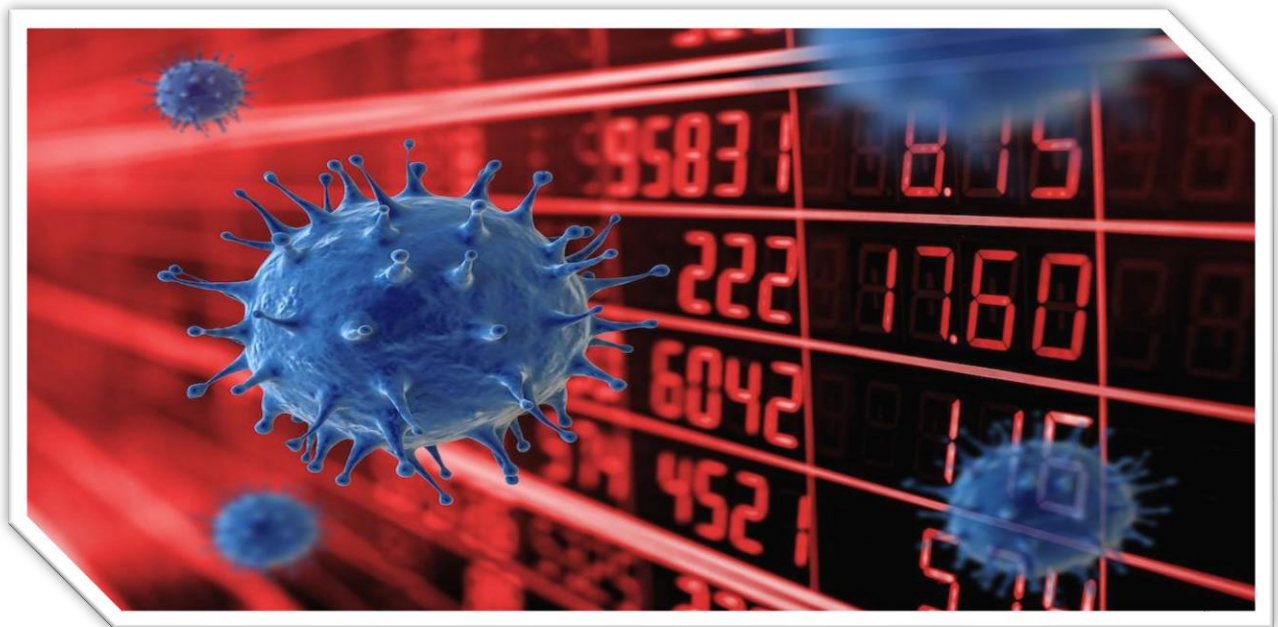


**OFFICE OF THE NATIONAL PUBLIC AUDITOR**  
**FEDERATED STATES OF MICRONESIA**



**\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program  
Without the Statutory Governance Structure, Thus, Lacking the Proper  
Oversight Required by Law**

**Report No. 2023-09**



# FEDERATED STATES OF MICRONESIA

## Office of The National Public Auditor

P.O. Box PS-05, Palikir, Pohnpei FSM 96941

Tel: (691) 320-2862/2863 Fax: (691) 320-5482

CID Hotline: (691) 320-6768; Website: [www.fsmopa.fm](http://www.fsmopa.fm)

Facebook: FSM Office of the National Public Auditor; E-mail: [info@fsmopa.fm](mailto:info@fsmopa.fm)

Thursday, August 24, 2023

His Excellency Wesley W. Simina, President  
The Honorable Members of the 23<sup>rd</sup> FSM Congress  
Members of the Tourism Sector Mitigation Fund Committee  
National Government of the FSM  
Palikir, Pohnpei FM 96941

### **RE: Inspection of the Tourism Sector Mitigation Fund (TMF)**

We have completed our inspection on the TMF Program covering May 2020, inception, to February of 2023. The inspection primarily focused on the compliance aspect of the program. This report presents the results of our inspection, which was conducted in accordance with *Council of the Inspectors General on Integrity and Efficiency's (CIGIE) Quality Standards for Inspections and Evaluations (QSIE)*.

Based on our inspection, we found the following issues:

1. Improper authorization of funds resulting in \$13.3 million worth of questioned relief payments; and
2. Relief payments were made to ineligible businesses and individuals; and
3. Disbursements on loan interest payments, a deviation from the law; and
4. Non-compliances found in the process of issuing relief Payments.

The Tourism Sector Mitigation Fund (TMF) Committee should administer and implement the TMF program in accordance with the requirements and the intent of the law. Any changes that fall outside the parameters of the law can only be approved by Congress rather than by regulations that are promulgated by the Committee.

We discussed the findings and recommendations with the Committee of the Tourism Sector Mitigation Fund and requested a formal management response, which they provided none.

Respectfully submitted,

Haser Hainrick  
National Public Auditor

Xc: The Honorable Alik B. Palik, Vice President  
Acting Secretary, Department of Finance & Administration  
Acting Secretary, Department of Justice  
Consultant and the Acting Secretary, Department of Resources & Development  
Consultant and the Acting Secretary, DECEM

