



**STOP**

# **HUMAN TRAFFICKING**

**SELECTION AND PROJECT IMPLEMENTATION OF THE  
ANTI-HUMAN TRAFFICKING VICTIMS' SHELTER IN POHNPEI  
STATE WAS FOUND WITH ISSUES OF NON-COMPLIANCE  
AND TRANSPARENCY**

**Report No. 2022-02**



## FEDERATED STATES OF MICRONESIA

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June 17, 2022

His Excellency President David W. Panuelo  
Honorable Members of the 22<sup>nd</sup> Congress  
Secretary, Department of Justice, Allottee  
Federated States of Micronesia

RE: *Inspection of the Anti-Human Trafficking Shelter in Pohnpei State*

We have completed our inspection of the Anti-Human Trafficking victims' shelter in Pohnpei state following an anonymous complaint received at our office.

While we acknowledge the policy makers for enacting the FSM Trafficking in Persons Act of 2012; and the enormous efforts by the Department of Justice (DOJ) to ensure effective operations of its Division of Anti-Human Trafficking (AHT) thus far, we wish to make clear at this point that this inspection was carried out on the victims' shelter in Pohnpei state only in response to the complaint received. It does not cover the entire operations of the AHT program.

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 the following issues pertaining to the victims' shelter at Pohnpei state, including the administration and implementation of the relevant public laws PL21-42 (Victim Shelter and Services) and PL21-185 (Build Anti-Trafficking Shelters in Pohnpei, Yap and Kosrae) as appropriated by the FSM Congress:

1. Location of the victims' shelter in Pohnpei State does not promote confidentiality and safety;
2. Questioned costs worth \$48,476.98 relating to victims' shelter;
3. Allottee did not sufficiently describe in detail the plan for implementing and sustaining the AHT Shelter; and
4. DOJ did not complete the bidding process that it started and was not transparent in selecting the final contractor.

We have referred some of the issues to our Compliance Investigation Division (CID) for further review and evaluation.

As per our usual process, the management response and our evaluation of the same is also included in this final inspection report. We noted that most parts of the management response had deviated from the subject matter and included certain comments made against our office and our decision to act on the anonymous complaint. Therefore, we wish to reiterate our independent position that this inspection was made specifically on the victims' shelter at Pohnpei state as raised in the relevant complaint. This is merely a part of our mandated duty to the public. We reviewed the related appropriations, administration, expenditures, specific international guidelines, and decisions relating to the subject matter.

We hope that this report will not only be informative to the key stakeholders including the public, but most importantly that it would add value to the way the Allottee (DOJ) administers public funds as appropriated by Congress for programs that are highly sensitive in nature such as the victims' shelter for human trafficking.

Sincerely,



Haser Hainrick  
National Public Auditor

Xc: Vice President  
Secretary, Department of Finance & Administration

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**Selection and Project Implementation of the Anti-Human Trafficking Victims’ Shelter in Pohnpei State**  
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<b>Acronyms</b>	<b>Meaning</b>
\$	United States Dollar
AHT	Anti-Human Trafficking
AoA	Advice of Allotment
DoFA	Department of Finance and Administration
DOJ	Department of Justice
DTC&I	Department of Transportation Communications & Infrastructure
FMR	Financial Management Regulations
FSM	Federated States of Micronesia
IOM	International Organization for Migration
FY	Fiscal Year
PCD	Project Control Document
PL	Public Law
QSIE	Quality Standards for Inspection and Evaluation
SOP	Standard Operation Procedures
TIP	Trafficking in Person
UN	United Nations
UNODC	United Nations Office on Drugs and Crime
US	United States

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## **1. INTRODUCTION**

### **1.1 Reason/Impetus for the Assignment**

A concerned citizen raised a complaint pertaining to the selection of the building located in Kolonia town that currently serves as the anti-human trafficking (AHT) victims' shelter in Pohnpei State. We identified that relevant Congress appropriation of funds were made for "Victim Shelter and Services" and "Build Anti-Trafficking Shelters in Pohnpei, Yap and Kosrae as appropriated by the FSM Congress under PL 21-42 and PL 21-185 respectively. The complaint also raised allegations of conflict of interests between the Secretary of the Department of Justice and the owner of the building that was renovated and currently being leased by the FSM national government as the Anti-Human Trafficking victims' shelter and office in Pohnpei state.

## **2. BACKGROUND**

### **2.1 The FSM Trafficking in Persons Act of 2012**

The FSM Code Title 11, as amended by FSM Public Law 11-72, was further amended by Public Law 17-38 Section 2 to insert a new subchapter II under Chapter 6, entitled "Trafficking in Persons".

According to Section 615, Offense of human trafficking of the above, a person who knowingly recruits, transports, transfers, harbors or receives another person for the purpose of exploitation, by threat, use of force, abduction, fraud, deception, abuse of power or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person shall be guilty of human trafficking. Upon conviction, a person guilty of this offense shall be imprisoned for not more than 15 years, or fined not less than \$5,000 but not more than \$25,000, or both.

Furthermore, under Section 620 (2) (Rights of victims), the Secretary of the Department of Justice shall establish national guidelines and procedures for providing assistance to victims of trafficked persons and witnesses of trafficking in persons, including but not limited to:

- (a) ensuring that victims, witnesses, and their families are provided adequate protection if their safety is at risk, including measures to protect them from intimidation and retaliation by traffickers and their associates;
- (b) providing victims with the opportunity to present their views, needs, interests and concerns for consideration at appropriate stages of any judicial or administrative proceedings relating to the offense, either directly or through their representative, without prejudice to the rights of the defense;
- (c) where the victim is an unaccompanied child, providing for the appointment of a legal guardian to represent the interests of the child, taking all necessary steps to establish his or her identity and nationality, and making every effort to locate his or her family when this is in the best interest of the child;
- (d) where the victim is a national of the Federated States of Micronesia, facilitating and accepting the return of the victim without undue or unreasonable delay and with due regard for his or her rights and safety;
- (e) where the victim is not a national of the Federated States of Micronesia and requests to return to his or her country of origin or the country in which he or she had the right of permanent residence at the time he or she was trafficked, facilitating such

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return, including arranging for the necessary travel documents, without undue delay and with due regard for his or her rights and safety;

- (f) providing information to all victims on the nature of protection, assistance and support to which they are entitled and the possibilities of assistance and support by nongovernmental organizations and other victim agencies, as well as information on any legal proceedings related to them. Such information shall be provided in a language and form that the victim understands.

## **2.2 Division of Anti-Human Trafficking under the Department of Justice**

A Presidential Order dated September 16, 2019 further amended Executive Order No. 1 (April 2008) to reorganize and expand the duties and responsibilities assigned to the Division of National Police and to the Division of Immigration & Labor and formalize the establishment of the Anti-Human Trafficking Division of the Department of Justice.

The Division of Anti-Human Trafficking Services, headed by an assistant secretary designated by the Secretary of Justice, shall have the following duties and responsibilities:

- a. Investigate report and complaint involving possible case of trafficking in person or such other offenses relating to human trafficking;
- b. Coordinate with the National Police in investigating cases of human trafficking;
- c. Interview witnesses, gather evidence, and report to the Secretary of Justice on the progress of criminal investigation;
- d. Develop plans or training programs for investigators specializing in human trafficking investigations;
- e. Prepare, develop and recommend to the Secretary of Justice, programs for the protection of victims and witnesses of human trafficking cases and to support the establishment of shelters or homes for human trafficking victims;
- f. In relation to activities of combating human trafficking, coordinate with other public departments, agencies and offices of the national and state governments;
- g. Conduct public awareness campaigns on issues involving trafficking in person and human smuggling in coordination, where possible, with civil society and non-government organizations; and
- h. Perform such duties and functions as may be delegated by the Secretary of Justice.

According to the United Nations (UN) Office on Drugs and Crime (UNODC), Human Trafficking is the recruitment, transportation, transfer, harboring or receipt of people through force, fraud or deception, with the aim of exploiting them for profit. Men, women and children of all ages and from all backgrounds can become victims of this crime, which occurs in every region of the world. The traffickers often use violence or fraudulent employment agencies and fake promises of education and job opportunities to trick and coerce their victims. **(Source: United Nations Office on Drugs and Crime/UNODC on <https://www.unodc.org/unodc/en/human-trafficking/human-trafficking.html> )**

“Human trafficking involves the use of force, fraud, or coercion to obtain some type of labor or commercial sex act. Every year, millions of men, women, and children are trafficked worldwide..... It can happen in any community and victims can be any age, race, gender, or nationality. Traffickers might use violence, manipulation, or false promises of well-paying jobs or romantic

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relationships to lure victims into trafficking situations”<sup>1</sup>. ([Source: US Department of Homeland Security](#))

It is commendable to note the efforts by the FSM national government with the support of its key stakeholders that results in a well-maintained tier ranking worldwide. The Trafficking in Persons (TIP) Report, is an annual report issued by the [U.S. State Department's Office to Monitor and Combat Trafficking in Persons](#). It ranks governments based on their perceived efforts to acknowledge and combat human trafficking. Tier 1 ranking are for countries whose governments fully meet the TVPA's minimum standards for the elimination of trafficking while Tier 2 are those countries whose governments do not fully meet the minimum standards of the U.S Trafficking Victims Protection Act (TVPA) of 200 but are making significant efforts to bring themselves into compliance with those standards.<sup>2</sup>

Refer to [Appendix C](#) for the Tier Placement per the 2021 TIP report.

### **2.3 Budget**

The FSM Congress appropriated funds in the amount of \$100,000 under PL No. 21-42 to fund “**Victim Shelter and Services**” and \$150,000 under PL 21-185 to fund “**Build Anti-Trafficking Shelters**” in Pohnpei, Yap and Kosrae states.

## **3. OBJECTIVE, SCOPE AND METHODOLOGY**

### **3.1 Objective(s)**

The objectives of this inspection were:

- (i) To determine whether the selection of the Anti-Human Trafficking victims' shelters in Pohnpei State were in accordance with established processes within the FSM Department of Justice;
  - Sub-objective: To determine whether the victims' shelter at Pohnpei State met applicable international requirements and guidelines.
- (ii) To determine whether funds allocated for AHT shelter and other services were expended according to the intent of the appropriation laws.

### **3.2 Scope**

The inspection covered the AHT victims' shelter in Pohnpei state and implementation of the relevant laws and all expenditures related thereto.

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 as the following:

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<sup>1</sup> Source: <https://www.dhs.gov/blue-campaign/what-human-trafficking>

<sup>2</sup> Source: 2021 TIP report on <https://www.state.gov/wp-content/uploads/2021/09/TIPR-GPA-upload-07222021.pdf>

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

### **3.3 Methodology**

This inspection was conducted in accordance with the Council of the Inspectors General on Integrity and Efficiency’s *Quality Standards for Inspection and Evaluation*.

Fieldwork was conducted at the Division of Anti-Human Trafficking, Department of Justice (DOJ), and the FSM Department of Finance & Administration (DoFA). Physical inspection of victims’ shelter was conducted in Kolonia town, Pohnpei State. We interviewed the Assistant Secretary for the Division of Anti-Human Trafficking. We also reviewed criteria pursuant to the U.N Handbook for Parliamentarians on Combating Trafficking in Persons and the International Organization for Migration (IOM) Handbook on Human Trafficking. Regarding expenditures on the Anti-Human Trafficking Shelters, we reviewed 100% of all expenditures posted on relevant accounts for the subject appropriation laws on Anti-Human Trafficking victims’ shelters.

