

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

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**OPPORTUNITIES EXIST TO IMPROVE FINANCIAL ACCOUNTABILITY AS  
COMPLIANCE ISSUES WERE FOUND IN THE IMPLEMENTATION OF  
PUBLIC LAW 21-43 FOR POHNPEI STATE PROJECT:  
"MADOLENIHMW CONSTITUTIONAL CONVENTION"**

**Inspection Report No. 2021-02**



**FEDERATED STATES OF MICRONESIA**  
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June 25, 2021

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

**RE: Inspection of the Congress Appropriation for the Madolenihmw Constitutional Convention under the Public Project Program for Pohnpei State**

We have completed our inspection on the \$40,000 appropriation by the FSM Congress for the Madolenihmw Constitutional Convention (MCC), a public project under Pohnpei State funded through Public Law 21-43. This inspection was predicated by a request lodged by some citizens from Pohnpei State who were also elected Delegates to the MCC, and it was performed in accordance with the *Quality Standards for Inspections and Evaluations issued by the Council of the Inspectors General on Integrity and Efficiency (CIGIE)*.

Although the amount was small in proportion to the FSM Congress' overall funding for its social and economic development programs, we agreed to perform this inspection because; (1) over the years significant sums of National funds have been allocated to support some operational costs and the social and economic development programs at the local government level throughout the FSM, (2) the capacity by some local governments to properly administer National funds is doubtful especially where the allottees are from the same local governments; and (3) the recent court cases and the prior audit citations involving some local governments evidenced their poor and insufficient capacity for effective financial management, project administration, or controls to ensure that public funds are put to proper use as intended by laws. The need for financial assistance by the local governments do exist, but their capability should be developed in order for the public to realize the full benefits and the value for money and to also ensure that the expected public outcomes are achieved and sustained.

Our inspection found the following issues with the \$40,000 appropriation for the MCC;

**#1. Over obligation of funds** - It is not acceptable to over-obligate the budget at the sub-category level (i.e., obligating more than the budget allocation for the Contractual Services account or for the Consumables account) just as it is a clear violation to over-obligate at the total budget level (i.e., obligating more than the \$40,000 total appropriation). We found that the allottee over-spent the budget for the Contractual Service account by \$11,205, totaling \$19,205 under contractual. The approved sub-category budget for Contractual Services was \$8,000.

The requirements for budget reprogramming may have been violated. Even though there was a budget reprogram, it was processed after the over-spending. In essence, the reprogram was merely to cover up the over-obligation at the budget sub-category level. Furthermore, although reimbursement was mentioned in the PCD, there were just no clear reasons provided to justify why reimbursements had to take place.

It was also explained that the \$40,000 was used to reimburse the MMG local funds previously spent for the MCC. This was a further complication because the appropriation law did not allow any reimbursement (or payment of already-incurred expenses). Their justification is, the Project Control Document included "reimbursement." Regardless, this should have not been allowed

because the PCD is lower than the appropriation law which did not authorize 'reimbursements.' Further, the Advice of Allotment was the legal instrument which establish the "availability of funds," after which an obligation could be created. In other words, the MCC should not create an obligation by the use of local funds and then set it up for reimbursement because the authority to obligate any portion of the \$40,000 did not occur until the advice of allotment was approved.

#2. Allottee did not sufficiently plan for the implementation of the project - The Allottee did not sufficiently plan for project implementation. As a result, the original budget allocation was flawed and not based on the real needs of the Constitutional Convention. Without planning, the project implementation was likely not to achieve its desired outcome, and funds were not put to use for necessary activities or spending.

#3. \$24,253 questionable costs - We found a total of \$24,253 (61%) as questionable costs due to insufficient information/documentation and that some of the assets bought and other expenses paid were inappropriate. The breakdown is: Stipends, \$11,205; Food, \$3,011; and other costs, \$10,037.

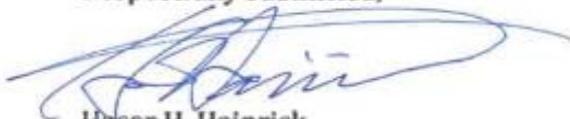
#4. Payments were not certified by the designated Project Inspection Official (PIO) - We learned during our inspection that the designated PIO was not informed about his role. As such, none of the disbursements was reviewed nor certified by him. We disagree with their assertion that a PIO is needed only when the projects funded involved physical infrastructures, contracts, etc. The PIO plays a critical role. His certification gives assurance that goods have been procured and services paid, and received, in the manner required by prescribed rules and requirements.

We referred some of the concerns to our Compliance Investigation Division for further review and evaluation.

