. Hainrick, National Public Auditor  
Email: [hhainrick@fsmopa.fm](mailto:hhainrick@fsmopa.fm)

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**ACKNOWLEDGEMENTS**            In addition to the contact named above, the following staff made key contributions to this report:

Miriama Naivalu, Acting Audit Manager  
Brandon Rodriguez, Lead Inspector/Auditor-In-Charge  
Christopher Delcampo, Assistant Inspector/Staff Auditor

Management and staff of the Yap State Office of the Public Auditor:

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**REFERENCE**                            We do not own the rights of the picture on the cover page of this report and we acknowledge that it was obtained from [www.fsmssa.fm](http://www.fsmssa.fm)

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