Inspection procedures include analyzing appropriation laws, advice of allotments, project control documents (PCD), and expenditure reports. Accordingly, we reviewed contracts, lease agreements, obtained assistance in understanding the building plans, reviewed bidding documents and interviewed the engineers involved in designing the building plans. We also took photos and searched for online photos of the external surroundings of the subject building used as victims’ shelter.

## **4. LIMITATION**

The team faced the following challenges during the inspection:

- a) We could not carry out some procedures due to lack of cooperation from the Assistant Secretary for the Division of Anti-Human Trafficking Services who:
  - i. did not respond to our request to sign the record of discussion (ROD/Meeting Minutes) from the interview carried out by the auditors. Several emails and calls were made but no response was received on this (even after his return from duty travel); and
- b) There were delays as there were no response from the Assistant Secretary of the Division of AHT to our initial requests to inspect the AHT shelter as well as the vehicles. (the inspections were carried out later into the project with the assistance of the Coordinator at Pohnpei state)
  - i. did not respond to our initial requests to inspect the inside of the AHT shelter;
- c) We could not verify the actual steps taken by FSM DOJ to identify and select the current AHT office and shelter due to absence of documentation.

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**5. PRIOR INSPECTION/AUDIT COVERAGE**

This is the first inspection on the Anti-Human Trafficking at the FSM National level.

**6. CONCLUSION**

Based on our inspection, we concluded that the building that was selected to be the AHT shelter in Pohnpei State did not meet international guidelines that were also not captured as part of the Standard Operating Procedures/SOP for the Division of Anti-Human Trafficking. We also found non-compliance to certain appropriation laws on the funding of the victims' shelter.

Below is a summary of our findings:

- (i) Location of the Victims' shelter in Pohnpei state does not promote confidentiality and safety;
- (ii) Questioned costs worth \$48,476.98 relating to Victims' shelter;
- (iii) Allottee Did not sufficiently describe in detail the plan for implementing and sustaining the AHT Shelter; and
- (iv) FMR requirements for rejecting bids were not followed and process for selecting the contractor was not transparent.

The results of this inspection relating to findings and recommendations are discussed in detail in the following pages.

## **7. FINDINGS AND RECOMMENDATIONS**

### **7.1 Finding 1: Location of the Victims' Shelter in Pohnpei State Does Not Promote Confidentiality and Safety**

#### **FSM Public Law:**

*According to Section 620 (2) (Rights of victims) of FSM Public Law 17-38, the Secretary of the Department of Justice shall establish national guidelines and procedures for providing assistance to victims of trafficked persons and witnesses of trafficking in persons, including but not limited to:*

*(a) ensuring that victims, witnesses, and their families are provided adequate protection if their safety is at risk, including measures to protect them from intimidation and retaliation by traffickers and their associates;*

#### **IOM Handbook on Direct Assistance for Victims of Trafficking**

Pursuant to Chapter 4, 4.1 (Establishment of the Shelter) of the International Organization for Migration (IOM) Handbook on Direct Assistance For Victims Of Trafficking<sup>3</sup>, *all shelters should aim for the following:*

- 1) Adequate, safe and secure temporary living environment for victims of trafficking*
- 2) Adequate, safe and secure working environment for shelter staff*
- 3) Facilitate stabilization of the victim to prevent further harm and enable maximum recovery*
- 4) Well-trained staff working in a collaborative, interdisciplinary manner to provide a comprehensive continuum <sup>4</sup>of care for victims*
- 5) Quality protection and assistance to victims based on individualized case service plans*
- 6) Operate effectively and efficiently within counter-trafficking victim assistance and protection frameworks in various countries and regions*

#### **FSM Financial Management Regulation (FMR)**

According to the FMR Section 5.1.5. Contractual Obligations 1) *Government funds may be obligated pursuant to a contract only if the contract, including all modifications and amendments thereto: d) Each page is initialed by the Allottee and the contractor (third party)...*

In addition, the FSM FMR Section 6.1 (4) *Public sector officials must aim to ensure that all FSM Government purchases meet the basic procurement principles of:*

*a) accountability-public entities should be accountable for their performance and be able to give complete and accurate accounts of how they have used public funds.*

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<sup>3</sup> Source: <https://publications.iom.int/books/iom-handbook-direct-assistance-victims-trafficking-0>

<sup>4</sup> Continuum: a range or series of things that are slightly different from each other and that exist between two different possibilities. Source: [Merriam Webster](https://www.merriam-webster.com/dictionary/continuum)

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*b) openness- public entities should be transparent in the administration funds. This will support accountability, promote clarity, and shared understanding of respective roles and obligations between entities and external parties entering into funding arrangements.*

*e) fairness- public entities have a general public law obligation to act fairly and reasonably. Public entities must be, and must be seen to be, impartial in their decision making.*

*f) Integrity-anyone who is managing public resources must do so with the utmost integrity. The standards applying to public servants and other public employees are clear, and public entities need to make clear when funding other organizations that they expect similar level of conduct from them.*

During our interview with relevant officials at the Department of Justice (DOJ) and observations, we found that an existing building was selected, leased and renovated in Kolonia town to serve as the office for the AHT Division as well as part of it to serve as the victims' shelter in Pohnpei state.

We noted the following issues in regards to the building that was selected by the FSM DOJ for a 5-years lease term and for renovations in order for it to serve as the office and shelter (safe haven) for victims of human trafficking in Pohnpei State:

1. The location of the building does not appear confidential and secured as it is located in one of the busiest road intersections in Kolonia town and right along the main Kaselehlie street (that is mostly subject to heavy traffic and noise). Refer to Pictures 2-4. The victims' shelter can be easily accessed (due to absence of fencing) and is clearly visible to the general public (Refer to Picture1).

In addition, we interviewed the former Assistant Secretary of AHT division who stated that she would not have recommended the current location for the AHT Division's office and victims' shelter;

2. No transparency in the selection process of the victims' shelter as there was no documentation provided to show evidence of queries made on available properties, documentation of other properties identified as well as the selection and approval process of the building that now serves as the AHT office and victims' shelter in Pohnpei.



**Picture 1:**Renovated building that houses the office for the FSM DOJ's Division of AHT and Victims' shelter (now painted blue). **Source:** ONPA



**Picture 2:** Division of AHT office and victims' shelter is subject to the daily traffic at the road intersection in the main Kaselehlie street of Kolonia Town, Pohnpei. **Source:** ONPA

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We interviewed the Assistant Secretary for the AHT Division and also sent him follow-up questions (including the request for support documents on email) which were never answered. Additionally, our attempts to get the completed questionnaire signed was unsuccessful; and

3. The formalization of the Lease Agreement (term of 5 years) that was developed by the FSM DOJ appears questionable and lack some compliance to the FMR. Our observations are listed below:
  - a) No declaration of relationship was filed when the Secretary of DOJ who is the Allottee (as well as the Contract Officer) of these appropriated funds has family relations with the Lessor/Landlord. While the family relationship does not meet the definition of “family member” per the FSM Code Title 11 Chapter 5 Subchapter II (Public Officials Code of Conduct) for it to be subject to law on Conflict of Interest (Section 512), the FMR requires “openness and transparency” in the administration of public funds.
  - b) The basis and methods of calculating the quarterly rent amount of \$2,682.05 is not filed for transparency and reference purpose; and
  - c) The lease agreement had been signed for legal sufficiency by staff of DOJ even though it was incomplete with missing initials (of the lessee and lessor) on each page of the Lease Agreement as required in the FMR Section 5.15(1)(d).



*Picture 3: An old photo showing heavy traffic and location of the current victims' shelter (circled in the picture). Source: [Online](#)*



*Picture 4: An ariel view of part of the Kaselehlie street, and an arrow is pointing at the location of the building that now houses the AHT office and victim's shelter. Source: [Online](#)*

More pictures of the AHT office and victims' shelter are in [Appendix A](#).

#### **7.1.1. Cause(s):**

1. For the AHT shelter:
  - a) The selection of the location and building was made without following any relevant international guidelines that emphasizes confidentiality and security of venue (such as the [Support Responses](#) to Common Reactions to Trafficking in a Service Setting as recommended by the IOM);
  - b) There was no available government property for the use of the AHT division office and victim's shelter in Pohnpei (based on the DOJ's enquiries at the land tenure). There was no documentation provided to prove the enquiries and search made for land or buildings;
2. For the lack of transparency in the selection process of the victims' shelter:

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- a) The Standard Operating Procedures (SOP) 2018 for the AHT Division does not contain guidelines pertaining to selecting appropriately safe, secured and suitable shelters for victims of human trafficking that are aligned to international guidelines (such as IOM guidelines); and
  - b) The SOP does not contain any guidelines on proper documentation of internal processes and filing of decisions made within and for the Division (only procedures for documentation of investigation and victim assessments are captured in the SOP); and
3. Basic requirements of the FMR (in regards to basic procurement principles of accountability and openness) were overlooked by relevant staff in DOJ that were involved in the administration of the Lease Agreement.

**7.1.2. Effect(s):**

1. Possible legal implications and unprofessional services provided that do not support the rights, protection and stability of victims of human trafficking:
  - a) Victims (who would be in a state of fear, insecurity, anxiety, mistrust of others/self, low self-esteem, self-blame, shame and anger towards others) will not feel safe and protected in a location that is publicly exposed and not confidential and secured, as recommended in the list of [Supportive Responses](#) that is in the IOM Handbook on Direct Assistance For Victims Of Trafficking.
  - b) Violation of the rights of victims as they would not be protected from intimidation and retaliation by traffickers and their associates as required by Law (Section 620 (2)(a) of FSM Public Law 17-38);
2. Inconsistent practices/decisions that may be based on favoritism within the DOJ due to absence of documented procedures that are aligned to leading practices, no future reference on how and why the building was selected to be the victims' shelter and there will be no accountability when problems relating to the building or the victims arise in the future; and
3. Ethical and Professional reputation of the FSM DOJ and the FSM National Government is negatively affected as can be seen in the anonymous complaint (raising issues of conflict of interest) that initiated this inspection by the ONPA.

Therefore, we are referring this matter for further review by our Compliance Investigation Division (CID).