Moreover, the Secretary is required by law to maintain a roster of qualified allottees. We made recommendations in this report that the Secretary should exercise his authority to debar and suspend the Madolenihmw Municipal Government from the roster of qualified allottees. We do not think MMG currently has the capacity. Additionally, there are recent court cases involving former officials of the MMG due to financial and management concerns.

We appreciate the opportunity to perform this inspection as requested.

Respectfully submitted,



Haser H. Hainrick  
National Public Auditor

Xc: Vice President  
Secretary, Department of Finance & Administration  
Meninkeder Lapalap/Mayor, Madolenihmw Municipal Government (Allottee)  
Chairman-Preliminary Convention Committee /President, Madolenihmw Constitutional Convention

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## **Abbreviations**

AoA	Advice of Allotment
CFSM	Congress of the Federated States of Micronesia
DoFA	Department of Finance and Administration
FMR	Financial Management Regulation
FSM	Federated States of Micronesia
FY	Fiscal Year
MCC / ConCon	Madolenihmw Constitutional Convention
MMG	Madolenihmw Municipal Government
PCD	Project Control Document
PIO	Project Inspectional Official
PL	Public Law

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## **1.0 INTRODUCTION**

This inspection of Pohnpei-CFSM funded public project for the Madolenihmw Constitutional Convention (MCC) was prompted by complaints from concerned Pohnpei citizens. The last audit on CFSM funded public projects covered fiscal year 2013. This report is specifically on the CFSM funded MCC project that was implemented in the state of Pohnpei.

### **1.1 Background**

A complaint from some elected delegates of the MCC prompted the Office of the National Public Auditor to conduct an inspection of a CFSM Public Project for Pohnpei State that was appropriated under Public Law 21-43 entitled "**Madolenihmw Constitutional Convention (MCC)**".

Madolenihmw is one of eleven municipalities located in Pohnpei State, FSM. The people of Madolenihmw held an election to seat citizens of Madolenihmw for the purpose of reviewing and amending the Constitution of Madolenihmw Municipal Government. An Ordinance (prepared in the Pohnpeian language) was also created by the Municipal Government to direct and manage all activities relating to the MCC. Fourteen (14) delegates were elected as mandated by their local government laws. The Ordinance also mandates the establishment of a Pre-Convention Committee which consisted of twelve (12) members that were appointed by the Meninkeder Lapalap or Mayor of the Madolenihmw Municipal Government and approved by the Legislative Council of the Madolenihmw Municipal Government. The Pre-Convention Committee was tasked to prepare and ensure that all the necessary activities were taken care of prior to the start of the MCC.

### **1.2 Budget**

Congress appropriated \$40,000 under Public Law 21-43 for the purpose of funding the Pohnpei - CFSM Public Project titled "Madolenihmw Constitutional Convention". The Department of Finance and Administration (DoFA) Budget Office processed and allotted the whole amount for this particular public project. Based on the reports obtained from the division of National Treasury, as of July 31, 2020 the total amount expended on this project was \$39,996.89 with a remaining balance of \$3.11, which is not indicative of the overall balance of the entire budget of MCC. It should be noted that the \$40,000 appropriated by the FSM Congress was only one of several sources of financial assistance that was obtained by the Madolenihmw Municipal Government for the purpose of funding the activities of the MCC.

The Public Law 21-43 has been amended five times since its passage and such amendments were made for the following purposes: 1) replace original projects with new projects; 2) adding of new projects; 3) decrease or increase appropriation amounts; 4) change of allottees; and 5) change the lapse date.

The Budget Office, when processing the Advice of Allotment (AoA), had allocated the \$40,000 appropriation into two (2) categories of sub-accounts, \$32,000 for Consumables and \$8,000 for Contractual Services. This allocation was based on the initially-approved Project Control Documents (PCD). We also would like to point out that there were two (2) advice of allotments processed for this project as a result of its PCD being amended to reprogram some funds from Consumables to Contractual Services due to over-obligations involving Contractual Services from the originally allocated amounts which were processed and approved initially. Thus, having to go

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through the process again and issue a new and final Advice of Allotment, with the amounts reprogrammed, Consumables was then allocated at \$20,795 and Contractual Services at \$19,205.

