OFFICE OF THE NATIONAL PUBLIC AUDITOR FEDERATED STATES OF MICRONESIA

Limited Capacities at the Division of Personnel Affects the Administration of the Professional and Market Place Premium Program Audit Report No. 2019-03





FEDERATED STATES OF MICRONESIA

Office of The National Public Auditor

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May 13, 2019

His Excellency David W. Panuelo, President Honorable Members of the 21st FSM Congress

RE: Audit of the Professional and Market Place Premiums Program

We have completed our audit of the Professional and Market Place Premiums Program covering Fiscal Years 2016 to 2018.

This is the second audit on Professional and Market Place Premiums Program and was conducted mainly based on information we received from a key departmental staff who alleged that a recipient of the professional premium within the same department where he worked did not meet the eligibility requirements.

Our review focused on two main areas: internal controls and performance, and to address these areas, we developed two audit objectives:

- (i) To determine whether there are internal controls (policies and procedures) to guide the Division and beneficiaries; and their effectiveness in relation to the program; and
- (ii) To review the implementation of the program and determine whether the program is achieving its intended goals and if there is value for money.

We conducted this performance audit in accordance with the *Generally Accepted Government Auditing Standards* (GAGAS) issued by the Comptroller General of the United States in 2011.

Based on our audit, we concluded that there was lack of adequate and effective internal controls (i.e. policies and procedures) to guide the staff of the Division of Personnel and the Program beneficiaries. As a result, the National Government did not fully achieve the desired goals and values of the Program by attracting and retaining qualified workforce in the government.

Specifically, during our audit we found that there:

- 1. Were employees who did not qualify for the premiums but were receiving professional premium.
- 2. Were no appropriate mechanisms to ensure that the beneficiaries deliver the services required in terms of training and capacity development for the local employees.
- 3. Was no awareness provided to the departments/offices/and entities of the National Government regarding the existence and purpose of the Professional and Market Place Premium Program. Consequently, a small number of employees from only a few departments were aware of and took the effort to apply and access the Program.

It is our hope that the Executive and Congress Branches will review this report and act accordingly based on our findings and recommendations for the improvement of the Professional and Market Place Premiums Program and other activities under the Division of Personnel.

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

Respectfully Submitted,

Haser H Hainrick

Nation Public Auditor

Xc: Administrator, Division of Personnel

Secretary, Department of Finance and Administration

Secretary, Department of Justice Chief, Office of Public Defender Chief Clerk, FSM Congress

Chief Clerk, FSM Supreme Court

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1 INTRODUCTION

1.1 Background

The Office of the National Public Auditor conducted an audit on the Professional and Market Place Premiums Program based on information we received from a key departmental staff who alleged that a recipient of the professional premium within the same department where he worked did not meet the eligibility requirements. Further, we wanted to review and ascertain any changes made since our last audit, which we issued in fiscal year 2010 on this same Program.

1.2 Professional and Market Place Premiums Program

The FSM Professional and Market Place Premiums Program were established as part of the Public Service System Regulation (PSSR). The Premiums Program is one of the many programs administered by the Division of Personnel. The Division is headed by the Personnel Officer (Administrator), who is appointed by the President of the Federated States of Micronesia (FSM) Government to help manage and administer the deployment of national government personnel and their compensations. The Personnel Officer manages and administers the Premiums Program under the laws and regulations of the National Public Service System Act, codified as Title 52 in the FSM Code under the Constitution.

The Premiums Program was established for public service employees for the following reasons: a) To recognize circumstances of employment to labor market conditions outside the Federated States of Micronesia; and b) To recognize and reward the attainment of certain advanced professional status.

1.2.1 Professional Premium

The Professional Premium benefit is given to an employee who has achieved advanced professional status in the field of law, accounting, engineering, or has earned a doctorate degree in any field. If qualified, the employee will receive a premium of 90% in addition to the base salary for the position during employment at the National Government.

The specific requirements governing the Professional Premium were enacted under Public Law 13-64 as amended. Additional requirements are established in the Public Service System Regulations (PSSR). Some of the requirements are as follows:

(i) <u>Lawyers</u>

- (a) Attainment of an earned degree in law from a law school accredited by the competent authority in the jurisdiction in which it operates, and admission either to the FSM Supreme Court Bar or to practice law in another jurisdiction; or
- (b) Admission to the FSM Supreme Court Bar and eight (8) years of experience in the legal field.