**7.1.3. Recommendation(s):**

The Secretary of DOJ should:

1. Review the location of the building in Kolonia town, Pohnpei and ensure that the selected building for victims' shelter is safe, confidential (especially from the general public) and secured as recommended in the IOM guidelines; so that it effectively provide protection to victims of trafficking in persons as required by FSM Public Law 17-38 (Section 620 (2)(a));
2. Initiate a review of the SOP's by:
  - a) Seeking advice from international organizations that are based in FSM (such as IOM) and take steps to adopt and update the SOP's using relevant international standards / guidelines pertaining to victims shelters and other direct assistance for victims of trafficking in persons; and

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- b) Developing and implementing clear processes and procedures for Records Management that includes maintaining complete and accurate documentation and filing within the Division of AHT (including the filing of the support documents for the selection and approval of victims' shelter nationwide); and
3. Take corrective actions by:
- a) Documenting his declaration of his family relations with the lessor/owner of the leased building;
  - b) Document and file for transparency and reference purpose the basis and calculation of the quarterly lease rent amount of \$2,682.05; and
  - c) Amend and complete the lease agreement by placing the initials of the Lessee and Lessor on each page;

**7.2 Finding 2: Questioned Costs worth \$48,476.98 relating to Victims' Shelter**

Pursuant to FSM Public Law 21-42 (Section 9(5)(b) on Victim shelter and services of \$100,000) and the relevant Project Control Document (PCD) Reference No. A1-53-20-92-02043-20 Part II-C. Description of Project/Expected Project Outputs: *Expected output for the anti-Human Trafficking Victims Services project is that identified victims of human trafficking will receive services that include shelter, protect, medical services psychological services, as well as other support services as identified to assist victims. A major part of the project is to establish a services facility where all victims' needs will be provided for. On occasion AHT staff will have to travel to various states and lagoon or outer islands to provide victim services or arrange for mental health or health care professional to visit victims.*

*According to FSM Public Law 21-185 Section 9. (Capital and Human Resources Development) (5)(h), a total of \$150,000 was intended to be used by the Department of Justice to "Build Anti-Trafficking Shelters in Pohnpei, Yap, and Kosrae".*

Under Part III-A. Proposed Implementation of the above mentioned PCD – The Shelter Services include but not limited to the following:

- Shelter and Office lease
- Personnel or contract
- Food
- Security
- Communication
- Utilities for shelter
- Supplies
- Medical and social services
- Transportation
- Social reintegration
- Other incurred costs

Additionally, according to the FSM Congress appropriation made on Public Law 21-185 (Section 9(5)(b) on Victim shelter and services of \$150,000) and the relevant PCD Reference No. A1-53-20-92-02058-21 under Part II-C: *The victim shelter is for recovery of the victims in order for them to be released into the society and be productive citizens. In some cases, the family of the victims could be the perpetrators and that the victims will not be able to go back to them and stay with them until they are fully recovered. The shelter will serve as a safe haven for the victims to recover before they go back to their families. Funds will be used for the necessary need of the shelters (Office Furniture, chairs, desks, bed, table, etc.)*

The following issues were found during our review of the expenditure reports and relevant documents such as Project Control Document/PCD, Advice of Allotment/AoA:

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1. For the FSM **Public Law 21-42 Section 9(5)(b) on Victim Shelter and Services**, certain disbursements below totaling **\$6,753.88** were made in Pohnpei but were not related to the intended purpose of the appropriation law. Summary of these disbursements is in Table 2 below.

**Table 2: Summary of questionable expenditures that were not related to Victims' shelter:**

Expense type	Total Amount (\$)	Check No.	Check Date	Check Amount (\$)	Audit Remarks:
<b>Food</b>	<b>5,886.00</b>	976614	07/02/20	476.50	<ul style="list-style-type: none"> <li>Victims' shelter funds were used for buying food for the closing ceremony for an unidentified training held sometimes in October 2019 (based on the vendor's invoice) with the request for Miscellaneous payment made on May 20, 2020 – over 6 months after the training took place.</li> <li>FSM Finance had initially returned the request for payment to FSM DOJ and asked for the submission of Ratification on 06/23/2020. No copy of the ratification provided by DOJ was found in the filing by Finance while payment had been made in October 2020.</li> </ul>
		982201	10/06/20	2,400.00	<ul style="list-style-type: none"> <li>Use of Victims' Shelter funds for payment of food for the 2<sup>nd</sup> Annual Anti-Human Trafficking Conference (Sept 28-Oct 01, 2020).</li> <li>The public law was for the purpose of sheltering and servicing the victims of human trafficking and not for conference.</li> </ul>
		982224	10/06/20	3,009.50	
<b>Insurance fees for payroll</b>	<b>867.88</b>	N/A	N/A	N/A	<ul style="list-style-type: none"> <li>Payroll summary for unknown/unidentified personnel being charged here.</li> <li>Rightfully, the payroll for AHT staff were part of the implementation plans as recorded in the PCD for a separate Appropriation Law PL21-42 Section 9(5)(a) titled as <i>AHT enforcement, Campaign and Investigation</i>.</li> </ul>
<b>Total</b>	<b>\$6,753.88</b>				

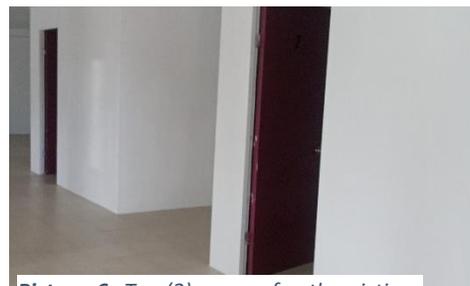
2. For the FSM **Public Law 21-185 "Build anti trafficking shelters in Pohnpei, Yap, Kosrae"**, we found two (2) payments totaling \$5,364.10 were made for leasing the selected building (shelter) in Pohnpei state; when in fact, the Public Law 21-185(9)(5)(h) required them to "build Anti-Trafficking Shelters".

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We also found that the DOJ had renovated the same building at a cost of \$36,359.00 (using appropriated funds from FSM **Public Law 21-42 on "Victim shelter and services"**) and is currently leasing the same building (Rental amount of \$2,682.05 per Quarter for a term of 5 years). The total questioned costs for the shelter are **\$41,723.10** (expended amount) as shown on [Table 3](#) below). We made attempts to inspect the building but all were unsuccessful until months later while the draft of this report was being finalized. Our verification found some areas of the victims' shelter appeared to have been built with low quality; which would be due to limited funding. More photos are provided in [Appendix B](#)



*Picture 5: Tap and Outlet for the victims' bathroom built with poor quality.*



*Picture 6: Two(2) rooms for the victims. Source: ONPA*

We have calculated that for the five (5) years of the lease contract alone, the contract cost for the shelter alone (excluding expenditures on furniture, supplies etc.) would be \$90,000.00.

**Table 3:** Summary of funding expended (\$41,723.10) on renovation and leasing the same building as well as the total Contract amount (\$90,000) for the Lease after the end of the 5 years lease term

FSM Appropriation Law and Amount	Project Implementation	Amount Expended (\$)	Project Account code	Contract Amount (\$)	Remarks
PL 21-42 Section 9(5)(b) Victim shelter and services \$100,000	Construction – renovation work paid by FSM Government on a private property	28,000.00	02043	36,359.00	Contract – renovation of existing building.
Same PL as above but different Section 9(5)(a) on Anti-Human Trafficking Enforcement, Campaign & Investigation \$125,000		8,359.00	02055		
PL 21-185 Section 9(5)(h) Build Anti-Trafficking Shelters in Pohnpei, Kosrae, Yap \$50,000	Leasing of the renovated building above	5,364.10 <sup>5</sup>	02058	53,641.00 <sup>6</sup>	Contract – 5 years for leasing the building
<b>TOTAL</b>		<b>\$ 41,723.10</b>		<b>\$ 90,000.00</b>	

Key: PL=Public Law

**7.2.1 Cause(s):**

1. On the questioned costs;
  - a) The Allottee (Secretary of FSM DOJ) approved for use of funds for purposes other than the intended purpose for Victim Shelter and services;

<sup>5</sup> Lease rental paid already for the first 2 Quarters (Lease rental is \$2,682.05 per Quarter).

<sup>6</sup> Lease contract amount for the 5 years lease term (equivalent to 20 Quarters)

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- b) The Secretary, Department of Finance & Administration or his designee disbursed funds allocated to Human Trafficking Shelter and Services without:
  - i. verifying the PCD first to understand the purpose of the project and the implementation plans; and
  - ii. consulting with DOJ or Division of Anti-Human Trafficking the existence of victims at the human trafficking shelter in Kolonia, Pohnpei State; and
- 2. DOJ stated that the issue was caused by funding limitation as only \$50,000 was approved out of the proposed \$150,000 for Pohnpei State victims' shelter while there was no submission made to request for additional funding. (Note: we had verified the law and confirmed that it did not specify that the \$150,000 appropriation was to be shared equally for the victims' shelter for the three (3) States of Pohnpei, Kosrae and Yap).

**7.2.2 Effect(s):**

- 1. Impact on the AHT victims' shelter and services through:
  - a) Shortage of funds for the AHT victims' shelter and intended purpose not met as it's being used for other purposes such as food for trainings (\$5,886.00).
  - b) An amount of \$6,753.88 had been disbursed under the project without any victims being sheltered yet in Pohnpei state and while the victims' shelter is still being renovated;
  - c) Protection of and programs for victims of trafficking in persons may not be useful due to poor services by the government that is attributed to lack of/misused funds.
- 2. Effects of not "building" but renovating and leasing an existing building:
  - a) An amount of \$41,723.10 had been expended for leasing and renovating an existing building instead of building a new one and the total amount would be about \$90,000 after 5 years;
  - b) More funding would be required to use the same building (that had been renovated by the Government) after the 5 years lease term expires;
  - c) Double funding may be required to find a new building or new location to build a property in the event the Lessor does not renew the lease agreement after 5 years (leaving the lessor with a renovated/higher valued private property that was renovated using Government's public funds).

**7.2.3 Recommendation(s):**

**The Secretary of DOJ or the Assistant Secretary (Division of AHT) should:**

- 1. Provide justifications on the questioned costs above.
- 2. Take correction steps below:
  - a) Either request for additional funding to meet the costs of building a new and appropriately secured and confidential victims' shelter that does not require leasing; or
  - b) Request for the amendment of the relevant FSM Public Law 21-85 (Build anti trafficking shelters in Pohnpei, Yap, Kosrae) to use a word that could also mean to "build" a new building structure as well as "improve/renovate" and "lease" and existing building; and

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- c) Properly spend funds allocated to Victim Shelter and Services” and “Build Anti-Trafficking Shelters in Pohnpei, Yap and Kosrae as appropriated by the FSM Congress under PL 21-42 and PL 21-185.

**The Secretary of Finance or his designee should:**

1. Take disciplinary actions on those staff that were involved who had failed to consult with DOJ or the Division of Anti-Human Trafficking prior to allotting and disbursing funds that were appropriated by law for the anti-human trafficking shelter to ensure that correct accounts are affected in line with the appropriation law and the PCD submitted.

**7.3 Finding 3: Allottee Did not sufficiently describe in detail the plan for implementing and sustaining the AHT Shelter**

Section 5 of Part V (Justification for Approval) of the Project Control Document (PCD) requires the Allottee to describe in detail the “plan of operation” for the project. This is an important aspect of the PCD as it justifies and provides the basis for apportioning the appropriated funds based on the detailed plan for implementing the project. It helps to allocate the funds in the relevant budget sub-categories as listed in the PCD (personnel, travel, consumables, contractual and fixed assets). Moreover, having a plan prior to the implementation of any project and prior to the release and use of public funds is vital for ensuring value for money.

The following issues were found when we considered and assessed the planning aspects of the project (Victim Shelter and Services):

1. The original and the amended PCDs were approved by DoFA (Division of Budget) even though the Allottee did not describe the plan of operation, maintenance and sustainment of the project after completion as required in Part V (Section 5) of the PCD. This puts the public funds in a risky and vulnerable situation. As the saying goes *“failing to plan is planning to fail”* (Benjamin Franklin).
2. Various PCD amendments were made by the FSM DOJ that led to use of funds for other purposes that were not in line with the intention of the appropriation law and we noted that one of the PCDs was amended and approved by FSM Finance Division of Budget after the expenses had been incurred and payment already made by FSM Finance Division of Treasury.

For instance, on **FSM Public Law 21-42 Section 9(5)(b) - \$100,000 (for Victim Shelter and Services)**, the following amendments were made to the PCD (prepared by FSM DOJ) and relevant Advice of Allotment/AoA (prepared by FSM Finance-Division of Budget).