Below is a table illustrating the breakdown of expenses per category type incurred under this CFSM public project, Madolenihmw Constitutional Convention as of July 31, 2020:

**Table 1**

AoA/PCD - Madolenihmw Constitutional Convention Public Project as Amended					
Categories	Original AoA Budget	Reprogram of Funds Per Over-Obligations	Final AoA Budget	Total Expenditures	Balance
Consumables	\$ 32,000.00	\$ (11,205.00)	\$ 20,795.00	\$ 39,996.89	\$ 3.11
Contractual Obligations	\$ 8,000.00	\$ 11,205.00	\$ 19,205.00	\$ 39,996.89	\$ 3.11
Actual Breakdown of Expenditures Per Category - MCC					
Consumables			Contractual Services		
Office Supplies & Materials	\$ 7,100.89	Compensation Non Payroll	\$ 11,205.00		
Expendable Equipment/Furniture	\$ 5,187.40	Meeting Allowances	\$ 5,950.00		
Food	\$ 3,010.60	Gen Contractual Srvcs	\$ 2,050.00		
Advertising, Printing & Re	\$ 2,570.00	<b>Total</b>	<b>\$ 19,205.00</b>		
Rental Services	\$ 1,800.00				
POL	\$ 675.00				
Utilities	\$ 348.00				
Misc Goods & Services	\$ 100.00				
<b>Total</b>	<b>\$ 20,791.89</b>				

The next illustration is specifically on the stipends/meeting allowances incurred and distributed by the MCC Pre-Convention Committee.

**Table 2**

MCC Pre-Convention Committee	Position	No.	Rate	Total Amount
Various individuals	Election Board	28	\$75 for 27 staff, \$25 for 1 individual	\$ 2,050.00
Various individuals	ConCon Staffers	68	Various amounts	\$ 6,055.00
<b>Chairman of Pre-Con &amp; President of CC (Pre-Committee Member)</b>	Delegate/President	1	\$50/day	\$ 1,300.00
<b>Election Commissioner - Pre-Comm. Member</b>	ConCon Staff	1	\$25/day	\$ 3,375.00
<b>Budget Officer - Pre-Comm. Member</b>	ConCon Staff	1	\$25/day	\$ 1,050.00
<b>MMG Council Member - Pre-Committee Member</b>	ConCon Staff	1	\$25/day	\$ 1,375.00
<b>MMG Council Member - Pre-Committee Member</b>	ConCon Staff	1	\$25/day	\$ 1,000.00
<b>Speaker of Municipal Council - Pre-Comm. Member</b>	Pre-Comm. Member/Delegate	1	\$50/day	\$ 1,000.00
<b>Chief Justice - Pre-Comm. Member</b>	Pre-Comm. Member/Delegate	1	\$50/day	\$ 1,000.00
<b>Mayor of Municipal Government - Pre-Comm. Member</b>	Pre-Comm. Member/Delegate	1	\$50/day	\$ 1,000.00
<b>Total for stipends/Allowances</b>				<b>\$ 19,205.00</b>

### **1.3 Public Project Administration**

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

## **2.0 OBJECTIVES, SCOPE, METHODOLOGY**

### **2.1 Objective**

The primary objective of this inspection was to determine whether CFSM funds used were in accordance with its intended purposes including compliance with all applicable laws and regulations.

### **2.2 Scope**

The inspection covered the Pohnpei – CFSM Public Project "**Madolenihmw Constitutional Convention**" appropriated under Public Law 21-43 including all its amendments for the State of Pohnpei.

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 non-profit organizations receiving public funds from the National Government".*

### **2.3 Methodology**

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

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

- (i) We reviewed and assessed all information and records (Appropriation laws and other relevant laws, Expenditure Reports and support documents) pertaining to the scope of the inspection.
- (ii) We interviewed the key personnel involved with the administration and implementation of the public project.
- (iii) Physical inspection of the purchased items that were made in relation to the Constitutional Convention.

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

The last inspection conducted on CFSM Public Projects for all the FSM States which included the State of Pohnpei was in February of 2015 which covered fiscal year 2013.

### **4.0 CONCLUSION**

Based on our inspection, we concluded that the CFSM appropriated funds that were used for the public project titled "**Madolenihmw Constitutional Convention**" were not in accordance with its intended purposes including compliance with all applicable laws and regulations. Below is the summary of our findings:

1. Over-Obligation of Funds Allocations by the Allottee Can Be Minimized Through Effective Review by the DoFA
2. Allottee Did not sufficiently describe in detail the plan for implementing the Project
3. Questionable Costs Relating to the Madolenihmw Constitutional Convention During Pre-Convention
4. No Certification of Payment Requests Made by the Project Inspection Official (PIO) as Required in the FMR

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

## **5.0 FINDINGS AND RECOMMENDATIONS**

### **5.1 Finding No. 1: Over-Obligation of Fund Allocations by the Allottee Can Be Minimized Through Effective Review by the DoFA**

Part 5.4.7 of the Financial Management Regulation (FMR) states that unless otherwise specifically authorized by law, no officer or employee of the Federated States of Micronesia, or Allottee of funds shall make or authorize an expenditure from, or create or authorize an obligation pursuant to any appropriation, apportionment, reappropriation, or allotment of funds:

- a) in excess of the sum made available by law; or
- b) in advance of the availability of funds; or
- c) for purposes other than those for which an allotment has been made.

