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



**Inspection of \$9.5 million booked by the Department of Finance  
and Administration for lawsuit involving Pacific International,  
Inc. (Congressional Resolution No. 22-194)**

**REPORT NO. 2023-02**



# FEDERATED STATES OF MICRONESIA

## Office of The National Public Auditor

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Tuesday, April 04, 2023

His Excellency President David W. Panuelo  
Honorable Members of the 22<sup>nd</sup> Congress  
Honorable Secretary, Department of Finance & Administration  
Federated States of Micronesia  
Palikir, Pohnpei FM 96941

### **RE: Inspection relating to the Congressional Resolution No. 22-194**

We have completed our inspection on the Congressional Resolution No. 22-194 covering fiscal year 2019 to present. The inspection was to determine the whereabouts and status of the \$9.5 million that was booked for the fiscal year 2019 to cover the potential National Government liability in the FSM v. Pacific International, Inc., Civil Case No. 2014-46, Appeal Case No. P12-2021. This report presents the results of our inspection, which was conducted in accordance with the *Quality Standards for Inspections and Evaluations (QSIE)* developed by the Council of the Inspectors General on Integrity and Efficiency (CIGIE).

Based on our inspection, we concluded that the \$9.5 million that was booked for the fiscal year 2019 to cover the potential National Government liability in the FSM v. Pacific International, Inc., Civil Case No. 2014-46, Appeal Case No. P12-2021 was a book-entry adjustment. The Department recognized and recorded in its books contingent liabilities of \$9,500,454 based on the legal confirmation letter from the Department of Justice dated August 24, 2020 that the FSM anticipates a potential liability of \$9,500,454 in the event that the contractor prevails.

The booking and recording of the liability of \$9,500,454 impacted the Fund balance.

On August 30, 2022, the Supreme Court of the FSM, Appellate Division ordered and adjudged that the judgment of the Supreme Court of the FSM Trial Division, be modified to limit the arbitration award amount to \$6 million. Based on this Court Order, another book-entry adjustment was entered in October, 2022 to reduce the initial book-entry adjustment made in November 2020 affecting the following accounts:

Debit: Accounts Payable DOJ Case (Liability)	\$3,500,454
Credit: Other miscellaneous (Revenue)	\$3,500,454

The liability was reversed by \$3,500,454, resulting in an increase in the unassigned fund balance.

As of March 31, 2023, no payment had been made to PII.

There were no findings, however a copy of the report was submitted to the Department of Finance & Administration for comments.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Haser Hainrick', with a large, sweeping flourish extending to the right.

Haser Hainrick  
National Public Auditor

cc: Vice President

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**Abbreviations**

<b>Abbreviation</b>	<b>Meaning</b>
DoFA	Department of Finance & Administration
FSM	Federated States of Micronesia
GAAP	Generally Accepted Accounting Principles
ONPA	Office of the National Public Auditor
PII	Pacific International Inc.
QSIE	Quality Standards for Inspection and Evaluation

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## **1.0 INTRODUCTION**

### **1.1 Reason for the Assignment**

This inspection was initiated through the Congressional Resolution No. 22-194, adopted by the 22<sup>nd</sup> Congress of the Federated States of Micronesia (FSM) on January 17, 2023 in their sixth Regular Session for fiscal year 2023 requesting the Office of the National Public Auditor (ONPA) to audit the accounts, books and other financial records of the Department of Finance & Administration (*DoFA or referred to in this report as the Department*) in regards to the \$9,500,454 that was booked by the Department for the fiscal year 2019 to cover the potential liability of the National Government in the FSM v. Pacific International, Inc. (PII), Civil Case No. 2014-046.<sup>1</sup>

### **1.2 Background**

In 2019, the Department booked \$9,500,454 for the purpose of covering the potential liability of the National Government in the FSM v. PII Civil Case. According to the Committee on Ways and Means trip report dated January 12, 2023, the Secretary of Finance justified that this action was taken by the Department to avoid getting a qualified opinion on the financial statement and comply with the requirements of the Generally Accepted Accounting Principles (GAAP).

Subsequently, on November 02, 2022 the Supreme Court ordered and adjudged that the judgment be amended to limit the arbitration award amount to a total of \$6 million with no pre-judgment or post-judgment interest which reduced the amount booked by approximately \$3.5 million.

According to the Committee on Ways and Means trip report dated January 12, 2023 on their meeting with the external auditors responsible for the audit of the FSM National Government accounts, the Committee as well as other members of Congress and some staff had concerns surrounding the action by the Secretary of Finance for the fiscal year 2019 to record an accrued expenditure of \$9.5 million against the general fund without an appropriation from the Congress. In the opinion of the Committee on Ways and Means, the action taken by the Secretary of DoFA is contrary to the requirements of Title 55, FSM Code Section 221 which states that "*Unless otherwise specifically authorized by law, no officer or employee of the FSM, or allottee of funds shall make or authorize an obligation pursuant to any appropriation, apportionment, reapportionment, or allotment of funds of the FSM Government.*"

## **2.0 OBJECTIVE, SCOPE, METHODOLOGY**

### **2.1 Objective**

The objective of this inspection was to determine the whereabouts and status of the \$9.5 million that was booked for the fiscal year 2019 to cover the potential National Government liability in the FSM v. Pacific International, Inc., Civil Case No. 2014-46, Appeal Case No. P12-2021.