**Table 4: Summary of amendments made to the PCD prepared by FSM DOJ and relevant Advice of Allotment prepared by FSM Finance**

PCD amendment	Date	Change in the Advice of Allotment	Justification in the Advice of Allotment	Audit Remarks
Original	10/23/2019	N/A Original	N/A – this is the original PCD	Proposed implementation of the project (per the PCD) included

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PCD amendment	Date	Change in the Advice of Allotment	Justification in the Advice of Allotment	Audit Remarks
		Travel: 10,000 CG: 35,431 CS: 54,569 <u>Total: \$100,000</u>		for Shelter and Office lease, Personnel or contract, Food, Security, Communication, Utilities for shelter, Supplies, Medical and social services, transportation, Travel, Other incurred costs
1 <sup>st</sup> amendment	05/05/2020	Travel: 5,000 CG: 15,431 CS: 54,569 <b>FA: 25,000</b> <u>Total: \$100,000</u>	Reprogram \$5,000 out of Travel and \$20,000 out of Consumable Goods into Fixed Assets in the amount of \$25,000	The Proposed implementation of the project (per the PCD) was also amended to include purchase of vehicles for the AHT program.
2 <sup>nd</sup> amendment	11/18/2020	None	To amend the description of the PCD to also include FSM Anti-human trafficking office building along the scope of work .... Note that this allotment will provide additional support to Account A1-53-20-92-02055-20.  ( <u>Audit note:</u> This account is for Anti-Human Trafficking Enforcement, Campaign and Investigation project that is mandated in the same section of the same public law but on a different line item- Section 9(5)(a)).	The Proposed implementation of the project (per the PCD) was amended and approved by Secretary of DOJ on 11/10/2020 after the expenses had already incurred (The check was dated in July and October 2020 – refer to <a href="#">Table 2</a> for the Food expenses). This PCD amendment was then made to include Opening/Closing ceremony, refreshment etc. (Note: event name is not stated). The public law 21-42 Section 9(5)(b) project was for Victim Shelter and Services while the FSM DOJ spent the funds for training events. Overall lack of proper planning and implementation is noted.

**Key:** PCD=Project Control Document, CG=Consumable Goods, CS=Contractual Services, FA=Fixed Assets

**7.3.1 Cause(s):**

1. The DoFA, particularly the Division of Budget, did not properly review the original and the amended PCDs. They did not ensure that these control documents were sufficiently prepared and justified through detailed plans to assure that project implementation would be in line with the intended purpose of the appropriation law, including the FMR and the PCD requirements, before issuing the amended Advice of Allotment (AoA).
2. The DOJ failed to completely plan the projects and:
  - a) to include “purchase of vehicles” prior to submitting the PCD for Victim Shelter and Services project; and
  - b) instead used funds for Victim shelter and services to pay for food for trainings.

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**7.3.2 Effect(s):**

1. Impact on the AHT program after 5 years when the lease agreement expires and in case the Landlord does not renew the lease agreement (Landlord/Lessor will be on the winning side as she would be left with a much improved/higher valued property while the Government has to start again from the beginning to find another building to lease or space to build); and
2. Actions regarding project implementation become more vulnerable to misuse and noncompliance with applicable guidelines and the project (such as Victim Shelter and Services – a program that must continue indefinitely) may not fully achieve its intended purposes and objectives.

**7.3.3 Recommendation(s):**

**Secretary of the DoFA should:**

1. Identify and provide relevant re-fresher trainings for:
  - a) the Allottee and the relevant staff (e.g., the Admin Officer) of the responsible department (DOJ) on the preparation, review and approval of the PCD, specifically in the area of proper justifications which include describing the detailed plan (activities and costings) for implementing, maintaining and sustaining the project; and
  - b) the Division of Budget on preparation and approval of the AoA;
2. Bar the Allottee until he is sufficiently trained on the planning of project implementation, preparation and thorough reviewing of the PCD including his role of providing adequate justifications (including planning of all project activities and costings).

**Secretary of the DOJ should**

1. Properly plan future projects and ensure to use public funds according to the intention of the law; and
2. Prioritize the completion of the victims' shelter and its facilities instead of spending Congress appropriated funds for other uses (such as food for the conferences) whenever the need arises.

**7.4 Finding 4: DOJ did not Complete the Bidding Process that it Started**

Pursuant to the Financial Management Regulations (FMR) version of February 2019:  
Subpart 6.2.14. Bidding panel's discretionary powers:

- c) In the selection of the 'lowest responsible' bidder, the bidding panel must:*
  - a) If the lowest bid is rejected, accept the next lowest remaining responsible bidder or advertise anew for bids pursuant to these regulations;*
  - b) If two or more bids are the same and lowest, award the contract to the better qualified bidder, based on the criteria stated in the call for sealed bids; and*
  - c) Negotiate with the chosen responsible bidder, and only with that bidder, to reduce the PRICE of work and to award the contract at a price which reflects the negotiated reduction.*
- d) Any or all bids maybe rejected if there is a sound documented reason*

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In addition, the FSM FMR Section 6.1 (4) *Public sector officials must aim to ensure that all FSM Government purchases meet the basic procurement principles of:*

- a) accountability- public entities should be accountable for their performance and be able to give complete and accurate accounts of how they have used public funds.*
- b) openness- public entities should be transparent in the administration funds. This will support accountability, promote clarity, and shared understanding of respective roles and obligations between entities and external parties entering into funding arrangements.*

Based on our interview of relevant staff of the FSM Department of Department of Transportation Communications & Infrastructure (DTC&I), we learned that the DOJ had verbally requested DTC&I to initiate and put together an advertisement for bid for the renovation of the human trafficking shelter in Kolonia, Pohnpei, based on a proposed budget of around \$98,000.

After the bidding was completed, DTC&I submitted a list of competitive bidders including bidding files to DOJ for review. There were four (4) competitive bidders that submitted their bids to DTC&I. Among the four bidders there was a lowest bidder; however, DOJ rejected the lowest bidder too based on budget limitation.

Overall, we found lack of transparency in documenting and justifying the rejection of bids and selection of a new contractor considering that DOJ had initiated the bidding process when it made a request to DTC&I. DOJ had rejected all the bidders without filing any documentation to justify the reason for rejecting all the bidders (as required in the FMR Subpart 6.2.14(3)).

**7.4.1 Cause(s):**

Negligence resulting in non-compliance to the FMR (DOJ employees should be well versed with any approved FSM Regulation).

**7.4.2 Effect(s):**

Possible future legal implications and bad reputation on the DOJ (representing the FSM National Government) that should rather be:

1. promoting compliance to FSM laws and regulations; and
2. ensuring complete documentation for future reference (e.g., for future decisions and possible legal cases).

**7.4.3 Recommendation(s):**

Secretary of DOJ should:

1. Refer and comply to the requirements of the FMR in regards to the complete bidding process and in future should provide a documented justification for rejecting the bid proposals submitted for their review and approval; irrespective of whether the bid amounts were within or more than the appropriation amount.
2. Refer and comply to the requirement of the FMR on basic procurement principles of accountability and openness when administering public funds now and in the future.

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**8. APPENDIX:**

**Appendix A: More Inspection Photos**

External photos of the AHT Victims' shelter in Kolonia town, Pohnpei state. Purpose: To show that it is located right along one of the town's busiest road intersections that is normally subject to heavy traffic (now and in the past as shown in the old photos below). The subject building (or its location) is identified below by red arrows and circles.



Source: ONPA



Source (old video): [Online](#)



Source: ONPA



Source: ONPA



Source [(old photo)]: [Online](#)



Source: [Online](#)

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**Appendix B: Photos from the interior of the AHT Victims' shelter in Pohnpei state**



*Living room*



*Meeting room*



*Hand basin (Appears to have been done anyhow without proper outlet)*



*Toilet and bathroom - shared by victims and staff*



*Basement of the building*



*Window has shutters overlooking the main street in Kolonia town*

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**Appendix C: Tier Placements in the 2021 TIP Report**

Over the past 5 years (2017-2021), the FSM has maintained its placement in the Tier 2 ranking. This is a commendable standing as, pursuant to the TVPA, governments of countries on Tier 3 may be subject to certain restrictions on foreign assistance. The 2021 TIP report has highlighted some observations for improvement such as: *“the government did not meet the minimum standards in several key areas. The government remained without comprehensive standard operating procedures (SOPs) for proactive victim identification and referral to protection services. Courts continued to issue lenient sentences to convicted traffickers, creating potential safety problems for trafficking victims, weakening deterrence, and undercutting nationwide efforts to fight trafficking. Overall protection services and training for law enforcement and judicial officials continued to be insufficient. Unlike the previous year, the government did not report allocating funding to victim services”.*

Prior to 2017, FSM has maintain its placement at the Tier 2 ranking except in 2011 where it was ranked as Tier 3 and in the years 2010, 2012 and 2013 where it was ranked as Tier 2 (watch list):

**Figure 1: FSM's Tier Ranking from years 2010-2017**



Source: 2017 Trafficking in Person (TIP) report issued by the U.S Department of State

(Source: TIP Report 2021 issued by the U.S Government of State)

**TIER 1**

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ARGENTINA	CANADA	FRANCE	NAMIBIA	SWEDEN
AUSTRALIA	CHILE	GEORGIA	NETHERLANDS	TAIWAN
AUSTRIA	COLOMBIA	GUYANA	PHILIPPINES	UNITED KINGDOM
BAHAMAS, THE	CZECH REPUBLIC	KOREA, SOUTH	SINGAPORE	UNITED STATES OF AMERICA
BAHRAIN	ESTONIA	LITHUANIA	SLOVENIA	
BELGIUM	FINLAND	LUXEMBOURG	SPAIN	

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**TIER 2**

ALBANIA	ECUADOR	JORDAN	MOZAMBIQUE	SEYCHELLES
ANGOLA	EGYPT	KAZAKHSTAN	NEW ZEALAND	SIERRA LEONE
ANTIGUA AND BARBUDA	EL SALVADOR	KYRGYZ REPUBLIC	NIGER	SLOVAK REPUBLIC
ARMENIA	ESWATINI	KENYA	NIGERIA	SOLOMON ISLANDS
BANGLADESH	FIJI	KOSOVO	NEPAL	SUDAN
BENIN	GABON	KUWAIT	NORTH MACEDONIA	SURINAME
BOLIVIA	GERMANY	LAOS	NORWAY	SWITZERLAND
BOSNIA AND HERZEGOVINA	GHANA	LATVIA	OMAN	TAJIKISTAN
BOTSWANA	GREECE	LEBANON	PANAMA	TOGO
BRAZIL	GUATEMALA	MADAGASCAR	PARAGUAY	TUNISIA
BULGARIA	HONDURAS	MALAWI	PERU	TURKEY
CABO VERDE	HUNGARY	MALDIVES	POLAND	UKRAINE
CENTRAL AFRICAN REPUBLIC	ICELAND	MALTA	PORTUGAL	UNITED ARAB EMIRATES
CONGO, REPUBLIC OF THE	INDIA	MAURITIUS	QATAR	URUGUAY
COSTA RICA	INDONESIA	MEXICO	RWANDA	UZBEKISTAN
COTE D'IVOIRE	IRAQ	MICRONESIA	SAINT LUCIA	VANUATU
CROATIA	ISRAEL	MOLDOVA	ST. VINCENT AND THE GRENADINES	
CYPRUS	ITALY	MONGOLIA	SAUDI ARABIA	
DENMARK	JAPAN	MONTENEGRO	SERBIA	
DOMINICAN REPUBLIC	JAMAICA	MOROCCO		