Part 5.1.5 of the FMR also requires that all Government funds may be obligated pursuant to a contract only if the contract, including all modifications and amendments thereto:

- a) Is in writing;
- b) Each page of the contract is numbered;
- c) All modifications and amendments are initialed by the relevant parties to the contract;
- d) Each page is initialed by the Allottee and the contractor (third party) or all corrections are made to the contract prior to signing occurring; and
- e) Executed by dated and timed signatures of the relevant parties as set out below.

We found that project funds were over-obligated based on the allocation and approval in the original Advice of Allotment (AoA) and PCD. Although there was amendment to the AoA and PCD, such took place after the over-obligation. In essence, the amendment was made, after the fact, only to cover the over-obligation, which seemed to be not in line with applicable laws and regulations. We found \$11,205.00 in expenditures that exceeded the \$8,000 allocation for Contractual Services approved in the original AoA and PCD (refer to [Table 1](#) on Page 2). In addition, we found no contractual documents to support any of the expenditures under the contractual services category. For instance, we found several individuals that received payments (details on [Table 2](#) of Page 2) for their services rendered to the MCC did not provide evidence that such services were being carried out as required. Moreover, and based on the supporting documents of the payment requests obtained, we noted that there was not enough information to support the payment requests and, provide some level of assurance that such services were actually carried out for the MCC. Payments were simply processed based on listings of names and the amounts without any proof of services provided by the individuals and contractual documents to support their role in the MCC project.

#### **5.1.1 Causes**

- (i) The Madolenihmw Municipal Government had no effective internal control systems nor an accounting system to ensure the proper management of CFSM public project funds, or to administer such funds in accordance with applicable laws, rules, policies and other requirements.

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- (ii) The DoFA, particularly the Division of Budget did not properly review the original and the amended PCDs, and did not ensure that they were sufficient to achieve the intent of the appropriation law including the FMR, PCD and the AoA.
- (iii) The Division of National Treasury did not appropriately review or scrutinize the payment requests and their supporting documents to ensure compliance with the FSM laws and other applicable requirements.

### **5.1.2 Potential Effects**

- (i) Governance processes and regulations that promote accountability over public funds become ineffective as applicants for public funds are dictating to the national government on how to administer public funds instead of vice versa. It is evident in the continued behavior of applying for funding that the applicant(s) believe will be approved by Congress then later amending the PCD in order to justify their actions (e.g., allocating an amount for specified purchase types such as for contractual obligations and later amending the PCD for reprogramming as a result of over-obligations);
- (ii) Potential financial loss and ineffective services for the citizens as these funds may have had been exposed to waste, misuse, abuse or potential fraud as evident by the \$11,205 reimbursement in excess of the approved allocation in the AoA and PCD, or prior to securing the amendment.

We are referring this matter to our Compliance Investigation Division for further review.

### **5.1.3 Suggestions and Recommendations**

#### **We suggest Congress to:**

- (i) Not designate the Madolenihmw Municipal Government as allottee of national funds until the Secretary of the Department of Finance & Administration conducts sufficient training and certifies in writing that the MMG is capable of administering national funds appropriately.

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

- (i) Exercise his authority as per Section 205 (i) of the Financial Management Act which states in part that "He shall have full and complete supervision of all funds of the Federated States of Micronesia, including the power to withhold his approval, when necessary, to prevent misappropriation of public funds". These include:
  - a. strengthening the process of reviewing the PCDs before the Advice of Allotment is approved. This can include thorough review to ensure that the PCD is completed with meaningful information provided by the Allottee. (e.g., rejecting incomplete PCDs and ensuring that a detailed plan for operations is provided by the Allottee before the PCD can be approved);
  - b. strengthening the verification / scrutinization procedures (in the Division of National Treasury) for payment requests to ensure that all relevant

- supporting documents are sufficient before authorizing payments, keeping in mind the requirements of the approved PCD. (As previously recommended in many past audit/inspection reports for CFSM projects);
- c. taking necessary actions (disciplinary or awareness trainings) for those FSM national officials that are identified to have continually breached the FMR and other contractual agreements relevant to public projects;
  - d. take relevant steps to obtain from the allottee and file the relevant documents to support the \$19,205 (as per [Table 2](#)) payments on contractual services which had been processed by FSM Treasury without adequate justifications; and
  - e. exercising his authority and suspend or bar allottees from the Roster of Eligible Allottees who have not been complying with the applicable FSM laws and regulations.