## **Table of Contents**

1.0	INTRODUCTION.....	2
2.0	BACKGROUND .....	2
2.1	Enabling Law – PL 21-104 .....	2
2.2	Regulation Regarding Tourism Sector Mitigation Fund Requirements .....	5
2.3	TMF Implementation Plan .....	6
2.4	Total Budgeted Amount.....	6
2.5	Total Expenditures of the TMF program .....	7
3.0	OBJECTIVE, SCOPE AND METHODOLOGY.....	7
3.1	Objective.....	7
3.2	Scope.....	8
3.3	Methodology.....	8
4.0	PRIOR AUDIT COVERAGE.....	8
5.0	CONCLUSION .....	8
6.0	FINDINGS AND RECOMMENDATIONS.....	10
6.1	Improper Authorization of Funds Resulting in \$13.3 Million Worth of Questioned Relief Payments.....	10
6.2	Relief Payments Were Paid Out to Ineligible Businesses and Individuals.....	11
6.3	Disbursements on Bank Loan Interest Payments Deviated From the Requirements of the Law.....	13
6.4	Non-Compliances Found Toward the Process of Relief Payments.....	14
7.0	MANAGEMENT RESPONSE.....	17
8.0	ONPA EVALUATION OF MANAGEMENT RESPONSE.....	19
9.0	NATIONAL PUBLIC AUDITOR COMMENTS.....	20
10.0	ONPA CONTACT AND STAFF ACKNOWLEDGEMENTS .....	21

**\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the  
Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law  
Report No. 2023-09**

---

<b>Abbreviations</b>	<b>Meaning</b>
ADB	Asian Development Bank
BGRTs	Business Gross Revenue Tax
CIGIE	Council of the Inspectors General on Integrity and Efficiency
CTA	Customs and Tax Administration
DHSA	Department of Health and Social Affairs
DoFA	Department of Finance and Administration
FSM	Federated States of Micronesia
GRT	Gross Revenue Tax
ONPA	Office of the National Public Auditor
PL	Public Law
QSIE	Quality Standards for Inspections and Evaluations
TMF	Tourism Sector Mitigation Fund

# **\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law Report No. 2023-09**

---

## **1.0 INTRODUCTION**

The Office of the National Public Auditor (ONPA), in selecting the programs or projects to audit or inspect, considers the current events and the emerging issues, among others, that pose high risk for the Federated States of Micronesia (FSM). This inspection was initiated based on the need to provide reasonable assurance to the public on transparency and accountability in Government decisions and actions given the following circumstances:

- i) The FSM Government paid approximately \$14.3 million for financial assistance to affected businesses and the unemployed in connection with COVID-19 pandemic under emergency conditions; and,
- ii) Millions of dollars were allocated for quick disbursement within a short period of time with approved waivers to lift existing fiscal controls and requirements.

This report covers the FSM National Government’s financial assistance (economic stimulus) related to the effect of Covid-19, referred to as the Tourism Sector Mitigation Fund (TMF or Fund).

## **2.0 BACKGROUND**

COVID -19 broke out in China in December 2019 and spread globally. Covid cases were rising daily in Asia, Europe, Americas, Africa and to the rest of the world. Consequently, the World Health Organization declared COVID-19 a pandemic in March 2020.

To prevent and/or to minimize the chances for the pandemic reaching our shore, the FSM President issued the 1<sup>st</sup> FSM Public Health Emergency Declaration on January 30, 2020. The declaration consisted of strict travel restrictions in and out of the country, and an establishment of the COVID National Task Force to coordinate crucial activities in connection with the pandemic.

At the national legislative body, the 21<sup>st</sup> FSM Congress amended Chapter 6 of Title 55 of the FSM Code by adding a new *Section 609A* to establish a temporary tourism mitigation relief fund in order to alleviate some of the economic losses faced by the tourism industry and individuals working in the tourism sector who lost employment because of the pandemic. The amendment (Public Law No. 21-104) was signed on April 3, 2020. Through this legislation, the FSM National Government created a tourism mitigation relief fund also known as Tourism Sector Mitigation Fund (TMF). Laws and regulations were developed and approved to govern how the Fund was to be used and administered.

These laws and regulations are explained in detail in the subsequent sections.



### **2.1 Enabling Law – PL 21-104**

The Fund was created through Public Law (PL) 21-104, which was approved on April 3, 2020, to be used to partially offset the economic losses for the businesses in the tourism industry and for individuals working in the tourism sector, who were laid off from employment in the FSM because of the coronavirus pandemic.

**\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law  
Report No. 2023-09**

---

According to PL 21-104, “moneys for the Fund shall be derived from appropriations by the Congress of the Federated States of Micronesia and the State legislatures, United States grants, funds designated for such purposes from international organizations and from any and all other appropriate sources.”

In addition, Section 609A subsection (3) of PL 21-104 requires that “tourism sector businesses operating in the Federated States of Micronesia seeking relief from the Fund must show tax returns from the previous year in order to establish their losses claimed under this Fund. The President shall issue regulations for equitable compensation for affected businesses, including a possible cap on the amount of a valid claim”.

Furthermore, PL 21-104 mandated that “the distributions from the Fund shall be managed and administered by a committee named by the President comprising representatives of the Departments of Resources and Development; Finance; Justice; and Environment, Climate Change and Emergency Management. The committee shall report quarterly to Congress on the status of the Fund and distributions therefrom”.

For the purposes of the Fund and as mandated by law, tourism sector businesses shall include hotel operators; car rentals; tour operators; resorts; dive shops; airlines; or any other tourist specific businesses not mentioned above.

PL 21-104 was later amended five times to:

- change the reimbursement percentage to derive the amount to pay the qualified tourism businesses based on Wages and Salaries, Social Security, Gross Revenue Tax (plus any penalties and interest), and Rebate Business Loan Interest paid by the tourism sector businesses; and
- add additional businesses that qualify to receive funds from the TMF and change the expiration date of the program.

Refer to the table below regarding the amendments that were made to PL 21-104.

Table 1: Enabling law of the TMF program, PL. 21-104, as amended.