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<sup>1</sup> Congressional Resolution No. 22-194

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## 2.2 Scope

The scope of this inspection was from fiscal year 2019 to present. We performed this inspection at DoFA in Palikir, Pohnpei.

## 2.3 Methodology

We conducted this Inspection in accordance with the Council of the Inspectors General on Integrity and Efficiency *Quality Standards for Inspection and Evaluation* (QSIE).

Our methodology included the review of journal adjustments and its supporting documentations, and conducting interview to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusions based on our objective as identified in Section 2.1.

## 2.0 LEGAL MANDATES/STANDARDS

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

*“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”.*

## 3.0 PRIOR AUDIT COVERAGE

There was no prior audit coverage on this topic.

## 4.0 COMMENDATION

Our sincere appreciation is extended to the staff of the Department for the assistance and cooperation rendered during the inspection.

## 5.0 CONCLUSION

Based on our inspection, we concluded that the \$9.5 million booked for the fiscal year 2019 to cover the potential National Government liability in the FSM v. Pacific International, Inc., Civil Case No. 2014-46, Appeal Case No. P12-2021 was a book-entry adjustment.

The Department recognized and recorded in its books, contingent liabilities of \$9,500,454 based on the legal confirmation letter from the Department of Justice dated August 24, 2020 that the FSM anticipates a potential liability of \$9,500,454 in the event that the contractor prevails.

The initial book-entry adjustment to record the potential liability was entered on November 30, 2020 to which the following accounts were affected.

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Debit: Expenditure DOJ Special Item (Expenditure)	\$9,500,454
Credit: Accounts Payable DOJ Case (Liability)	\$9,500,454

The booking and recording of the liability of \$9,500,454 impacted the Fund balance.

On August 30, 2022, the Supreme Court of the FSM, Appellate Division ordered and adjudged that the judgment of the Supreme Court of the FSM Trial Division, be modified to limit the arbitration award amount to \$6 million. Based on this Court Order, another book-entry adjustment was entered in October, 2022 to reduce the initial book-entry adjustment made in November 2020 affecting the following accounts:

Debit: Accounts Payable DOJ Case (Liability)	\$3,500,454
Credit: Other miscellaneous (Revenue)	\$3,500,454

The liability was reversed by \$3,500,454, resulting in an increase in the unassigned fund balance.

As of March 31, 2023, no payment had been made to PII.



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**6.0 MANAGEMENT RESPONSE**



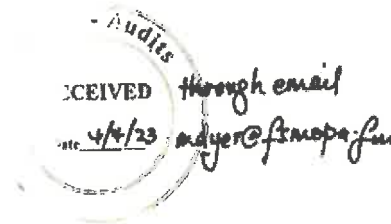
Secretary of Finance  
&  
Administration

**GOVERNMENT OF THE  
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**Department of Finance and Administration**

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April 04, 2023

Haser Hainrick  
Public Auditor  
Office of the National Public Auditor



Re: Management Response to Report 2023-02

Dear Mr. Hainrick:

I thank you and your team very much for timely completion of this inspection report per Congressional Resolution No. 22-194, and for sharing with the Department of Finance & Administration for comments.

We note that there is no findings in the report as book entry adjustments were completed in line with Generally Accepted Accounts Principles (GAAP).

I reviewed the report and have no further comments to add, other than to emphasize that that no cash has been set aside for this purpose, since this is a book-entry adjustment as rightly noted in the report.

Thank you

  
Eugene Amor  
Secretary  
Department of Finance and Administration

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**7.0 ONPA EVALUATION OF MANAGEMENT RESPONSE**

Although there were no findings, we requested a written Management Response from the Department. The Secretary of Finance agreed with our conclusion as provided in the previous section (Section 6.0) of this report.

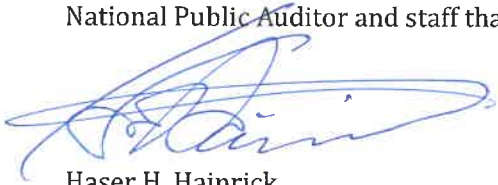
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**8.0 NATIONAL PUBLIC AUDITOR'S COMMENTS**

We would like to thank the staff of the FSM Department of Finance & Administration for their assistance and cooperation during the Inspection.

We have provided copies of our final report to the President and members of the 22<sup>nd</sup> FSM Congress. Furthermore, copies of the report have been made available on our official website, social media page as well as our distribution listing. The same can be obtained 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  
April 04, 2023

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**9.0 ONPA CONTACT AND STAFF ACKNOWLEDGEMENTS**

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**ONPA CONTACT**                      Haser Hainrick, National Public Auditor  
Email: hhainrick@fsmopa.fm

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

Makereta Dyer, Audit Manager  
Neong U. Yoma, Auditor in Charge

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the stakeholders' benefit.

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