**TIER 2 WATCH LIST**

ARUBA	CAMEROON	HAITI	PALAU	TONGA
AZERBAIJAN	CHAD	HONG KONG	PAPUA NEW GUINEA	TRINIDAD AND TOBAGO
BARBADOS	CONGO, DEMOCRATIC REPUBLIC OF THE	IRELAND	ROMANIA	UGANDA
BELARUS	CURAÇAO	LESOTHO	SENEGAL	VIETNAM
BELIZE	DJIBOUTI	LIBERIA	SINT MAARTEN	ZAMBIA
BHUTAN	EQUATORIAL GUINEA	MACAU	SOUTH AFRICA	ZIMBABWE
BRUNEI	ETHIOPIA	MALI	SRI LANKA	
BURKINA FASO	GAMBIA, THE	MARSHALL ISLANDS	TANZANIA	
BURUNDI	GUINEA	MAURITANIA	THAILAND	
CAMBODIA		PAKISTAN	TIMOR-LESTE	

**TIER 3**

AFGHANISTAN	COMOROS	IRAN	RUSSIA	VENEZUELA
ALGERIA	CUBA	KOREA, NORTH	SOUTH SUDAN	
BURMA	ERITREA	MALAYSIA	SYRIA	
CHINA	GUINEA-BISSAU	NICARAGUA	TURKMENISTAN	

**SPECIAL CASE**

LIBYA	SOMALIA	YEMEN
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**Appendix D: Supportive Responses to Common Reactions to Trafficking in a Service Setting**

Below table shows some IOM guidelines on the type of support services and response that should be provided to address common victims' reactions while they are being supported at the shelter:

**Table 1: Supportive Responses for victims as listed in the IOM Handbook**

<b>Common reactions to trafficking</b>	<b>How reactions may be manifest in a service setting</b>	<b>Supportive responses to negative reactions</b>
Fear, insecurity, anxiety	Reluctance to meet people, to go outside or to be alone; trembling, shaking or heart racing; difficulty sleeping and nightmares; difficulty sitting still, or concentrating	Implementation of security measures; description and reassurance of security measures; confidentiality, and security of physical venue; accompaniment to outside appointments or errands
Mistrust of others	Wariness of service provider and of offers of assistance; reluctance to disclose information; giving false information; difficulties in relationships with support persons, co-residents, others in the program, family, etc.	Patience and persistence in developing relationships; unconditional provision of practical assistance and moral support; regular inquiries into needs and well-being
Mistrust of self, low self-esteem	Passivity, difficulty making decisions or trusting one's decisions; difficulty planning for the future; hyper-sensitivity or hyper-responsiveness to others and outside influences.	Creating small tasks, setting short-term goals, fostering short-term accomplishments, validating achievements
Self-blame, guilt, shame	Difficulty in making eye contact, difficulty in expressing oneself; difficulty in disclosing details of events and feelings; reluctance to undergo physical examinations, to participate in group or other forms of therapy.	Reassurance that what happened was not her/his fault, reminder that trafficking is a crime that victimizes many people and that they are not alone; reminder of her/his courage and resourcefulness under extreme conditions.
Anger towards self or others	Hostility or violence towards support persons or others (e.g., co-residents, family); self-inflicted physical harm; sabotaging her/his own process of recovery; over-reacting; unwillingness to participate; blaming or accusatory towards others; uncooperative or ungrateful responses	Patience; remaining calm in the face of hostility; not reacting with anger, hostility, or showing frustrations; implementation of reasonable and proportional measures to ensure person's safety; implementation of reasonable and proportional measures to ensure safety of others.
Memory lapses, dissociation	Inability to recall details or entire passages of past; altering accounts of past events; seeming unwillingness to respond or to answer questions	Not judging or condemning the person; not pressuring or harassing the person; understanding the importance of forgetting for some people
Isolation, loneliness	Sadness, depression, disengagement from others and activities, lethargy; seeming self-absorbed or self-centered; believing no one can understand	Offering phone contact (or other contact) with family, friends, etc.; opportunities to participate in one-to-one or group activities; planned tasks or events
Dependence, subservience or defensiveness	Inability or reluctance to make decisions; desire to please easily influenced; inability to assert self or person preferences; regular complaining; refusal or reluctance to accept assistance, advice.	Assigning small tasks; setting limited goals; reassuring the persons of their abilities and capacity, not fostering dependence by assuming all responsibility for the person's welfare (allowing persons to choose when, how or if the wish to be assisted)

Source: [The IOM Handbook on Direct Assistance for Victims of Trafficking](https://publications.iom.int/books/iom-handbook-direct-assistance-victims-trafficking-0) <sup>7</sup>

<sup>7</sup> <https://publications.iom.int/books/iom-handbook-direct-assistance-victims-trafficking-0>

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**9. MANAGEMENT RESPONSE**

**9.1 Management Response from DOJ**



Department of Justice  
Federated States of Micronesia

Joses R. Gallen, Sr., Secretary

(691) 320-2608

March 23, 2022

Mr. Haser Hainrick  
FSM Public Auditor  
Palikir, Pohnpei FM 96941

Subject: Management Response to Audit

Dear Mr. Hainrick,

I express my appreciation for your letter of March 10, 2022 with attached inspection report, requesting for an exit conference. I also thank you for our exit conference on March 17, 2022 with your audit staff in order to clarify the initial recommendations made in your draft audit report. With my DOJ staff present, we were able to clarify all the points raised in the audit.

I must also go on record to express my personal disappointment over the unusual manner by which this audit was carried out. First, the audit started with a notion that there was a "conflict of interest" on my part regarding the Anti-Human Trafficking (AHT) building in Kolonia. But this suspicion was triggered by an anonymous complaint received, but it became clear during our exit conference that, as your staff confirmed, there was no such conflict of interest according to law (11 F.S.M.C. §512). I want the audit report to state this fact, not just be silent about it.

I wish to be clear that the present AHT shelter in Kolonia was established after failing to secure a public land in Pohnpei and after failing to identify a more suitable site for our AHT shelter, taking into consideration the available funding provided by congressional appropriation and the needs of our AHT program.

I take this opportunity to stress that the cost of establishing the present AHT shelter is cost effective. As you noted, the cost of renovation was factored into the lease. The lessor and lessee agreed to reduce the monthly rental on account of the renovation cost (\$44k). In effect, the rental rate for this 1696-ft two-storey building is much less than other government leases in Kolonia. This is value for money and it is beneficial to the government.

I also wish to clarify the misconception that the funding could be used to build a new AHT Shelter. Certainly, the audit team should note that the full appropriation is for "Victim Shelter and Services." The *services* component is essential in ensuring the wellbeing of AHT victims. This means that there must be adequate and functioning staff to support the whole AHT

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operation. It also implies provisions for equipment, supplies and transportation for the office and AHT personnel.

It would appear in my personal view that since the audit team was unable to find preliminary negative information, e.g., conflict of interest, the audit proceeded to examine other expenditures of the AHT shelter even before funds were expended. Next, the audit examined two vehicles purchased under the AHT program when undoubtedly those vehicles were procured—not for personal or any different purpose—but to support the AHT program itself. Then the audit questioned the absence of competitive bidding for the AHT shelter when clearly a competitive bidding was not required at all under Public Law No. 21-11 that raised the bidding threshold to \$50,000.

In the interest of clarity, full disclosure and transparency of the audit examination process, I offer the following general observations:

1. The report failed to recognize the successes of the AHT programs and the progresses achieved in improving AHT services throughout the nation. While there are critical areas that need to improve as part of our ongoing efforts to better serve the public, it cannot be denied that major progresses were achieved as well. Precisely for this reason that international partners including the US State Department recognized these accomplishments.
2. Audit is incomplete because it failed to describe with reasonableness the extent of AHT services and the overall efforts supporting President Panuelo's decision to establish a separate AHT Division under the Justice Department. The audit report copied materials available on the website of the UNODC, but left a huge void of information on the in-country efforts towards establishing AHT services for the nation.
3. The statement of limitation under section 4 of the report misleads readers given that face-to-face meetings did in fact take place between the audit team and DOJ team. Perhaps, a major limitation to this report is the apparent preconceived misinformation.
4. DOJ takes exception from the auditor's adoption of the IOM guidelines as international standards for FSM, considering that there are no formal approvals by FSM that was ever made with respect to those guidelines. DOJ is of the view that the audit team is without legal authority to adopt AHT guidelines for FSM. To be sure, DOJ works very closely and collaboratively with several partners in combatting trafficking in person, including international organizations such as IOM and the UNODC.

I also take the opportunity to outline here the progresses achieved so far by the AHT program, as follows:

- (1) Increased awareness of the communities on AHT issues in all the four FSM States through outreach programs, workshops and conferences.
- (2) Training of our law enforcement officers and AHT personnel in handling AHT issues—including training in the Police Academy.
- (3) AHT Conferences which increased not only awareness but also interest and participation by the public and non-governmental partners including the diplomatic corps in addressing AHT issues.
- (4) Consistent Tier 2 rating for FSM by the US State Department for the past several years; in spite of the fact that neighboring islands such as Palau and Marshall Islands are on the Watch List. This demonstrates that FSM accomplished many in the past years, but with much room to further improve.

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- (5) Successful investigation and prosecution of AHT cases, which was recognized by our international partners including the US State Department.

I also intend to address the specific findings in the report, as follows:

**Finding #1 - Location of AHT Victim shelter in PNI does not promote confidentiality and safety.**

**Response: The finding is speculative and presumptuous.** AHT program is not some type of covert surveillance operation, that it must be hidden in a remote location to avoid detection. Quite the contrary, the prominence and publicity of the program promotes more public awareness and community support. We rather want the community to know that DOJ is protecting human trafficking victims, and is actively engaging all stakeholders to be aware of this important challenge in our nation. There are AHT staff who are committed to doing this important work, and are bound to protect the confidentiality of victims. The victim shelter established in Pohnpei is not unsafe. There is a dedicated AHT team with competent personnel focusing on its operation and upkeep.

**Finding #2 - Questioned Cost**

**Response: There is no questioned cost, but rather an incomplete assessment at odds with official records.**

1. **Vehicles purchased—\$15,000 in total.** Two vehicles were questioned: 1 for KOS which was partially funded by AHT appropriation and 1 for PNI that was fully funded by AHT.
  - a. Auditor states that DOJ could have used the funding to identify a better AHT shelter rather than buying these vehicles.
    - i. Response: Auditor is mistaken for advocating an “inefficient” manner of spending limited funds. DOJ is able not only to establish a suitable AHT shelter in PNI but also acquire two vehicles for PNI and KOS specifically for AHT. Auditor is instead recommending to procure alternative AHT shelter for PNI only, with no plans and provisions for any transportation support for the operation of the shelter.
    - ii. DOJ disagrees with inefficient use of funds recommended by auditor. DOJ must establish an operational and functional AHT shelter (fully provisioned) before actual demands for AHT victims and witness services will overwhelm the program.
    - iii. DOJ disagrees with auditor’s implied suggestion to wait until we have actual AHT victims before spending such funds from Congress for the AHT shelter. This approach is unacceptable.
2. **Food expense for a closing ceremony—\$476.50.** This is AHT Training related, therefore, connected to the AHT operation. This is not a questioned cost.
3. **AHT Conference (\$2,400 & \$3,009.50).** The conference is for AHT, to raise awareness and to train officers on the proper procedures, protocols and practices in dealing with AHT matters. The conference cost is a legitimate expense relating to AHT. This is not a questioned cost.
4. **Insurance fee for payroll—\$867.88.** This cost is for AHT staff, therefore, related to AHT cost. This is not a questioned cost.
5. **Lease payments instead of building a AHT shelter per PL 21-42.** Auditors questioned the lease payment, when the law provides to build a shelter.