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(ii) Accountants

- (a) Full membership of one or more of the professional accountancy associations listed in the National Public Service System regulations, as amended from time to time; or
- (b) Certification by the Public Auditor that the employee's qualification and experience are equivalent to those which would be required to obtain full membership of such an association.

(iii) Engineers

(a) Attainment of an earned degree in engineering upon completion of a four-year course of study from a college, university or educational institute which is accredited by the competent authority in the jurisdiction in which the college, university or educational institution is located.

(iv) <u>Doctorates</u>

Attainment of an earned doctorate degree in any field.

1.2.2 Market Place Premium

The Market Place Premium benefit is given to an employee who is recruited in a location outside of the Federated States of Micronesia (FSM), who is a noncitizen of the FSM, and at the time of original hire, a nonresident. The qualified person is paid a premium based on labor market conditions in the place of recruitment and on the level of the base salary.

A Market Place Premium may be paid if prevailing rates for equivalent positions are substantially higher in the country of recruitment than in the FSM.

Upon request from the allottee of the funds from which the employee's compensation is to be paid, the Secretary of the Department of Finance and Administration (DoFA) shall report to the allottee on the difference, insofar as it can be estimated, between the prevailing rates in the FSM and in the country of recruitment.

The allottee may then determine what portion, if any, of the difference will be paid as a market place premium. The amount of the premium determined by the allottee shall not be greater than 90% of the value of the employee's base salary.

1.3 Budget, Expenditure and Total Number of Beneficiaries under the Professional and Market Place Premiums Program

The audit team learned from the Administrator that the Division of Personnel does not apply for annual budget allocation for the premiums. It is the duty of each allottee who is in need of employees with such qualifications, to apply for premiums' budget allocation.

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Table 1 shows the total expenditure for each government branch and department for fiscal years 2016, 2017 and 2018.

Table 1: Expenditure Report

Department/Branch	2016	2017	2018
Department of Justice	\$ 116, 518. 16	\$ 174, 313. 62	\$ 318, 544. 00
Office of Public Defender	\$ 187, 043. 35	\$ 260, 350.70	\$ 274, 431. 62
FSM Supreme Court	\$ 21, 701. 82	\$ 40, 303. 38	\$117, 311. 93
FSM Congress	\$ 85, 033. 02	\$ 85, 033.01	\$ 123, 461. 37
Total	\$ 410, 296. 35	\$ 563,000.71	\$833,748.92

Source: Department of Finance and Administration

Table 2 below illustrates the number of National Government employees receiving benefits from the Premiums Program for Fiscal Years 2016, 2017 and 2018.

Table 2: Total Number of Recipients of the Professional and Market Place Premiums

Department/Branch	2016	2017	2018
Department of Justice	4	6	10
Office of Public Defender	7	8	9
FSM Supreme Court	1	1	3
FSM Congress	2	2	3
Total	14	17	25

Source: Department of Finance and Administration

1.4 OBJECTIVES

The audit objectives were as follows:

- (i) To determine whether there were internal controls (policies and procedures) to guide the Division and beneficiaries; and their effectiveness in relation to the program; and
- (ii) To review the implementation of the program and determine whether the program was achieving its intended goals and if there is value for money.

1.5 SCOPE

The audit covered Fiscal Years 2016, 2017 and 2018. The audit focused on the Professional and Market Place Premiums Program administered by the Division of Personnel relating to

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its capacity, internal controls, and implementation of the program in terms of its intended goals and expected values.

We conducted this audit pursuant to the authority vested in the National Public Auditor as codified under Chapter 5, Title 55 of the FSM Code which states that, "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."

1.6 METHODOLOGY

We conducted this performance audit in accordance with the *Generally Accepted Government Auditing Standards* issued by the Comptroller General of the United States of America. The standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence we obtained provides reasonable basis for our findings and conclusions based on our audit objectives.

The audit team conducted the audit fieldwork at the Division of Personnel, Office of Public Defender, Department of Finance & Administration, Congress, and at the Supreme Court. To accomplish our audit objectives, we performed the following:

- (i) To determine whether there are internal controls (policies and procedures) to guide the Division and beneficiaries; and their effectiveness in relation to the program, the audit team:
 - (a) Reviewed and assessed the Division's internal controls relating to documentation or filing of records of employees receiving premiums;
 - (b) Obtained the Division's guidelines on updating and filing of all premium recipients' personnel files;
 - (c) Obtained and reviewed all premium recipients' files and all supporting documents to verify they met all eligibility requirements;
 - (d) Interviewed key staff from Division regarding internal policies and procedures being developed;
 - (e) Analyzed and determined the impact of no internal control in place to guide the Division and beneficiaries in relation to the premiums program; and
 - (f) Interviewed key personnel to ascertain the cause of no internal control in place to guide the Division and beneficiaries in relation to the premiums program.
- (ii) To review the implementation of the program and determine whether the program is achieving its intended goals and if there is value for money, the audit team:

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- (a) Reviewed and assessed roster of employees who were entitled to the professional and market place premium from the Division and conducted a 100% testing to determine whether employees were qualified to receive the professional and market place premiums;
- (b) Reviewed the employees' files at the Division to verify that employees were entitled to the professional and market place premium;
- (c) Reviewed the human capital capacity and adequacy of the Division of Personnel;
- (d) Verified premium recipients' eligibility by cross-checking with the FSM Supreme Court Bar listing;
- (e) Conducted a background check on some of the employees to validate their credentials;
- (f) The audit team also interviewed key staff of the Division of Personnel;
- (g) Reviewed thirteen (13) prime contract agreements for recipients receiving professional and market place premiums; and
- (h) Interviewed fived (5) of the thirteen (13) professional premium recipients who are on prime contracts to confirm whether their duties and responsibilities were explained to them and if they provided training to FSM citizen employees as specified in the contract agreements.

1.7 PRIOR AUDIT COVERAGE

Our prior audit on the FSM Professional and Market Place Premiums Program was issued in 2010, Audit Report No. 2011-01, which had the following findings and recommendations.

1.7.1 Findings:

- (i) The Division of Personnel did not conduct background checks of credentials before making the awards or Professional Premium benefit disbursements;
- (ii) Nineteen (19) of the twenty-five (25), nearly 80% of the awards were given to individuals who did not provide credential documents to support the assertions made on their applications or resumes; and
- (iii) The Market Place Premium was awarded without performance of the job market analysis required by Public Law 13-64.

1.7.2 Recommendations:

We recommended that the Personnel Officer should comply with the National Public Service System Act and best practices by:

- (i) Conducting background checks of credentials prior to awarding the premiums to ensure eligibility;
- (ii) Performing background checks of all employees that were receiving the premiums to verify if each employee was eligible when the premium was awarded;

- (iii) Recovering/collecting past premiums paid to employees that were not eligible for the premiums;
- (iv) Taking legal action against employees who intentionally asserted the attainment of degrees not earned; and
- (v) Developing and implementing any other necessary control activities, such as policies and procedures, to ensure that the premiums are awarded only to employees who are eligible.

As part of our follow-up on the prior findings and recommendations, we inquired with the Division of Personnel regarding the current status and their corrective actions. However as of February 28, 2019, no formal information was received to indicate that the recommendations were implemented according the Correction Action Plan which the Administrator developed and submitted to the Chief of Staff.

1.8 CONCLUSION

Based on our audit, we concluded that there was lack of adequate and effective internal controls (i.e. policies and procedures) to guide the staff of the Division of Personnel and the Program beneficiaries. As a result, the National Government did not fully achieve the desired goals and values of the Program by attracting and retaining qualified workforce in the government.

Specifically, during our audit we found that there:

- 1. Were employees who did not qualify for the premiums but were receiving professional premium.
- 2. Were no appropriate mechanisms to ensure that the beneficiaries deliver the services required in terms of training and capacity development for the local employees.
- 3. Was no awareness provided to the departments/offices/and entities of the National Government regarding the existence and purpose of the Professional and Market Place Premium Program. Consequently, a small number of employees from only a few departments were aware of and took the effort to apply and access the Program.

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

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2 FINDINGS AND RECOMMENDATIONS

2.1 Finding No. 1: Issues with Human Resources and Capacities at the Division of Personnel

2.1.1 Criteria

The Division of Personnel should have sufficient resources such as personnel and capacities in order to effectively carry out its mandates, responsibilities, programs and activities, etc.

2.1.2 Conditions

Based on our audit, we found that the Division of Personnel was not sufficiently staffed to effectively discharge its functions and responsibilities as mandated by law. The Division had only four employees including the Administrator, Executive Secretary, Personnel Specialist and a Training Coordinator. On the other hand, the Division had eleven functional duties and at least thirty-eight activities. One of them is the Professional and Market Premiums Program.