Date	PL No.	Description
April 3, 2020	21 - 104	<p>Section 1. Chapter 6 of Title 55 of the Code of the FSM, as amended, is hereby further amended by adding a new section 609A, to read as follows; "Section 609A. Tourism Sector Mitigation Fund.</p> <ol style="list-style-type: none"> <li>1. There is created a Tourism Sector Mitigation Fund to be used to partially offset the economic losses of the businesses in the tourism industry and individuals working in the tourism industry who were laid off in the FSM during the coronavirus pandemic.</li> <li>2. Moneys for Tourism Sector Mitigation Fund shall be derived from appropriations by the Congress of the FSM and the State legislatures, US grants, funds designated and from any and all other appropriate sources.</li> </ol>

**\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law  
Report No. 2023-09**

Date	PL No.	Description
		<ol style="list-style-type: none"> <li>3. Tourism sector businesses operating in the FSM seeking relief from the Tourism Sector Mitigation Fund must show tax returns from the previous year in order to establish their losses claimed under this Fund. Individuals in the tourism sector, who are seeking compensation for lost wages due to being laid off as a result of the economic downturn, must submit their last paycheck stub and a statement from their employer in the tourism industry, who laid them off, evidencing their employment. The President shall issue regulation for equitable compensation for affected businesses, including a possible cap on the amount of a valid claim.</li> <li>4. The distributions from the Fund shall be managed and administered by a committee named by the President comprising representatives of the Departments of Resources and Development; Finance; Justice; and Environment, Climate Change and Emergency Management. The committee shall report quarterly to Congress on the status of the Fund and distributions therefrom.</li> <li>5. For the purposes of this Fund, tourism sector businesses shall include hotel operators, car rentals, tour operators, resorts, dive shops, airlines or any other tourist specific businesses not mentioned above.</li> <li>6. The Fund shall expire at the end of fiscal year 2021. Any unexpended funds shall lapse into the "Disaster Relief Fund."</li> </ol>
June 18, 2020	21 - 120	<p>Adding a new subsection (a) to section 609A (3)</p> <ol style="list-style-type: none"> <li>A. A tourism sector business will be eligible for the following relief in the relevant quarter to be calculated as follows:               <ol style="list-style-type: none"> <li>I. a rebate for reimbursement purposes equivalent to 100% of the Wages and Salaries paid by the taxpayer to the employees of the tourism sector business for personal services relating to producing the Gross Revenue for the business;</li> <li>II. a rebate for reimbursement purposes equivalent to 100% for the Social Security contributions paid by the tourism sector business in respect of its employees in the quarter pursuant to section 902 of Title 53 of the FSM Code;</li> <li>III. a rebate for reimbursement purposes equivalent to 100% for the Gross Revenue Tax (plus any penalties and interest) payable by the tourism sector business in the relevant quarter pursuant to section 141 of Title 54 of the FSM Code;</li> </ol> </li> </ol>



**\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law  
Report No. 2023-09**

Date	PL No.	Description
		<p>IV. a rebate for reimbursement purposes equivalent to 100% for the bank interest on business loans paid by the tourism sector business to a FSM domiciled branch of a FSM registered bank;</p> <p>V. additional relief may be added per Regulations; and,</p> <p>VI. businesses that can show a direct economic loss as a result of the downturn experienced by the tourism sector are eligible to receive assistance under this section subject to the requirements under 609A (3) (i) - (v).</p>
December 2, 2020	21 - 211	<p>(5) Adding a new subsection (a) &amp; (b) to section 609A (5) Other businesses not specifically mentioned above may apply for assistance under this section; PROVIDED THAT, they meet the following criteria:</p> <p>a. They can demonstrate that their businesses rely significantly on the supply of goods and services to the tourism sector; and</p> <p>b. They can demonstrate that their businesses have been significantly impacted by the COVID-19 public health emergency declaration.</p>
February 8, 2021	21 - 232	Subsection 5, between the two criteria (change "and" to "or")
September 28, 2021	22 - 47	TMF shall expire on June 30, 2022. Any unexpended funds shall lapse into the FSM Trust Fund.
June 3, 2022	22 - 115	TMF shall expire on December 31, 2022. Any unexpended funds shall lapse into the FSM Trust Fund.

**2.2 Regulation Regarding Tourism Sector Mitigation Fund Requirements**

Pursuant to PL 21-104, the “*Regulation Regarding Tourism Sector Mitigation Fund Requirements (Regulation)*” was developed and approved by the President on May 4, 2020. This Regulation contained specific requirements on the membership of the oversight Committee, their role and the eligibility requirements to be used for administering the Fund. The reporting requirements of the Committee were also laid out in the Regulation. This Regulation, however, had also been amended two (2) times to reflect the amendments made to the Enabling Law.

The Regulations, as amended, are significant as they pertain to the distribution of funds from the TMF based on the following:

- (i) 1<sup>st</sup> amendment was on the calculation of the relief for tourism sector businesses towards their quarterly returns as delineated in its enabling law. Previously, such calculations were based on a quarterly basis, whereas in the amendment, salaries and wages, utilities and bank interest payments would now be paid on a monthly basis. Social security and gross revenue tax (plus any penalties and interest) would remain to be paid on a quarterly basis.



## **\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law Report No. 2023-09**

---

- (ii) The 2<sup>nd</sup> significant amendment was merely regarding the expanded coverage of tourism sector businesses that enabled other business types that are directly impacted by Covid to become eligible to receive the relief assistance.

All other amendments made were on extending the expiration date of the funds of the TMF Program.

### **2.3 TMF Implementation Plan**

Below are the processes as per the TMF Implementation Plan which was never approved.