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- a. DOJ disagrees with the Auditors because the lease payment is covering a period that includes a pending renovation of the AHT shelter. DOJ needed to secure the building for renovation to become a suitable shelter.
- b. Auditor's insistence upon building a new shelter per the public law as opposed to lease is confusingly conflating of facts. Audit report omitted the fact that the law did not require to build a "new" shelter. Certainly \$50,000 for each state is far insufficient for a new shelter to be constructed. In fact the original amount requested to build (design and build) a new shelf was \$450,000 for one state only, but only \$50,000 was eventually appropriated. It is just impossible feat to accomplish opposite to what the auditors suggested.
- c. Even the congress lawyers were of the view that building a new AHT shelter was not required—renovation was permitted.
- d. DOJ is recommending the audit staff to familiarize themselves with construction costs in FSM (not speculation) if they wish to express credible audit opinions about costing.
- e. The 5-year projection of cost for the AHT shelter at \$90,000 is not a questioned cost. This cost is subject to availability of funds. Besides, this cost is ultimately lower than other lease agreement of national agencies with private lessors given the footage of this AHT shelter.
- f. **OVERALL**, DOJ recommends to the auditor to consider the comparative cost of this AHT shelter with other leases by the FSM Government, if it wants to express credible audit opinion regarding lease cost.

6. **Victim shelter services (\$100,000); AHT Enforcement Campaign and investigation (\$125,000); and Build AHT Shelters in PNI, KOS and YAP (\$50,000)**. DOJ disagrees with auditor's implied suggestion that the expenses are questioned costs—when it is clear that the cited expenditures were for the AHT program. The lease payments are for the AHT shelter pending the renovation work. It is reasonable for this cost to come under the AHT funding, given that the plain language of the appropriation. The auditor's opinion regarding unstated restrictions are speculative personal views, not supported by facts; therefore, cannot form part of the official audit opinion on the matter.

7. **CONCLUSION**: There is no need to provide any further justification for the so-called questioned cost in addition to the explanation provided above. The auditors should be aware of the law passed by the FSM Congress, and the changes made from time to time. It is equally important for auditor to be familiar with the bidding requirement set by the FSM Congress, not only the financial management regulations. The auditors are reminded that any regulation in conflict with law is invalid to the extent of conflict.

**Finding #3 - Alottee did not describe in detail the plan for implementing and sustaining the AHT Shelter**

**Response: The plan for the AHT shelter is described by the combination of the Project Control Document and the direction of the shelter as described in the Standard Operating Procedure.** These documents were disclosed and shared.

**Finding #4 — failure to following bidding requirement**

**Response: Public Law No. 21-11 (8/7/19) Increased the threshold for competitive bidding for construction projects to \$50,000.** This project is less than the threshold. Therefore, the finding is a plain mistake.

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Regardless of the fact that a competitive bidding was not required, DOJ decided to bid this project out with the aid of the Department of TC&I in order to give every construction company a fair chance to bid. This is an act of transparency, and the audit report should recognize this.

But all bids turned out to be very high, in excess of the funding provided by the FSM Congress. Automatically, all the bids were rejected. DOJ could not accept any of them without violating the Financial Management Act. The audit team questioned the absence of formal rejection of bid; but in my view, such rejection was unnecessary given that by law DOJ was not bound to accept any of the bids especially where the bids are more than the appropriation.

To conclude, I wish to address the use of anonymous tip or anonymous source. It is clear from this audit that the anonymous tip was uncorroborated and unreliable at best. Unfortunately, there was no effort on the part of the audit team to require the reporter to produce documentation and detailed information that would corroborate the alleged conflict of interest that triggered this audit. The audit team accepted and believed the tip, as if true, and launched this audit. But because of the unreliable nature and circumstances of the anonymous tip used here, this audit investigation is without legal basis. The audit team fell into the trap of having to spend its limited time and resources to pursue an illegal investigation. In light of this, the Attorney General will issue a directive that provides legal guidance to the Public Auditor that will align with the proper use of anonymous tip pursuant to law.

Overall, notwithstanding the unexpected quality of the audit, the Department of Justice once again, extends to the audit team appreciation for its efforts. Moreover, I request that this letter be attached to the final audit report. Thank you.

Sincerely,



Joses R. Gallen, Sr.  
Justice Secretary

cc: President David W. Panuelo  
Speaker Wesley W. Simina  
Secretary Eugene Amor

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## 9.2 Management Response from DoFA



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 25, 2022

Haser Hainrick  
Public Auditor  
Palikir, Pohnpei  
FM 96941

  
3/28/2022



Dear Mr. Hainrick:

At the outset, I take this opportunity to thank the National Public Auditor's Office for completing this audit report. As usual, we welcome the findings and recommendations from your Office and use them to strengthen our internal processes where feasible. We do however note that certain findings contained herein appear speculative and presumptuous, therefore I transmit our management response for the Anti-Human Trafficking Shelter Inspection Report No: 2022-02 to convey perspective of the Department of Finance & Administration.

**Finding 1: Location of the Victims' Shelter in Pohnpei State Does Not Promote Confidentiality and Safety**

**Management Response:**

- We note this finding and would yield to the Department of Justice to provide rationale on the selection of the shelter location. On the issue of conflict of interest. You noted in our exit conference that you could not verify a conflict of interest. That said, we will continue to enhance our surveillance of these areas to ensure disclosures where necessary.

**Finding 2: Questioned Costs worth \$63,476.98 relating to Victims' Shelter and Services**

**Management Response:**

- We note your finding; however, we wish to emphasize that based on our review of the Project Control Document and the information detailed in the PCD, we view the expenses requested and processed as very relevant and well in-line with the intent of the Public

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Law. Ensuring effective response and care of trafficking victims require advanced preparations instead of waiting until there is a victim to start shopping for vehicle as you recommended. We also note that food expenses relate to an organized anti-human trafficking conference, which is an essential component of ensuring effective services.

- All other disbursements cited in this particular finding were accepted by DoFA due to amendments to the PCDs that allowed such related activities and expenses to be charged against the Victim Shelter and Services account.
- On the lease payment option over actual construction, we note that the appropriation may not be sufficient for new buildings, and as shared during our exit conference, most of the National Government offices in the State Governments are on lease, which is similar to the arrangement here. Furthermore, DOFA initially returned the lease agreement to DoJ questioning why the National Government is renting and at the same time renovating the building. We received a response from DoJ that the value spent on renovation has been discounted from the total lease cost, hence why the monthly rental cost is cheaper than many other National Office rentals in Pohnpei for this much larger property. For this reason, DoFA approved the lease agreement and renovation contracts.

**Finding 3: Allottee Did not sufficiently describe in detail the plan for implementing and sustaining the AHT Shelter**

**Management Response:**

- We agree with this finding and will continue to work closely with allottees and relevant staff to better articulate long-term maintenance or sustainability plans on the PCD.

**Finding 4: FMR Requirements for Rejecting Bids were not Followed and Process for Selecting the Contractor was not Transparent**

**Management Response:**

- We note your finding and wish to state that project amount is lower than the competitive bidding threshold required by the FMR. It is important to note that a bid was executed and all the responses were over budget, hence the reason why the Government could not proceed with contractual arrangements with any of the bidders. Three quotations were provided from constructions companies and one was subsequently selected in line with the FMR requirements.

Again, we appreciate your efforts in executing this audit to ensure proper implementation and execution of public projects and accountability of public funds. We will select useful recommendations and use them to further strengthen our procedures as needed. Should you need further information or clarification from our end, please let me know.

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Thank you,



Eugene Amor  
Secretary, Department of Finance and Administration

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## **10. ONPA EVALUATION OF MANAGEMENT RESPONSE**

The inspection team requested for management responses from the Secretary, Department of Justice (DOJ) and the Secretary, Department of Finance & Administration (DoFA). Some 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.

### **10.1 ONPA EVALUATION OF MANAGEMENT RESPONSE FROM DOJ**

#### **Auditor's evaluation of the general comments raised in DOJ's Management Response**

A. *The Secretary of DOJ stated that he did not violate the conflict-of-interest law by leasing the building in Kolonia as the Shelter for the victims and witnesses for the AHT Program. He also said that we should disclose in our report that there was no violation.*

The conflict-of-interest law has been amended a couple of times, thus, effectively narrowed its scope and application. While it may be legal, the Secretary's actions could be viewed as highly unethical based on the following issues and concerns;

1. The definition of conflict of interest in the law is constricted after going through various amendments. According to the FSM Code Title 11 Chapter 5 Subchapter II (Public Officials Code of Conduct), "*Family member*" shall mean a parent, brother, sister, spouse, nephew, niece or child, including a person who is adopted legally or in accordance with custom, or for whom care was given by the public official such that there exists a relationship in the nature of parent and child. The term shall also include a spouse of any person referred to in this definition and their children. Irrespective of the definition set out by law, the fact remains that the owner of the AHT Building in Kolonia is a very close relative of the Secretary for the Department of Justice, the allottee of the AHT funds. The lease agreement identifies the current surviving spouse as the owner/lessor. The late husband of the owner/lessor was a first cousin to the Secretary. It is a close family relationship particularly in a small island setting. We must reiterate also that law is not the only guide which the public officials must observe in discharging their official duties; for example, the FMR requires "openness and transparency" in the administration of public funds.
2. The rules for good and strong governance dictate that as a high official of the Government, therefore, public interest should be forefront in all decisions the Secretary must make and it should have been a leading consideration for all transactions especially those that are financial in nature. Public officials and employees should at all times be accountable to the people and shall discharge their duties with utmost responsibility, integrity, justice, and uphold public interest or the well-being of the general public over their personal interest.
3. The Secretary's last name is the same as the owner's last name. On this small island, the public knows who is who. To illustrate, the public was quick to perceive the Secretary's action as a conflict based on relationship, as evidenced by the speedy filing of the complaint at our office, soon after the Department leased the property from the Secretary's close relative.
4. In an interview with a key official of the Department, that person recommended against using the current Building for AHT victim shelter due to some significant gross concerns and issues.

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5. The Department is leasing the property contrary to the requirement of the law that appropriated the funds, which says “to build a shelter....” We believe that the intent of the law was to build rather than to lease. We realize that we are taking a position that is different from the position advanced by the Government’s top legal authority.
6. With the AHT as an international program, the Department is expected to observe and adopt leading practices and requirements such as the victims and witnesses’ safety and confidentiality.
7. The Secretary did not provide any documented evidence of any search and to secure a property from Pohnpei State, as he claimed.
  
8. In the medium and long-run, it will cost the government more money to lease rather than to build its AHT Shelter for victims and witnesses, as required by the appropriation law. This should have been a prevailing consideration by the Secretary, given that the AHT Program, being an international program which the Government has legally mandated in FSM, is expected to be around for a long haul.