## **5.2 Finding No. 2: Allottee Did not sufficiently describe in detail the plan for implementing the Project**

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

When considering and assessing the planning aspects of the public project, we found that the original and the amended PCD were approved by DoFA even though the Allottee did not describe the plan of operation for the project as required in Part V (Section 5) of the PCD. This puts the public funds in a risky and vulnerable situation. As the saying goes “*failing to plan is planning to fail*” (Benjamin Franklin).

### **5.2.1 Causes**

(i) The DoFA, particularly the Division of Budget, did not properly review the original and the amended PCD. They did not ensure that both documents were sufficiently prepared and justified through detailed plans to assure that project implementation would be in line with the intended purpose of the appropriation law, including the FMR and the PCD requirements, before issuing the Advice of Allotment (AoA).

### **5.2.2 Potential Effects**

- (i) No value for money as the apportionment of the project funds may not be based on any proper plan.
- (ii) Project implementation may be affected if funds were not properly allocated to ensure expenditures support the primary objectives for the Constitutional Convention for Madolenihmw.
- (iii) Moreover, actions regarding project implementation become more vulnerable to misuse and noncompliance with applicable guidelines and the project may not fully achieve its intended purposes and objectives.

### 5.2.3 Recommendations

Secretary of the DoFA should:

- (i) Identify and provide relevant training for the Division of Budget and for the Allottee on the preparation, review and approval of the PCD and the AoA specifically in the area of proper justifications which include describing the detailed plan (activities and costings) for implementing the project;
- (ii) Bar the Allottee until he is sufficiently trained on the preparation and reviewing of the PCD including his role of providing adequate justifications (including planning of project activities and costings).

### 5.3 Finding No. 3: Questionable Costs Relating to the Madolenihmw Constitutional Convention During Pre-Convention

Part 10.2 of the FMR states that "prior to an allotment of national government funds for any public project, .... the Allottee of those funds shall complete a Project Control Document ("PCD") in a form specified by the Budget Officer. Among other things, the PCD shall:

- a) describe the project and its public purposes in sufficient detail to permit determination of the legality of the proposed expenditures, including their relationship to the purpose of the line item of the applicable appropriation law.
- b) specify the total project budget and the source of any portion thereof not to be funded from the applicable appropriation";

**Part 10.2.1 of the FMR** also states that:

- 1) A PCD, completed and signed by the Allottee, shall be submitted to the Budget Officer for review.
- 2) In conducting that review, the Budget Officer may request such additional information from the Allottee or from other government officials as he may deem appropriate.
- 3) Otherwise, he shall disapprove the PCD and return it to the Allottee with a statement of his reasons therefore. The Allottee may then submit a revised PCD for review.
- 4) If the Budget Officer is satisfied that the PCD is complete and that the project and expenditures described in the PCD are consistent with the line-item of the appropriating law and other applicable laws, he shall approve the PCD.

**Part V (Justification for approval) of the final PCD** requires the allottee to describe how the people in the community will directly benefit from the public project. The allottee stated that *"The project will enable or improve all articles that need to amend in the Madolenihmw Constitution Convention, that needs to improve the lives and good health of the people in the communities"*. From the information provided by the allottee, it is not clear how this project will improve the lives and the good health of the peoples in the communities.

On the same section of the PCD, the allottee was required to describe and identify how the public project is linked to national or state development goals and initiatives. The allottee had stated that *"The project is linked to SDG2 & 15; improving lives in land"*. According to the United Nations

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Sustainable Development Goals (SDG)<sup>1</sup>, SDG 2 (Zero Hunger) targets end hunger and ensure access by all people, in particular the poor and people in vulnerable situations, including infants, to safe, nutritious and sufficient food all year round while SDG 15 (Life on land) targets to protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss.<sup>2</sup> From the information provided by the allottee, it is not clear how this project will improve SDG2 & SDG15.

We found some expenses that were unnecessary and questionable. Many of the items purchased involved assets with expected useful lives longer than the duration of the MCC, which is only a temporary activity. Below are some examples.