- The Secretary, Department of Finance & Administration, sent a letter to the FSM States' Chambers of Commerce, States' Tourism Organizations, and individual businesses requesting them to register for the Tourism Mitigation Fund.
- Prior to registration of TMF businesses, DOFA officials extracted tax information from CTA and Social Security information for 2019 for known tourism operators and used this to create a preliminary register of possible businesses. They also obtained quarterly turnover, tax, and wages data for 2019 for businesses.
- Tourism sector businesses in the FSM seeking relief from the Fund must show tax returns from the previous year in order to establish their financial losses.
- The Budget Analyst prepares the Assessment Form for the business by inserting the GRT for the quarters ended March FY2019 and March FY2020 in the Assessment template which automatically calculates the Economic Assistance amount. Once the Assessment Form is completed, the Budget Analyst signs and sends it to Chief Economist for further assessment and checking. In particular, the Chief Economist checks the Assessment Form to make sure that the Total Revenue is decreased by at least 10% to be eligible. He also assesses the total economic assistance to ensure it is not excessive.
- The Chief Economist prepares a group payment summary request which list companies by State and the amount of the economic stimulus. Where there are multiple businesses with one owner, one check is to be produced. When it is determined there are enough businesses on the Group payment request to put through a payment request to the Secretary, the full information pack is prepared and sent to the Economic Advisor. He does a final check of the payments listed prior to signing off and sending the payment request memo to the Secretary to approve the payment of relief funds.

### **2.4 Total Budgeted Amount**

According to PL 21-104, money for the TMF shall be derived from appropriations by the FSM Congress and the State legislatures, United States grants, funds designated for such purposes from international organizations and from any and all other appropriate sources.

The initial contribution to the Program was appropriated by Congress in the amount of \$1,000,000. Other sources of funding included the authorization on the use of 20% of fishing access fees and 50% of corporate tax collected during the fiscal year ending 2020 shall be deposited into the TMF program as per PL 21-105. Finally, the Project Development Fund was also utilized in the amount of \$499,975 for the purpose of this Program.

**\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law  
Report No. 2023-09**

---

**Table 2: Sources of Funding**

Source of Funding	Amount (\$)
FSM Public Law 21-94 Appropriation	1,000,000
FSM Public Law 21-105 (Fiscal Year ending 2020)	12,773,920
Project Development Fund	499,975
<b>Total</b>	<b>14,273,895</b>

**2.5 Total Expenditures of the TMF program**

Based on the information and records obtained from DoFA, expenditures totaling \$14.3 million (rounded off) were incurred from May 4, 2020 (inception) to February 28, 2023, which is depicted in Table 2 showing the expenditures incurred per business sector for all the 4 (four) States.

**Table 3: Expenditures by Sector and State, from May 2020 to February 2023**

Business Sector Type	Chuuk	Kosrae	Pohnpei	Yap	Totals
<i>Car Rental and Taxi Services</i>	\$93,586.00	\$126,398.00	\$475,265.00	\$88,489.00	\$783,738.00
<i>Dive, Tour &amp; Gift Shop</i>	\$985,450.00	\$377,039.00	\$393,274.00	\$354,065.00	\$2,109,828.00
<i>Hotel, Motel &amp; Apartment</i>	\$1,688,360.00	\$639,893.00	\$2,487,864.00	\$1,151,648.00	\$5,967,765.00
<i>Restaurant, Bar &amp; Grill</i>	\$245,676.00	\$66,359.00	\$1,518,420.00	\$147,281.00	\$1,977,736.00
<i>Tourism Business Loan Interest</i>					\$1,807,472.24
<i>Unemployment and Individual Assistance</i>					\$260,484.11
<i>Other Businesses (Public Law No. 21-104 amended to qualify other businesses under the program such as laundromat, Travel agency, Fish Market, Sakau Market, Cinema, Retail Stores, Saloon &amp; Spas, Tattoo Shops, Bottling Water, Car Wash, and Liquefied Petroleum Gas Distribution)</i>	\$160,697.00	\$51,689.00	\$1,141,212.44	\$12,184.00	\$1,365,782.44
<b>Grand Totals by State</b>	<b>\$3,173,769.00</b>	<b>\$1,261,378.00</b>	<b>\$6,016,035.44</b>	<b>\$1,753,667.00</b>	<b>\$14,273,895.79</b>

**3.0 OBJECTIVE, SCOPE, AND METHODOLOGY**

**3.1 Objective**

The objective of this inspection was to determine whether the funds allocated for the *Tourism Sector Mitigation Fund* Program were disbursed in compliance with their intended purposes and applicable laws and regulations.

# **\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law Report No. 2023-09**

---

## **3.2 Scope**

This inspection covered the TMF payments disbursed from the Program from May 4, 2020 (inception) and up to February 28, 2023, in compliance with PL 21-104 and its subsequent amendments, including relevant Regulations established by the Committee in managing and administering the Program.

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:

*“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**

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

The inspection was conducted mainly at DoFA in Palikir, Pohnpei. The inspection procedures included assessing the enabling public law and regulation and their subsequent amendments, analyzing the TMF Implementation Plan and interviewing of key personnel, and reviewing of expenditures reports. We also analyzed and verified a sample of Assessment Forms based on tax roll reports obtained from the Division of Customs and Tax Administration (CTA) of the DoFA.

With regards to our sample selection of businesses that received relief funds from the TMF, our approach was based on a representation of the various type of businesses listed:

1. Hotel and Apartment
2. Restaurant
3. Car Rental and Taxi Services
4. Bar and Grill
5. Tour, Dive, and Gift Shops
6. Interest Payment on Business Loan
7. Travel Agency
8. Other Business categories (Laundromats, Retail Stores, Tattoo Shops, Water Bottling, Beauty Salons, Cinema, Liquefied Petroleum Gas Distribution, Fish Market, and Sakau Market).

## **4.0 PRIOR AUDIT COVERAGE**

This is the first inspection conducted by ONPA on matters relating to COVID-19 focusing on the TMF.