2.1.3 Causes

These issues occurred because over the past several years, the Division has been moving around within the government and subjected to different oversight responsibilities. For instance, when the National Government was first established, the personnel functions were placed within the Office of Administrative Services. Later, it was moved under the Department of Finance & Administration. Currently, it is a Division within the Office of the President. All of these movements were done through Executive Orders issued by different Presidents. Currently, there is a Bill before Congress which, if adopted, will further restructure the Division. The importance of the services which the Division is mandated by law to administer is recognized, however, empowering the Division with adequate resources and capacities seems to be ignored.

2.1.4 Potential Effects

Without adequate human resources and capacities, the Division of Personnel has not been effectively administering or managing the Professional and Market Place Premiums. As a result, some professional premiums were awarded to recipients who did not meet the eligibility requirements. Thus, the Program was abused and awards made could be fraudulent. These concerns will be referred to our Compliance Investigation Division for further review and appropriate action.

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2.1.5 Recommendations

We recommend that the President and Congress should strengthen the capacity for the Division of Personnel in the areas of institutional and legal reform in order to achieve greater effectiveness in its;

- 1. Leadership and management;
- 2. Staffing;
- 3. Budgeting; and,
- 4. Oversight responsibility for monitoring and for evaluating the organizational and individual's performance.

2.2 Finding No. 2: Lack of Effective Internal Controls in Relation to the Professional and Market Place Premiums Program

2.2.1 Criteria

Best practices require that internal controls should be developed and implemented to provide reasonable assurance that the objectives of the institution are being achieved and that there is effectiveness and efficiency in operations, reliability of performance reporting, and compliance with applicable laws and regulations.

The Personnel Officer is required under Chapter 1, Sub-chapter II, Section 122(2) of Title 52 of FSM Code to direct and supervise all the administrative and technical activities of the Office of Personnel and to prepare policies and regulations to carry out the provisions of Chapter 1 of Title 52. In essence, the Administrator for the Division of Personnel is responsible to establish an effective system of internal controls for the division.

2.2.2 Conditions

Our audit has disclosed the following deficiencies regarding the Division;

- 1. It lacks adequate and effective internal control (policies and procedures) to guide the Division and the beneficiaries/recipients of the premiums.
- 2. The staff refers to the *Examination Announcements* instead of Public Law 13-64 to review professional and market place premium requests received from employees and to establish their eligibility to receive premiums.
- 3. It does not maintain a list of employees who receive the professional/market place premiums to ensure that they provide updated information;
- 4. Personnel files for some of the employees receiving premiums were incomplete. For instance, key information that were missing:

- a. copies of earned degrees;
- b. background checks;
- c. certificates of admission to practice law in another jurisdiction; and
- d. certificates of good standing issued by Supreme Court or law society in jurisdiction where the beneficiary was a Bar member.
- 5. As of February 28, 2019, 10 out of 25 employees receiving premiums did not meet the eligibility requirements.
- 6. Of the 13 employees on Prime Employment Contracts receiving professional premiums, 7 were members of the FSM Supreme Court Bar and 6 were not. Of the 6, 4 had conditions stated in their employment contracts which required them to sit and pass the FSM Supreme Court Bar examination within the first year of their employment. As of February 28, 2019, 1 of them had been working for more than 5 years and not passed the bar examination.

We also observed that the condition to pass the FSM Bar within one year of employment was instituted even though it did not comply with the law, which requires that an employee has to be an FSM Bar member in order to be eligible.

7. There was little awareness of the Premium Program within the government.

2.2.3 Causes

These weaknesses occurred because the Division of Personnel (a) had not developed nor implemented internal controls (policies and procedures), and (b) had no employee who was specifically assigned to administer the Professional and Market Place Premiums Program.

2.2.4 Potential Effect

As a result, premiums were paid to ineligible recipients. Public funds were subjected to misuse, abuse and potential fraud due to poor internal controls. In addition, the Program could potentially not achieve its intended goals due to the weaknesses and deficiencies inherent in its administration.

2.2.5 Recommendations

We <u>recommend</u> that the Administrator, Division of Personnel, should develop and implement appropriate internal controls (policies and procedures) to guide the administration and the effective management of the Premium Program.

We <u>also recommend</u> that an effective oversight over the Administrator's duties and responsibilities should be done, by the Administrator's immediate supervisor, to appropriately monitor, evaluate and take appropriate actions to reward good performance or otherwise discipline if poor performance.

2.3 Finding No. 3: Failure to Ensure that Values from the Premium Program are Maximized

2.3.1 Criteria

The National Government of the FSM should ensure that the values and benefits to be contributed from the employees hired under the Premium Program should be received and should be maximized in order to assist the government achieve effectiveness, efficiency and sustainability in its service delivery for its citizens and stakeholders.