- i. Refrigerator, vertical drawers, water dispenser, desktop computer, printer, toners, a laptop and a computer monitor (without its central processing unit). The laptop computer was missing during our site inspection.
- ii. Some cleaning materials and other related supplies.
- iii. Expenses for food consumption by the Pre-Committee members. Although refreshments or light meals may be reasonable, we questioned the total amount that was expended just for food. Moreover, CFSM funds, in its sole purposes and its entirety, are intended to benefit the public, socially and economically.
- iv. Fuel purchases for the Madolenihmw Municipal Government, Election Commissioner's Office and for the Municipal Government Police which were not indicated on the approved PCD "description and purpose of the project". Some other questioned costs were also incurred by the Election Office on compensating the tabulators of the Constitutional Convention election and some consumable items.
- v. Meeting allowances for the Pre-Convention Committee Members and the compensations of the ConCon staff. The supporting documents were insufficient. We were not able to trace or understand the actual services rendered by members of the Pre-Convention Committee or staff selected for the Madolenihmw Constitutional Convention.
  - a) For instance, the minutes concerning the meeting allowances were neither approved nor certified by the members. We also noted that the amounts paid out to the members and staff were inconsistent. In addition, based on the meeting minutes obtained, we could not reasonably provide assurance that all the members were in attendance and the type of services being rendered for the MCC by the ConCon staff as evident in the insufficient supporting documents which is critical for processing payment requests.
  - b) Detailed verification revealed that the Committee members' and ConCon staff allowances were reimbursed by the Division of Treasury based on a list of names indicated as "ConCon staff" with the various amounts that were submitted by the allottee and approved by the ConCon President. There was neither any

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<sup>1</sup> (Source: <https://www.undp.org/content/undp/en/home/sustainable-development-goals.html>)

<sup>2</sup> The Sustainable Development Goals (SDGs), also known as the Global Goals, were adopted by all United Nations Member States in 2015 as a universal call to action to end poverty, protect the planet and ensure that all people enjoy peace and prosperity by 2030.

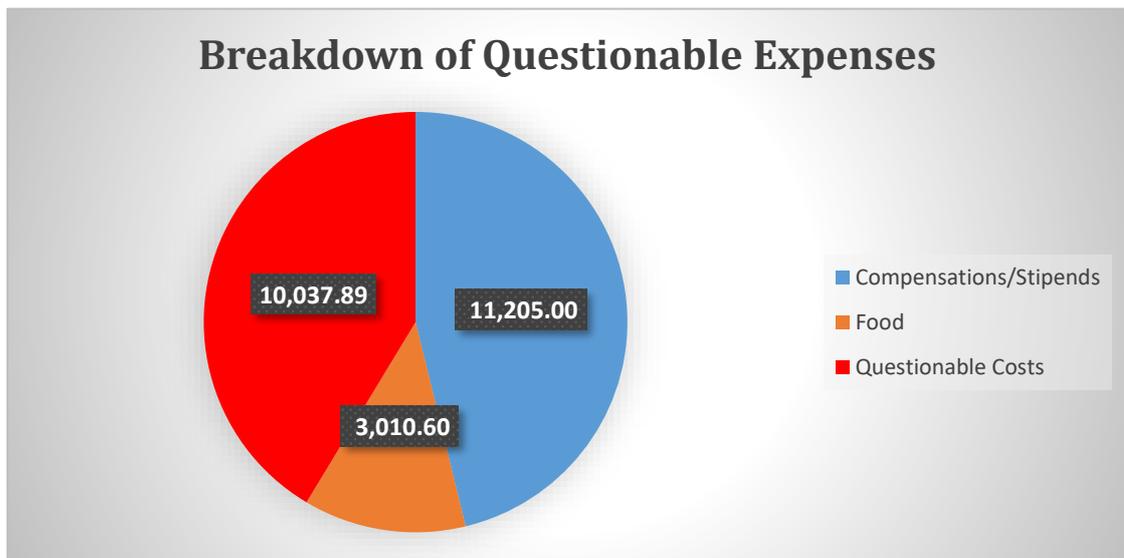
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information in the list to indicate the number of hours of service, nor any information on the role/duties or the services rendered by each person to serve as minimal justifications for the reimbursements.

Therefore, we question the validity of their meetings in terms of whether such meetings took place and who were in attendance. We also question the payments for the ConCon staff due to insufficient or lack of detailed information to justify the payments.

Please refer below to the table for more details in terms of the breakdown of questioned expenses concerning the intended purpose and description of the Madolenihmw ConCon as stated in the PCD.



### 5.3.1 Causes

- (i) The DoFA particularly the National Treasury Division did not effectively scrutinize the payment requests to ensure that they are in line with the intended purpose of the appropriation law including FMR and PCD requirements.
- (ii) The allottee did not exercise due diligence when reviewing and approving payment requests. Most importantly, the allottee confirmed that he did not fully understand the Financial Management Act of 1979.