## **5.0 CONCLUSION**

Based on our inspection, we concluded that the funds disbursed from the TMF Program were not in full compliance with their intended purposes and applicable laws and regulations based on the following findings:

**\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law  
Report No. 2023-09**

---

1. Improper authorization of funds resulting in \$13.3 million worth of questioned relief payments.
2. Relief payments were paid out to ineligible businesses and individuals.
3. Disbursements on bank loan interest payments deviated from the requirement of the law; and
4. Non-compliances found in the process of relief payments.

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

# **\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law Report No. 2023-09**

---

## **6.0 FINDINGS AND RECOMMENDATIONS**

### **6.1 Improper Authorization of Funds Resulting in \$13.3 Million Worth of Questioned Relief Payments**

According to PL 21-104, as amended, Section 609A, Part (4) requires that the distributions from the Fund shall be managed and administered by a committee named by the President comprising representatives of the Departments of Resources and Development; Finance and Administration; Justice; and Environment, Climate Change and Emergency Management.

Part 5 of the Regulations also state that the Committee to manage and administer the **distribution of the funds** will comprise of the following members:

- Secretary, Department of Resources and Development; (DR&D)
- Secretary, Department of Finance and Administration; (DoFA)
- Secretary, Department of Justice; (DOJ) and
- Secretary, Department of Environment, Climate Change and Emergency Management; (DECCEM)

The following anomalies were noted from our review of the governance structure implemented for the Fund:

1. While we acknowledge the implementation of the TMF Regulations and its amendments as part of the management and administration of the Committee, there is a level of uncertainty that the Committee, as a whole, was managing and administering the Fund. <sup>1</sup> Based on our review of the disbursements, we found that only one of the Committee members was managing and administering the Fund.
2. The law does not give a committee member the sole authority and responsibility to approve and disburse funds. Regardless, disbursements worth millions were approved and disbursed by a single committee member. We, therefore requested the meeting minutes to ascertain whether the Committee, as a whole was managing and administering the Fund. With the documented meeting minutes, it would assist others who are interested in the administration and management of the Fund better understand the discussions and decisions made and approved by the Committee and moreover, provide a sense of a unified approach in managing and administering the Fund. However, the minutes that were provided did not address the issue in which only one committee member had the sole authority and responsibility to disburse the Fund. Moreover, we are questioning the validity of the minutes as they were not approved and no indication of adoption by the Committee.
3. While there is a TMF Implementation Plan (the Plan), we found no evidence that the document was reviewed and approved by the Committee. Moreover, we also want to point out that there was no clear documentation in either the Regulations or the

---

<sup>1</sup> We want to note the designation of allottee by Public Law 21-94 on partial funding of the program, \$1M to be exact. However, millions more, as authorized by Public Law 21-104, and as amended, shall be managed and administered by the Committee.

## **\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law Report No. 2023-09**

---

Plan itself as to whether the Chairman has the sole authority on the disbursements of the funds.

4. This unapproved Plan outlines the processes to be used by the Committee for the disbursement of funds.

### **6.1.1 Cause:**

1. The governance structure of the Fund was not aligned with the requirements of the law in terms of the duties and responsibilities of the Committee.

### **6.1.2 Effects:**

1. As a result, \$13.3 million worth of relief payments paid out by the Program may be deemed as questionable and vulnerable to waste, misuse, or abuse. They were processed and paid not in accordance with the intent of law.
2. The goals and objectives of the Fund would not be accomplished without having a good governance structure in place to guide the processes in managing and administering the Program more effectively and efficiently.

### **6.1.3 Recommendation:**

For other future programs similar in nature to the TMF, we recommend that its oversight committee, when developing and implementing regulations, policies, and procedures, they should ensure that they are aligned with the intent of the law and to assure good governance through prudent practices such as approving the TMF Plan as well as formally documenting and adopting meeting minutes for accountability and transparency purposes.

## **6.2 Relief Payments Were Paid Out to Ineligible Businesses and Individuals**

According to the TMF Regulations, Section 3A Expanded Coverage, as amended by PL 21-211, it states:

*Tourism sector businesses operating in the Federated States of Micronesia seeking relief from the Tourism Sector Mitigation Fund must show tax returns from the previous year in order to establish their losses claimed under this fund. Individuals in the tourism sector, who are seeking compensation for lost wages due to being laid off as a result of the economic downturn, must submit their last paycheck stub and a statement from their employer in the tourism industry, who laid them off, evidencing their unemployment.*

Section 3 of the Regulation on eligibility and disqualification requires that “*all tourism sector business operation in the Federated States of Micronesia seeking relief from the Tourism Sector Mitigation Fund must show their tax returns from the previous year in order to establish their losses to be claimed under the fund.*”

- a. *The assistance provided through the Tourism Sector Mitigation Fund may be granted to the following businesses subject to proof of losses due to the COVID-19 pandemic:*
  - i. *Exporters, that are able to demonstrate the impacts on their business as a result of border shutdown or other COVID-19 related measures;*

**\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law  
Report No. 2023-09**

---

- ii. Debt relief support in the form of interest payments on loans for commercial real estate businesses, showing signed leases that were cancelled or disrupted by border closure and travel restrictions;
- iii. Transport services such as taxi services;
- iv. Businesses providing services to tourism sector, such as liquefied petroleum gas providers;
- v. Entertainment establishments impacted by border shutdown or social distancing measures (e.g., theater, bar, and beauty salon).

The laws and regulations for the TMF Program, as amended, expanded the coverage for the type of businesses that may be eligible for relief assistance. Refer to the table below for more details and information:

Table 4: Types of Businesses that are eligible and not eligible with current determination by the Committee for the relief assistance, as of February 05, 2021.