2.3.2 Conditions

We found the following weaknesses:

- 1. Out of 13, 8 employees with prime employment contracts and recipients of the professional premium indicated that their job duties and responsibilities were only verbally explained and discussed with them.
- 2. Only 6 out of 13 employees with prime employment contracts had provisions in their contract which required them to conduct training and capacity development programs for the local employees.
- 3. Of the 6 employees, 4 of them confirmed that they were actually conducting and providing training for the local staff.
- 4. None of the 4 employees provided sufficient records and/or documentations to confirm that trainings were indeed conducted by them.
- 5. The employment contracts for some of the employees were renewed. However, there were no documented performance evaluation reports to justify contract renewal, taking into account the important aspect of the Professional Premium Program for the government.

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2.3.3 Causes

These weaknesses occurred because the Division of Personnel was not effectively administering the Premium Program nor implementing an effective system to monitor and evaluate service delivery to ensure that the values and benefits from those that received the professional premium are embedded into the system to maximize the benefits for the local employees and the FSM government.

2.3.4 Potential Effects

The failure to realize the values and the benefits of the premium program would ultimately lead to:

- 1. Continued payment of high salaries (base plus premium) on foreign and local employees without corresponding benefits;
- 2. Perpetual dependency on externally sourced employees; and
- 3. The risk of poor performance issues within the public service if job skills, knowledge and expertise are not shared by those with specialized knowledge and hired under the premium program.

2.3.5 Recommendations

We <u>recommend</u> that the Administrator for the Division of Personnel should provide effective oversight to ensure that the recipients of professional premiums provide training to the local staff. Their employment contracts should include provisions regarding training and proper documentation to monitor and evaluate training effectiveness.

Limited Capacities at the Division of Personnel Affects the Administration of The Professional and Market Place Premium Program Audit Report 2019-03

3 MANAGEMENT RESPONSE



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May 7, 2019

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

Dear Mr. Hainrick:

Re: Audit Report No. 2019-03

This is acknowledging with much appreciation receipt of the draft report entitled, "Limited Capacities at the Division of Personnel Affects the Administration of the Professional and Market Place Premium Program".

Based on the draft report and the exit conference I had with your staff, I have provided herewith are my brief comments and responses to the three primary sets of Findings and Recommendations expressed in said report. I believe this is an healthy excerise.

In general, I concur with these Findings and Recommendations, especially those specific mitigating and corrective measures aimed at strengthening the capacity (both technical and institutional) of the Personnel Office.

For what its worth, I have already initiated a number of mitigating and corrective measures with the assistance of our in-house special consultant during the past year through a number of Policy Notes, proposed amendments to the PSSR and PSS (FSMC Title 52) and the reactivation of the Executive Branch's Manual of Administration(MOA), with a view to address and respond to most, if not all the weaknesses and efficiency challenges and issues faced by the Personnel Office and as identified by this report. We are also analyzing the administrative and budgetary impacts and I have currently filled one position which will be the key person responsible for reviewing and making sure that persons receiving these premiums meet the requirements.

Again, I fully support the recommended course of actions to rearticulate and reposition the Personnel Office to a more autonomous status, where it can effectively attend to and accomplish its numerous legal mandates as well as those supportive operational and programmatic activities and deliverables.

I am at your disposal, should you need any part of this submission to be further substantiated, otherwise, your continued support and acceptance of my responses will be very much appreciated.

Thank you and appreciated the audit report.

Personnel Officer/Administrator

4 ONPA EVALUATION OF MANAGEMENT RESPONSE

On April 25, 2019, the audit team sent a letter requesting for management response from the Administrator of Division of Personnel. The Administrator agreed with the findings and recommendations in the report.

5 NATIONAL PUBLIC AUDITOR'S COMMENTS

We would like to thank the Management and Staff of the Division of Personnel, Department of Finance and Administration, Department of Justice, Office of Public Defender, FSM Congress, and FSM Supreme Court for their assistance and cooperation during the course of the audit.

We have provided copies of the final audit report to the President and Members of the FSM Congress. 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 audit and prepared this report.

Haser H Hainrick

National Public Auditor

May 13, 2019

Limited Capacities at the Division of Personnel Affects the Administration of The Professional and Market Place Premium Program Audit Report 2019-03

6 ONPA CONTACT AND STAFF ACKNOWLEDGEMENT

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ACKNOWLEDGEMENTS

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