### 5.3.2 Potential Effects

About \$24,253.49 (61%) of project funds were spent on questionable items that were found to be not relevant or not used as per the intended purpose of the appropriation law.

We are referring this matter for further review by our Compliance Investigation Division.

### 5.3.3 Recommendations

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

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- i. hold the Division of Budget accountable for the effective review of the PCDs to ensure they are in line with the requirements of the FMR prior to issuing the Advice of Allotment. Refresher trainings and disciplinary actions should be considered for responsible staff who are continually found to be ineffective in their roles;
- ii. hold the Division of Treasury accountable for the effective review and scrutiny of payment requests to ensure all relevant and adequate supporting documents are in line with the FMR and PCD requirements before processing payments. Refresher trainings and disciplinary actions should be considered for responsible staff who are continually found to be ineffective in their roles;
- iii. consider suspending or removing allottees from the Roster of Eligible Allottees for numerous non-compliances with the Financial Management Act of 1979 and its regulations including all other applicable laws and regulations of the FSM; and
- iv. ensure that applicable regulations are followed in terms of administering the custody and ownership of the fixed assets that had been purchased for the MCC and any other public projects that have a limited term of existence. It is important that these fixed assets are useful for public service.

**5.4 Finding No. 4: Payment Requests were not certified by the Project Inspection Official (PIO) as required by the FMR**

**Part 10.2.4 of the FMR** states that funds subject to Part10 shall be disbursed only to satisfy obligations legally incurred and due under these regulations. Any request for payment under a design, construction, procurement, or independent consulting contract must be certified by the PIO before payment is made.

Based on our review of the disbursement records along with relevant supporting documents, we found that there were no records or documentation to prove the certifications by the designated PIO in terms of the procured office equipment, furniture, supplies and other expenses incurred for the MCC. Furthermore, based on an interview with the designated PIO, he indicated that he was never aware of being designated as the PIO for this Project.

**5.4.1 Causes**

- (i) DoFA did not comply with the FMR when processing the payment requests.
- (ii) Poor oversight and monitoring by the allottee over the administration and implementation of the public projects resulting in the lack of awareness by the PIO being designated the role who was not notified by the Allottee.

**5.4.2 Potential Effects**

- (i) As a result, almost the entire appropriated amount of \$40,000 was expended without any certifications by the PIO on the purchases that were made for the MCC as required by the FMR.
- (ii) Public funds may have been vulnerable to waste, misuse, abuse and potential fraud; with limited implementation of the actual public project that may lead and contribute to slow development in the communities and limited impact to the people who should have benefited from the review of the Madolenihmw Constitution.

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We are referring this matter for further review by our Compliance Investigation Division.

#### **5.4.3 Recommendations**

We recommend that the Secretary, DoFA, should:

- (i) hold the Allottee accountable for ensuring that the designated PIO is diligently fulfilling his/her duties and responsibilities given that it serves as an important role for oversight, monitoring and compliance purposes;
- (ii) ensure that all employees of DoFA are knowledgeable with the requirements of the FMR such as being able to carry out a thorough review of payment requests to ensure that all requests are properly supported and certified by the PIO before issuing payments as required by the FMR;
- (iii) ensure that the PIO, including other key personnel involved in the administration and implementation of public projects, are notified and made aware of their roles in accordance with FMR requirements before the PCD is approved; and
- (iv) take appropriate actions within the provisions of the law, to ensure an effective arrangement is made for the fixed assets in question.

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## 6.0 MANAGEMENT RESPONSE

### 6.1 FSM Department of Finance & Administration Responses



Secretary of Finance  
&  
Administration

**GOVERNMENT OF THE  
FEDERATED STATES OF MICRONESIA  
Department of Finance and Administration**

P.O. Box PS 158  
Palikir, Pohnpei FM 96941  
Tel: (691) 320-2640/5852 Fax: (691) 320-7728  
E-mail: fsmsofa@mail.fm

Haser Hainrick  
Public Auditor  
Palikir, Pohnpei FM

Dear Mr. Hainrich:

Below is our management response toward your Inspection of CFSM Public Project on, "Madolenihmw Constitutional Convention" under Public Law 21-43 for Pohnpei State.

**Finding No. 1:** Over-obligating of Project Funds by the Allottee

**Management Response:** We do not agree with this finding because there was no time that the Allottee obligate more than what is appropriated by Congress for this project. Appropriate reprogramming of funds within budget categories were rightfully executed to cover expenses incurred for the convention. The overall expenditure for the project still remains within the amount appropriated from Congress.