*B. The Secretary said that the selection of the current shelter was established after failing to secure a public land in Pohnpei and after failing to identify a more suitable site for the AHT shelter.....*

We asked the Department to give us their documentation to support their comment but nothing could be provided to us. On the other hand, a former key official of the Department recommended two possible locations for the shelter but the recommendation was ignored. We found inadequate documentation to support the final decision to select the Building in Kolonia town to be the Shelter.

*C. The Secretary said that the cost of establishing the present AHT shelter is cost effective and he claimed it is beneficial for the government.....*

Refer to A.8 above. We believe that in the long run, it will cost the Government more money to lease the present AHT shelter rather than to build one as required by the law.

*D.1 (Page 2) The Secretary said that the audit questioned the absence of competitive bidding for the AHT shelter when clearly a competitive bidding was not required at all under Public Law No. 21-11 that raised the bidding threshold to \$50,000.*

*(Page 4) The Secretary said that Public Law No. 21-11 (8/7/19) increased the threshold for competitive bidding for construction projects to \$50,000. This project is less than the threshold. Therefore, the finding is a plain mistake.*

*(Page 5) The Secretary also said that regardless of the fact that a competitive bidding was not required, DOJ decided to bid this project out with the aid of the Department of TC&I in order to give every construction company a fair chance to bid. This is an act of transparency, and the auditor report should recognize this.*

*(Page 5) According to the Secretary, all bids turned out to be very high, in excess of the funding provided by the FSM Congress. Automatically, all the bids were rejected. DOJ could not accept any of them without violating the Financial Management Act. The audit team questioned the absence of formal rejection of bid; but in my view, such rejection was unnecessary given that by law DOJ was not bound to accept any of the bids especially where the bids are more than the appropriation.*

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DOJ requested the Dept. of TC&I to assist with designing, costing and bidding to renovate a Shelter Building for the AHT project. TC&I's estimated cost for the project was \$98,000, with total of four (4) bid proposals received in response to bidding advertisement that TC&I handled. Of the four bids, two bids in the amount of \$96,355.42 and \$70,036.51 were lower than the \$98,000 estimated project cost to renovate a Shelter Building. But even though two bids were less, DOJ rejected all four bids that TC&I received and submitted to it.

We disagree with the Secretary that bidding was not required. We believe that bidding was required which explained why DOJ initiated the bidding process in the first place. The project cost was \$98,000 based on the designed and costing done by the Dept. of TC&I, which was more than the \$50,000 threshold for bidding.

D.2 *The Secretary also said that all bids were very high, exceeded the funding provided by the FSM Congress, thus bids were automatically rejected. He further stated that he could not accept any of them without violating the Financial Management Act.*

We disagree with the Secretary based on the following facts;

The four bids were as follows,

Bidder A - \$106,822.22

Bidder P - \$101,099.75

Bidder G - \$ 96,355.42

Bidder R - \$ 70,036.51

Appropriation from the FSM Congress were as follows,

PL No. 21-42 appropriating \$100,000 for Victim Shelter and Services.....

PL No. 21-185 appropriating \$150,000 to build anti-human trafficking shelters in Pohnpei, Yap and Kosrae

Based on the above for bidding, Bidder R at \$70,036.51 was way lower than the \$98,000 total project cost to renovate a shelter.

Also based on the above information on the project funding, there was more than enough funding appropriated by Congress to finance the renovation of a shelter in Pohnpei.

There was no documentation to explain the rational for his decisions and actions to reject all the four bidders, to hire his preferred contractor based on renovation which was not advertised, and etc. The statements provided in his Management Response materially differed from the facts. Yet, the Secretary called our finding "a plain mistake."

D.3 *The Secretary also said that "Regardless of the fact that a competitive bidding was not required, DOJ decided to bid this project out with the aid of the Department of TC&I in order to give every construction company a fair chance to bid. This is an act of transparency, and the auditor report should recognize this."*

As illustrated above, we disagree with the Secretary's assertions.

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*E. The Secretary said that the report failed to recognize the successes of the AHT Program and the progresses achieved in improving AHT services throughout the nation.... The audit is incomplete because it failed to describe with reasonableness the extent of AHT services and the overall effort to establish a separate AHT Division under the Justice Department*

Our inspection was not designed to review the whole AHT program/operation. The inspection focused only on our objectives, which were crafted based on the results of the preliminary survey. Therefore, the Secretary's comments that our work was incomplete and faulty because we did not address this and that, our response is that those were outside the scope of our inspection.

Inspections are designed to uncover issues and weaknesses, and thereupon report them to the stakeholders along with the recommendations to remedy the problems. By their nature, inspections are not performed to find the achievements. Perhaps we will read about the AHT achievements in DOJ's operational and annual reports to the Congress.

*F. The Secretary said that they took exception at the auditor's recommendation that they adopt the IOM guidelines as international standards for the FSM....and also that the auditors are without any legal authority to adopt AHT guidelines for FSM.....*

The Secretary and his team informed the auditors that AHT's SOP was yet to be reviewed and they would consider procedures from the IOM's manual. We would like to clarify that our recommendation is for DOJ to consider some relevant procedures from the IOM guidelines as the current SOP did not contain any procedures for the services for and welfare of victims. We are simply making a recommendation and not using any legal authority to make DOJ adopt the international guidelines.

*G. The Secretary spent the funds to lease a Building in Kolonia rather than used the funds to build a Shelter*

We disagree with DOJ's own legal interpretations regarding the uses of the funds appropriated by the Congress for Shelter. For instance, the appropriation law says "to build a shelter..." but DOJ used the funds to lease an existing building and they defended their action saying that leasing was justified because the appropriation law did not include the word "new." In other words, if the appropriation law had said "to build a new shelter" then, according to DOJ, the funds could not be used to lease but only to build a new shelter. We disagree with their own legal interpretations.

*H. The Secretary also used the appropriated funds for operations and other costs related to the AHT Program rather than for "Victims Shelter and Services" as intended in the appropriation law*

We again questioned some expenditures incurred by DOJ because it used those funds for other programs and activities that were not for the "victims" such as training/workshop - refreshments, food for closing ceremonies, and personnel taxes. These were unallowed because they were services unrelated to the victims but strictly for the department/division. To be allowable, expenses should be for services for the victims rather than for the operations of the division or the department. We again disagree with their own legal interpretation.

**Auditor's evaluation of the specific comments raised in DOJ's Management Response**

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**Finding #1 – Location of AHT Victim Shelter in PNI does not Promote confidentiality and safety.**

<b>Management Response</b>	<b>ONPA Evaluation</b>
<p><b>The finding is speculative and presumptuous.</b> AHT program is not some type of covert surveillance operation, that it must be hidden in a remote location to avoid detection. Quite the contrary, the prominence and publicity of the program promotes more public awareness and community support. We rather want the community to know that DOJ is protecting human trafficking victims, and is actively engaging all stakeholders to be aware of the important challenge in our nation. There are AHT staff who are committed to doing this important work, and are bound to protect the confidentiality of victims. The victim shelter established is not unsafe. There is a dedicated AHT team with competent personnel focusing on its operation and upkeep.</p>	<p>We evaluated the management response and decided to retain the finding based on the fact that the DOJ is referring to the entire AHT program while we are referring to the <b>victims' shelter</b> alone which should be confidential according to guidelines below as extracted from the United Nations Office on Drugs and Crime (UNODC) website<sup>8</sup> (also highlighted in the report).</p> <p>According to the UNODC: <i>“A confidential shelter should create a safe haven for a trafficked person by providing high security standards while respecting their right to privacy and autonomy. In general, this involves accommodation facilities with a secret address for presumed trafficked persons who may still be in danger from traffickers. The use for this purpose of decentralized, flexible and secret apartments, instead of one central building, has the advantage of a higher level of security.”</i></p> <p>The concept to place the AHT office in the same building as the victims' shelter may need to be reconsidered. We agree that the AHT office is to be located in a public place as it creates awareness to the general public however, we do not agree that the victims' shelter should be in a public place. Similar to a prison, they are not placed in the middle of town with tight security that would create even more public attention and could add to low self-esteem and more shame to the victim. This is what we observed to be happening now in the Pohnpei shelter and we think that it is not helpful for the recovery of the victim.</p>

**Finding #2 – Questioned Costs**

<b>Management Response</b>	<b>ONPA Evaluation</b>
<p><b>There is no question cost, but rather an incomplete assessment at odds with official records.</b></p> <p><b>1. Vehicles purchased - \$15,000 in total.</b> Two vehicles were questioned: 1 for KOS which was partially funded by AHT appropriation and 1 for PNI that was fully funded by AHT.</p>	<p>During the exit conference, DOJ raised some important points relating to purchasing of vehicles for the AHT program to assist in the preparation of the AHT shelter project.</p> <p>We have evaluated the response and agreed with the discussion provided. We have</p>

<sup>8</sup> [https://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296\\_tool\\_8-8.pdf](https://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296_tool_8-8.pdf)

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<b>Management Response</b>	<b>ONPA Evaluation</b>
<p>a. Auditor states that DOJ could have used the funding to identify a better AHT shelter rather than buying these vehicles.</p> <p>i. Response: Auditor is mistaken for advocating an “inefficient” manner of spending limited funds. DOJ is able not only to establish a suitable AHT shelter in PNI but also acquire two vehicles for PNI and KSA specifically for AHT. Auditor is instead recommending to procure alternative AHT shelter for PNI only, with no plans and provisions for any transportation support for the operation of the shelter.</p> <p>ii. DOJ disagrees with inefficient use of funds recommended by auditor. DOJ must establish an operational and functional AHT shelter (fully provisioned) before actual demands for AHT victims and witness services will overwhelm the program.</p> <p>iii. DOJ <b>disagrees</b> with auditor’s implied suggestion to wait until we have actual AHT victims before spending such funds from Congress for the AHT shelter. This approach is unacceptable.</p>	<p>therefore removed this issue (purchase of vehicles) from the final report.</p>
<p><b>2. <u>Food expense for a closing ceremony - \$476.50.</u></b> This is AHT Training related, therefore, connected to the AHT operation. This is not a questioned cost.</p>	<p>We have decided to retain our understanding and/or interpretation of Public Law No. 21-42 Section 9 (5)(b) “Victim Shelter and Services” (Account No. 02043). We mentioned that the funding under line item “Victim Shelter and Services” is a shelter for “<b>victims</b>”, and “<b>services</b>” are types of services that will be provided to the victims (such as medical service for the victims, counselling of victims, food for the victims etc.). If the Public Law No. 21-42 was worded as “AHT Shelter and Services”, then we would agree that the funding can be used for anything relating to the AHT program as a whole. In this case, the Public Law only stated “Victim’s shelter and services”.</p>