Eligible Business	Non-Eligible Business
<b>Exporters</b>	Construction
<b>Apartments/Rentals</b>	Fuel Companies/Gas Stations
<b>Taxi companies</b>	Laundry Mat [laundromat]
<b>LP Gas Distribution</b>	Private School
<b>Cinemas</b>	Retail Stores
<b>Bars</b>	Wholesalers
<b>Beauty Salons</b>	Banking Institutions
<b>Water Bottling</b>	Law Firms
<b>Others to be determined</b>	Pharmacies
	Credit Unions
	Printing Shops

TMF key staff conducted assessments on tourism related businesses to establish eligibility and relief amounts. Based on our review, we noted the following issues from our review of the disbursements prepared by the implementation team for DoFA:

1. Relief payments were made to businesses despite the requirement of showing their tax returns to be provided for the purpose of adequate documentation in justifying the payments and more importantly, in ensuring compliance to the requirements of the laws and regulations concerning eligibility. There were also instances where even the key document such as the assessment forms were found to be missing. This form was used by TMF personnel as part of the process for reviewing TMF businesses seeking relief assistance. The assessment form contains key information that is extracted from quarterly tax returns reported by businesses, establishing their eligibility, and calculating how much relief assistance to receive. We, therefore, could not provide reasonable assurance in determining whether all businesses that were financially assisted under the Program were eligible to receive relief payments on the basis of inadequate documentation and the absence of other relevant supporting documents required by law.



## **\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law Report No. 2023-09**

---

2. Based on our review of the disbursements, we found relief payments in the amount of \$93,633 was disbursed to several businesses that were not eligible to receive relief assistance such as laundromats and retail stores as reflected in the list of eligible businesses per established Regulations. In addition, we noted that the listing also includes 'others to be determined', however with the unapproved meeting minutes and the non-documentation of the eligible businesses in question within the regulations, we could not provide reasonable assurance that such businesses were in fact eligible to the relief assistance.
3. We also noted several relief payments made to certain individuals in the form of unemployment assistance as allowed by the Enabling Law. However, such payments did not meet the relevant requirements set forth by law, such as providing evidence of unemployment and the most recent paycheck stub.
4. Furthermore, we also found other expenditures that were not TMF related as it was intended by the law. The expenditure consisted of payments made to stranded FSM citizens who were returning home to the FSM during the travel restrictions and lockdown. The sole purpose of the Program was to offset economic losses for businesses and for individuals that lost their employment in the tourism industry.

### **6.2.1 Causes:**

1. Negligence of the Committee by failing to properly scrutinize the eligibility process prior to disbursements. The Committee did not function as required by the law.

### **6.2.2 Effect:**

1. As a result, more than \$93,000 in financial loss by the FSM National Government in relief payments disbursed to businesses and individuals that were not eligible to receive relief assistance.
2. Lack of support from the Committee throughout the Program resulted in non-compliance with the laws and regulations by the staff concerning the eligibility of businesses and individuals applying for the relief assistance.

### **6.2.3 Recommendations(s):**

For other future programs similar in nature to the TMF, we recommend that its oversight body should exercise due diligence and scrutinize the eligibility process to ensure full compliance with their applicable laws and regulations.

## **6.3 Disbursements of \$1.4M Bank Loan Interest Payments Deviated from the Requirements of the Law**

According to PL 21-211 Section 609A, Part (3)(a)(iv) on eligibility and disqualification:

*“requires that all tourism sector business operation in the Federated States of Micronesia seeking relief from the Tourism Sector Mitigation Fund must show their tax returns from the previous year in order to establish their losses to be claimed under the fund: a rebate for reimbursement purposes equivalent to 100% for the bank interest on business loans paid by the tourism sector business to a FSM domiciled branch of a FSM registered bank”*

## **\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law Report No. 2023-09**

---

Based on our review, we found that multiple rebates of bank loan interest payments for several businesses in the total amount of \$1,424,783 was disbursed to the FSM domiciled lending institutions being bank interests on business loans owed by the tourism sector businesses. The following issues were noted from our verification:

1. According to the law, businesses can get a 100% rebate or refund of the bank loan interest they paid on their loans. However, we found that payments were being made directly to the lending institutions by the TMF Program. We could not provide reasonable assurance on whether businesses actually paid their own bank loan interests on their respective loans based on this payment approach taken by the Program; and
2. In addition, we also noted that after the 1<sup>st</sup> engagement with the Committee concerning this exact finding, the Committee amended the Regulation and got it approved on August 25, 2022, to replace the word “rebate” with “payment” in the Amendment Section 4(b) b(iv) of the Regulation, which is in contrary to law.
3. Furthermore, we also noted that neither the requirements of showing tax returns nor the preparation of assessments were conducted for this portion of the Program. Thus, leading to questions concerning the eligibility of such businesses, as previously discussed.

### **6.3.1 Cause:**

1. Negligence of the Committee by failing to comply with the requirements of the law in regard to the loan rebates on bank interest payments.

### **6.3.2 Effect:**

- As a result, rebates of bank interest payments totaling more than \$1.4M made to several banks did not comply with the requirements of the law.

### **6.3.3 Recommendation:**

For other future programs similar in nature to the TMF, we recommend that the oversight Committee should be more diligent by conducting thorough reviews in ensuring that the requirements of the laws are complied with.

## **6.4 Non-Compliances Found Toward the Process of Relief Payments**

*Section 4 of the June 2020 Amendment Regulation states the following requirements:*

### 4. Guidelines regarding tourism sector business relief

- a. *Subject to Regulation 3(d), on a monthly basis from April 2020 onwards, a tourism sector businesses relief in the relevant month will be calculated as follows;*
  - (i) *An amount equivalent to 100% of the Wages and Salaries paid by the taxpayer to the employees of the tourism sector business for personal services relating to producing the Gross Revenue for the business;*
  - (ii) *An amount equivalent to 100% of the utilities bill of the business; and*
  - (iii) *An amount equivalent to 100% of the bank interest on business loans paid by the tourism sector business to an FSM domiciled branch of an FSM registered bank.*
  - (iv) *Additional relief may be added by the Committee*

**\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law  
Report No. 2023-09**

---

- b. *Subject to Regulation 3(d), on a quarterly basis from June 2020 onwards, a tourism sector businesses relief in the relevant quarter will include the following:*
- (i) *An amount equivalent to 100% of the Social Security contributions payable by the tourism sector business in respect of its employees in the quarter pursuant to section 902 of title 53 of the Code of FSM (Annotated); and*
  - (ii) *An amount equivalent to 100% of the Gross Revenue Tax (plus any penalties and interest) payable by the tourism sector business in the relevant quarter pursuant to section 141 of title 54 of the FSM Code (Annotated).*

Additionally, Clause (4)(f) of the Regulations states that *“The Committee or its designee(s) will determine the eligibility of a tourism sector business seeking relief from the Tourism Sector Mitigation Fund by comparing the business’s taxable gross revenue declared in its tax return for the first quarter and the subsequent quarterly tax periods in 2019 with the same quarterly tax periods in 2020”.*

According to Public Law 22-115, as amended, *the Tourism Sector Mitigation Fund shall expire on December 31, 2022. Any unexpended funds shall lapse into the FSM Trust Fund.*

During our inspection, we found inconsistencies in the processes surrounding the administration and distribution of the funds such as:

1. We found instances where payment amounts were being paid out as opposed to the calculation set forth by law. Furthermore, some amounts were paid out on a flat-rate basis as a result of no reimbursable amounts being reported by businesses. In some cases, we also noted several payments that may have been decreased as a result of such flawed calculations and yet were issued to businesses when they should have been given more of the assistance based on their tax returns reflected on their relevant assessments.

It is worth mentioning that upon one of our meetings with TMF personnel, they stated some of the issues presented are currently being addressed by the Committee as a result of those miscalculations.

**Refer to the diagram below for some examples with flawed calculations:**

Amount paid	Audit Calculation	(Overpayment)/Underpayment
500.00 <sup>2</sup>	0.00	-500.00
3,000.00	0.00	-3000.00
1,637.00	13,792.00	12,155.00
2,000.00	0.00	-2,000.00

2. Assessments prepared to determine the relief amounts were not based on the requirement of comparing taxable gross revenues of the same quarterly tax periods as

---

<sup>2</sup> Flat-rate payment based on testimonies from TMF staff as a result of no reimbursable amounts with respect to the quarterly tax returns reported by businesses.

## **\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law Report No. 2023-09**

---

required by law. The assessments prepared to determine the relief amounts were based on both the 'total revenue' as well as the 'taxable revenue'. In addition, we also found that the assessments were being prepared on different quarterly tax reporting periods, contrary to the requirements of the Regulations. For instance, an assessment was prepared for Business A in the 1<sup>st</sup> Quarter of 2019 against the 2<sup>nd</sup> quarter of 2020, whereas the assessment should be made against the same quarterly reporting period, 1<sup>st</sup> quarter of 2020, as set forth by the Regulations.

3. Based on our review of the disbursements, we found relief payments in the amount of \$65,863 that were processed and issued after the Fund had expired. These payments were for 3<sup>rd</sup> quarter tax reporting periods filed by businesses. Furthermore, we also noted that all relevant and key supporting documents sufficiently needed to process such payments had been made available long before the Fund expired. We are aware of the mandates surrounding the quarterly tax reporting periods for businesses. Therefore, these relief payments could have been processed and issued prior to the expiration of the Program.

### **6.4.1 Causes:**

1. Negligence by the Committee to ensure effective controls in the process of conducting timely review of assessments as well as ensuring that the calculations are correct, and requirements of the laws and other applicable regulations are complied with prior to the approval of relief payments.
2. Negligence by the Committee for failing to comply with the requirements of the law in regard to the expiration date of the fund.

### **6.4.2 Effects:**

1. Direct non-compliance by the Committee in failing to comply with the requirements of the law.
2. Inconsistent approaches on the issuance of stimulus payments may question the credibility and the real intention of the Program.
3. TMF payments may be subject to financial waste and loss by the government as a result of the flawed calculations and assessments prepared and made towards the process and issuance of TMF payments.

### **6.4.3 Recommendations:**

For other future programs similar in nature to the TMF, we recommend that its oversight body should exercise due diligence and scrutinize the review process on the assessments being prepared to ensure full compliance to the laws and regulations with respect to the payment process and timeliness.

# **\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law Report No. 2023-09**

---

## **7.0 MANAGEMENT RESPONSE**

We requested for management response from the TMF Committee, and we received none. We did, however, received an email from a member of the Committee. We also received a written comment from the current Budget & Economic Advisor for the Department of Finance & Administration:

### **Finding 6.1 Ineffective Governance Structure Resulting in \$13.3 Million Worth of Questioned Relief Payment**

The Committee believes that the program was implemented well and it has provided the assistance to the businesses in need during the border shut down in a very effective manner. In the last in person meeting between all Committee members and the Office of the Public Auditor in the Department of DoJ conference room, the committee made it clear to the auditors that the Committee collectively designed the TMF program as reflected in the approved regulation signed by the President per Committee recommendation. TMF regulations and subsequent amendment reflect collective work of the committee who prepare regulations for President's endorsement. It is the Committee's role to set the governance framework for the fund and parameters for disbursement of benefits to eligible individuals. Specific payments would follow existing National Government payment procedures, through the Department of Finance & Administration, in full compliance with the approved TMF law and regulations.