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Management Response	ONPA Evaluation
	On the other hand, in the same Public Law No. 21-42 Section 9 (5)(a) Anti-Human Trafficking Enforcement, Campaign, and Investigation, a funding of \$125,000 (Account No. 02055) was allocated to this project and this amount could take care of all the food expenses paid from the account 02043. Therefore, the team would like to retain the finding on <b>food expense for a closing</b> ceremony \$476.50.
3. <b><u>AHT Conference (\$2,400 &amp; \$3,009.50)</u></b> . The conference is for AHT, to raise awareness and to train officers on the proper procedures, protocols and practices in dealing with AHT matters. The conference cost is legitimate expense relating to AHT. This is not a question cost.	We would retain the finding based on the explanation under 2 above to refer to shelter and services for <b>Victims</b> and not services for the entire AHT program.  The training may relate to the AHT program but it is not specifically supporting the victims' shelter and services.
4. <b><u>Insurance fee for payroll - \$867.88. This cost is for AHT staff, therefore, related to AHT cost. This is not a question cost.</u></b>	The team have evaluated and would like to retain the finding based on the explanation under #2 above to refer to shelter and services for <b>Victims</b> and not services for the entire AHT program.  We also would like to point out that there are two different accounts under this particular Public Law No. 21-42 (Account Nos. 02043 & 02055). The insurance fee for payroll in the amount of \$867.88 was paid from the account 02043, however, in the advice of allotment including the amendments, there was no fund allocated to the "Personnel" category; therefore, making this payroll expense questionable.
5. <b><u>Lease payments instead of building a AHT shelter per PL 21-42.</u></b> Auditors questioned the lease payment, when the law provides to build a shelter.  a. DOJ disagrees with the Auditors because the lease payment is covering a period that includes a pending renovation of the AHT shelter. DOJ needed to secure the building for renovation to become a suitable shelter.  b. Auditor's insistence upon building a new shelter per the public law as opposed to lease is confusingly conflating of facts. Audit report	We evaluated the response and would retain this finding because:  a. The title of the law required DOJ to "build" a shelter and it did not state in plain language "to improve or renovate" a shelter. It would be understandable if DOJ had gone back to Congress to request for the rewording of the title of the law to include the word "renovation" prior to implementing the project;  b. While we understand the limitation in funding, we still maintain our position

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<p>omitted the fact that the law did not require to build a “new” shelter. Certainly \$50,000 for each state is far insufficient for a new shelter to be constructed. In fact, the original amount requested to build (design and build) a new shelf was \$450,000 for one state only, but only \$50,000 was eventually appropriated. It is just impossible feat to accomplish opposite wo what the auditors suggested.</p> <p>c. Even the congress lawyers were of the view that building a new AHT shelter was not required – renovation was permitted.</p> <p>d. DOJ is recommending the audit staff to familiarize themselves with construction costs in FSM (not speculation) if they wish to express credible audit opinions about costing.</p> <p>e. The 5-year projection of cost for the AHT shelter at \$90,000 is not a questioned cost. This cost is subject to availability of funds. Besides, this cost is ultimately lower than other lease agreement of national agencies with private lessors given the footage of this AHT shelter.</p> <p>f. <b>OVERALL.</b> DOJ recommend to the auditor to consider the comparative cost of this AHT shelter with other leases by the FSM Government, if it wants to express credible audit opinion regarding lease cost.</p>	<p>that DOJ (being the legal advisor for the National Government) should have known better and carry out the necessary actions prior to implementation;</p> <p>c. We did receive a copy of the email between DOJ and the congress lawyers; however, we would like to clarify that the DOJ only sought clarifications to the congress lawyers after we enquired during the initial meeting with the Secretary DOJ and his key staff;</p> <p>d. While we noted the recommendation by DOJ, we also note that there was not documentation to support the search being made for buildings and the selection DOJ made;</p> <p>e. We are not stating \$90,000 as questioned costs but only the expended amount of \$41,723 being the costs incurred for renovating and leasing the subject building in contrast to building as per the wording of the relevant public law. This is due to the reasons explained above. The \$90,000 is the estimated cost that would be incurred at the end of the 5 years lease term; leaving the landlord with a higher-valued property on top of the lease monies she would have received worth over \$53,000.</p> <p>f. While we note that the rental is low if compared with market rate, it must be noted that this is expected anyways, because the building had been a rundown and the Government had renovated that building while leasing. In the long run, it is the landlord (relative of the Allottee) that wins while the Government returns to look for another shelter or continues to lease the same or different property.</p>
<p><b>6. <u>Victim shelter services (\$100,000): AHT Enforcement Campaign and investigation \$125,000: and Build AHT shelters in PNI, KOS and YAP (\$50,000).</u></b> DOJ disagrees with auditor’s implied suggestion that the expenses are questioned costs – when it is clear that the cited</p>	<p>Comments are noted and we would like to clarify that Questioned Costs are defined as (<a href="#">§ 2900.3 Questioned cost.</a>) a cost that is questioned by an auditor, Federal Project Officer, Grant Officer, or other authorized</p>

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<p>expenditures were for the AHT program. The lease payments are for the AHT shelter pending the renovation work. It is reasonable for this cost to come under the AHT funding, given that the plain language of the appropriation. The auditor's opinion regarding unstated restrictions are speculative personal views, not supported by facts; therefore, cannot form part of the official audit opinion on the matter.</p>	<p>Awarding agency representative because of an audit or monitoring finding:</p> <p>(a) Which resulted from a violation or possible violation of a statute, regulation, or the terms and conditions of a federal award, including for funds used to match Federal funds;</p> <p>(b) Where the costs, at the time of the audit, are not supported by adequate documentation; or</p> <p>(c) Where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances</p> <p>In this case, we found inadequate documentation to support key decisions made by DOJ to secure the subject building to serve as the victims' shelter for Pohnpei state and to secure a contractor to carry out the renovation. Therefore, we are meeting the definition in (b) above on Questioned Costs.</p>
<p><b>CONCLUSION:</b> There is no need to provide any further justification for the so-called question cost in addition to the explanation provided above. The auditors should be aware of the law passed by the FSM Congress, and the changes made from time to time. It is equally important for auditor to be familiar with the bidding requirement set by the FSM Congress, not only the financial management regulations. The auditors are reminded that any regulation on conflict with law is invalid to the extent of conflict.</p>	

**Finding #3 - Allottee did not describe in detail the plan for implementing and sustaining the AHT shelter**

<b>Management Response</b>	<b>ONPA Evaluation</b>
<p><b>The plan for the AHT shelter is described by the combination of the Project Control Document and the direction of the shelter as described in the Standard Operating Procedure.</b></p> <p>These documents were disclosed and shared.</p>	<p>We have evaluated the response and decided to retain this finding because we noted a number of amendments were made to the PCD in order to incur expenses that were not initially planned for the project. As we have discussed in the report, having more than 1 amendment in a PCD indicates the need to improve the planning aspects of spending public funds for projects appropriated by law. Generally, as Allottee of public funds, it would be of paramount importance to effectively plan out the project prior to implementation. Our role is to highlight these opportunities for improvement to the Allottee or anyone managing public funds.</p>

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**Finding #4 – Failure to follow bidding requirement**

<b>Management Response</b>	<b>ONPA Evaluation</b>
<p><b>Public Law No. 21-11 (8/7/19) Increased the threshold for competitive bidding for construction projects to \$50,000.</b> This project is less than the threshold. Therefore, the finding is a plain mistake.</p> <p>Regardless of the fact that a competitive bidding was not required, DOJ decided to bid this project out with the aid of the Department TC&amp;I in order to give every construction company a fair chance to bid. This is an act of transparency, and the audit report should recognize this.</p> <p>But all bids turned to be very high, in excess of the funding provided by the FSM Congress. Automatically, all the bids were rejected. DOJ could not accept any of them without violating the Financial Management Act. The audit team questioned the absence of formal rejection of bid; but in my view, such rejection was unnecessary given that by law DOJ was not bound to accept any of the bids especially where the bids are more than the appropriation.</p>	<p>We acknowledge that DOJ decided to carry out the bidding for transparency purpose. All we are highlighting is the absence of documentation to support their decision to reject all the bids before proceeding to select a totally separate contractor (as required by the FMR).</p> <p>We note that DOJ finds that a formal rejection of bid was “unnecessary given that by law DOJ was not bound to accept any of the bids especially where the bids are more than the appropriation”; however, we wish to remind DOJ that implementation of the FMA is guided by the FMR which we strongly encourage them to comply with.</p> <p>We maintain our position that in the same spirit of transparency, DOJ should have at least documented their justifications for the rejection per FMR requirements and way forward.</p> <p>Based on the response by DOJ, we have reworded the Finding 4 in order to put some clarity in our position.</p>

**10.2 ONPA EVALUATION OF MANAGEMENT RESPONSE FROM DoFA**

**Finding #2 – Questioned Costs**

<b>Management Response</b>	<b>ONPA Evaluation</b>
<p>We note your finding; however, we wish to emphasize that based on our review of the Project Control Document and the information detailed in the PCD, we view the expenses requested and processed as very relevant and well in-line with the intent of the Public Law. Ensuring effective response and care of trafficking victims require advanced preparations instead of waiting until there is a victim to start shopping for vehicle as you recommended. We also note that food expenses relate to an</p>	<p>We have evaluated the response regarding the vehicle which was also in line with DOJ’s response and we agreed with the discussion provided. We have therefore removed this questioned cost on the vehicle from the final report.</p> <p>We have however, decided to retain the findings on questioned costs relating to food for training. As stated in our evaluation of the DOJ’s management response, we retain our understanding and/or interpretation of Public Law No. 21-42 Section 9 (5)(b) “Victim Shelter and Services” (Account No. 02043). We mentioned that the funding under line item “Victim Shelter and Services” is a shelter for “<b>victims</b>”, and “<b>servives</b>” are types of services that will be provided to the victims (such as medical</p>

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<b>Management Response</b>	<b>ONPA Evaluation</b>
<p>organized anti-human trafficking conference, which is an essential component of ensuring effective services.</p>	<p>service for the victims, counselling of victims, food for the victims etc.). If the Public Law No. 21-42 was worded as "AHT Shelter and Services", then we would agree that the funding can be used for anything relating to the AHT program as a whole. In this case, the Public Law only stated "Victim's shelter and services".</p> <p>On the other hand, in the same Public Law No. 21-42 Section 9 (5)(a) Anti-Human Trafficking Enforcement, Campaign, and Investigation, a funding of \$125,000 (Account No. 02055) was allocated to this project and this amount could take care of all the food expenses paid from the account 02043. Therefore, the team would like to retain the finding on <b>food expense for a closing ceremony \$476.50</b>.</p>

**Finding #4 - FMR Requirements for rejecting Bids Were not followed**

<b>Management Response</b>	<b>ONPA Evaluation</b>
<p>We note your finding and wish to state that project amount is lower than the competitive bidding threshold required by the FMR. It is important to note that a bid was executed and all the responses were over budget, hence the reason why the Government could not proceed with contractual arrangements with any of the bidders. Three quotations were provided from construction companies and one was subsequently selected in line with the FMR requirements.</p>	<p>We maintain our position that DOJ should have completed the bidding process that it initiated by documenting the justification for rejecting all the bids that were received.</p> <p>We would like to add that the contractual documents were obtained; however, there was no evidence of the 3 quotations that have been mentioned by DoFA.</p> <p>Moreover, based on DoFA's response, we have revised the title and contents of this Finding#4 to only address the bidding issues and not the selection of the new contractor.</p>

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**11. NATIONAL PUBLIC AUDITOR COMMENTS**

We would like to thank the relevant staff of the FSM Department of Justice (DOJ), Department of Transportation, Communication and Infrastructure (TC&I) and the Department of Finance and Administration (DoFA) for their assistance and cooperation during the course of the Inspection.

We have provided copies of the final inspection report to the President and Members of the 22<sup>nd</sup> FSM Congress and those charged with governance. 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 conducted the inspection and prepared this report.



Haser H. Hainrick  
National Public Auditor

June 17, 2022

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**12. ONPA CONTACT AND STAFF ACKNOWLEDGEMENTS**

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

Miriam Naivalu, Audit Manager  
Keller Phillip, Team Leader  
Shelolyn Neth, Team Member

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