### **Finding 6.2: Relief Payment Were Paid Out to Ineligible Businesses and Individuals**

The Committee exercises its due diligence in identifying all eligible businesses and abides by the law and regulations of the TMF. The list of eligible businesses is not hard-wired into the TMF Regulations, but referenced as a living document that the Committee can update from time to time depending on the evolving economic circumstances. The staff completed due diligence on Laundromats and confirmed that these businesses were heavily impacted by the border lockdown. Several hotels confirmed that they rely on laundromat business to do laundry for hotel room linens, therefore the committee approved by meeting minutes, to include laundromats as eligible businesses subject to 10% revenue loss requirement. All laundromats that received benefits met the revenue decline requirement stipulated in the law and the TMF regulations. All individual recipients of relief assistance provided evidence of unemployment and proof of last paystub which was used to determine the amount of financial assistance to be claimed. The staff have recently closed the program and currently in the process of arrangement the files in neat order.

### **Finding 6.3: Disbursement on Bank Loan Interest Payments Deviated from the Requirements of the Law**

The Committee agree with the finding that there was an initial oversight by the Secretariat and the Committee in requiring that the 10% revenue reduction is also performed for claims for loan interest payments, but the Committee disagree with reference to \$1.6 million made to several banks did not comply with requirements of the law, because there is no evidence put forth by the Auditor that the recipients did not meet the 10% revenue reduction as required by law. The Secretariat was able to start applying the 10% reduction assessment in FY21 for loan interest recipients, and currently doing backwards assessment, and has not found any evidence of ineligible recipients of interest loan payments. The Committee collectively agreed to treat loan interests instead as payment instead of rebate, since it is clear that the purpose of the assistance towards loans was to assist businesses who are struggling and unable to pay their loan interests, not to reward those that are able to pay during the pandemic.

## **\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law Report No. 2023-09**

---

### **Finding 6.4 Non-Compliance Found Toward the Process of Relief Payments**

The amendments under Public Law 21-120, clearly states that additional Relief may be added per Regulations, and Section 3(d)(iv) of the Regulations state that additional Relief may be added by the Committee. The Committee therefore collectively approved for inclusion of communication expenses as an eligible item in response to outreach and engagement with the tourism industry who requested assistance towards communication expenses given their need to maintain tourism promotion related expenses through websites and other means. All additional relief items and eligible businesses are approved by the Committee as a whole.

The law also called for equitable compensation of affected businesses, including a possible cap on the amount of valid claim as clearly stated in Public Law 21-104. Therefore the committee agreed to put certain caps on stimulus payments for certain small businesses as to ensure that the stimulus payments plus the actual revenue for the relevant quarter does not add up and exceed the revenue level for the same period in the previous quarter. That approach would put the business in a position where the businesses are economically earning from the TMF instead of receiving a fair share. This is not a flawed calculation as alluded to by Auditors, but simply ensure equitable compensation as called for by the law.

The full amount is obligated in order to fairly compensate businesses for the last quarter of calendar year 2022. The law requires tax return comparison to determine eligibility, and tax returns for December 2022 quarter are filed in February 2023. This action is necessary to ensure that stimulus benefits that the businesses are entitled to during the eligible months as required by law is fully compensated. There is no benefit payment for any businesses covering periods beyond the expiration date of the TMF. All payments are for claims that fall within the period of the TMF program as set by law.



**\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law  
Report No. 2023-09**

---

## **8.0 ONPA EVALUATION OF MANAGEMENT RESPONSE**

We carefully considered and assessed the communications we received.

Based on the email received from a member of the Committee, no change was necessary to any of the findings, conclusions and recommendations we made in our report.

Based on the submission from the Budget & Economic Advisor, we commented as follows:

1. Non-membership in the Committee: The Advisor is not a member of the TMF Committee responsible for program. While we received his written input, and we included it here for transparency purposes, it is not an official comment from the TMF Committee.
2. Late submission: The Advisor's submission was received rather late and way beyond the due date.

The Tourism Sector Mitigation Fund (TMF) Committee should administer and implement the TMF program in accordance with the requirements and the intent of the law. Any changes that fall outside the parameters of the law can only be approved by Congress rather than by regulations that are promulgated by the Committee.



**\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law  
Report No. 2023-09**


---

**9.0 NATIONAL PUBLIC AUDITOR COMMENTS**

We would like to thank the TMF Committee and the relevant key staff of the program 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 23<sup>rd</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

August 24, 2023

**\$13.3 Million Paid from the Tourism Sector Mitigation Fund Program Without the  
Statutory Governance Structure, Thus, Lacking the Proper Oversight Required by Law  
Report No. 2023-09**

---

**10.0 ONPA CONTACT AND STAFF ACKNOWLEDGEMENTS**

---

**ONPA CONTACT**

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

---

**ACKNOWLEDGEMENTS**

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

Brandon Rodriguez, Audit Supervisor  
Joey A. Iwo, Team Leader  
Keller Phillip, Team Member  
Brenda Carl, Team Member  
Shelolyn Neth, Team Member

---

**ONPA MISSION**

We conduct quality audits and investigations to improve good governance and to prevent and deter fraud, waste and abuse for the stakeholders' benefit.

---

**COPIES AVAILABLE AT**

The fastest and easiest way to obtain copies of ONPA documents at no cost is through the ONPA website: <http://www.fsmopa.fm>.

---

**COPIES BY MAIL OR  
PHONE**

Office of the National Public Auditor  
P.O. Box PS-05  
Palikir, Pohnpei FM 96941  
Phone: (691) 320-2862/3  
Hotline: (691) 320-6768

---

**CONTACT**

Website: [www.fsmopa.fm](http://www.fsmopa.fm)  
Facebook: <https://www.facebook.com/fsmpublicauditor>  
Email: [info@fsmopa.fm](mailto:info@fsmopa.fm)

\*\*\*We do not own the rights to the picture used on the cover page. No copyright infringement intended\*\*\*