Also note that the Department of Finance and Administration is currently implementing a project for municipal governments, including Madolenihmw, to install accounting software and provide accounting training for local governments to strengthen their public financial management practices.

**Finding No. 2:** Allottee did not sufficiently describe in detail the plan for implementing the project.

**Management Response:** We agree with this finding and will continue to provide training to allottees to improve quality of their PCDs.

**Finding No. 3:** Questionable costs relating to the Madolenihmw Constitutional Convention during Pre-Convention

**Management Response:** We agree with this finding and have informed Madolenihmw Municipal Government that Supply staff will perform a physical inventory on all assets purchased. Any missing assets or assets found not utilized for the convention should be refunded to FSM Treasury in full.

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**Finding No. 4:** Payments requests were not certified by the Project Inspection official (PIO) as required by the FMR

**Management Response:** We agree with the finding and note that transactions herein are on reimbursement basis, where Madolenihmw Municipal Government used their own funds upfront and seek reimbursement from FSM Finance. In these cases, the State and local governments follow their own procurement policy and in reviewing the reimbursement request, we ensure that expenses are related to the intent of the law prior to our disbursement.

Thank you,

A handwritten signature in blue ink, appearing to be 'Eugene Amor', written over a horizontal line.

Eugene Amor

Secretary, Department of Finance & Admin

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## 6.2 Madolenihmw Municipal Government Responses



**MADOLENIHMW MUNICIPAL GOVERNMENT**  
**EXECUTIVE BRANCH**  
P.O. Box 1131  
Pohnpei State FM 96941  
Tel: (691) 320-8432/4457  
Email: nanmadolgov@yahoo.com

**April 30, 2021**

**The Honorable Haser Hainrick**  
**Public Auditor**  
**FSM Office of Public Auditor**  
**FSM National Government**  
**P. O. Box L58**  
**Palikir, Pohnpei FM 96941**

**Dear Honorable Haser Hainrick,**

**Our utmost respect and thanksgiving for the recent concluded Inspection Report No. 2021-02 for Madolenihmw Constitutional Convention.**

**Herewith, please find the Official Management Responses to the findings and recommendations stated in Inspection Report No. 2021-02:**

### **1. Finding No. 1: Over-Obligation of Funds by the Allottee**

**Management Response:** Foremost, agreed with the sum reported in the over-obligation. However worth to note that the preliminary proposed budget as stated in the PCD was only a proposal. Further into the deliberation, series of Pre-con committee meetings and its warranted and called for NEEDs. The said committee had its meeting and approved that the initial budget will and must be amended to make the ends meet. This prompted the proposal to amend the PCD which was submitted to Budget Office to their initial review and decision making. They approved amended PC which signaled Pre-Convention committee that all is well. Worth noting that when Advice of Allotment was issued and the Finance Division of Department of Finance & Administration further offered their blessings. The notation on and by the allottee is to make certain we don't OD the total sum. This understanding and the compliance was accomplished of not exceeding the total sum in the budget line item in the amount of \$3.11.

Pre-constitutional convention is not an exercise which is done every other year by the fiscal year, rather after 35 years. Admission of guilt if any notion of wrong doing, if so not intention, we did in good faith.

**2. Finding No. 2: Allottee did not sufficiently describe in detail the plan for implementing the project**

**Management Response:** Registering the allottee's endorsement recommendations stated 5.2.3 (i) & (ii). Training is required and when certified successful completion is on hand. Allottee is to proceed with the understanding of 110% compliance.

It is incumbent on the Allottee to well versed of what is expected, NOT to rely on and always dependent on Finance & Administration Department and the Budget Office since these two mentioned government entities have lot on their plates and they are not monitoring and supervising only one PCD and its details but countless accounts. While Allottee like MCC, we have only one account to manage and to properly monitor. Again training is of essential to the Allottee. If the Allottee is not certified by the Trainer, select different allottee with the thorough knowledge and of great intellect of the account management and supervision.

**3. Finding No. 3: Questionable costs surrounding some of the expenses that were made for the Constitutional Convention**

**Management Response: 5.3.3 Recommendations:** (I & ii) is noted, however, let me register my disgruntled and dismayed that the ALOTTEE is equally or even more accountable than the Divisions of Budget & Treasury.

- i. Refrigerator, vertical drawers, water dispenser, desktop computer, printers and toners, these are all justified the health related, recordkeeping to safeguard any and all documents transpired duration of the MCC during its deliberations. Constitution is the Law of the Land, thus, desktop and its relevant accessories are equally needed. The MCC is not a road construction project which will not require computer, toners, etc. The support staff to type the journals, committee notices, etc. Refrigerator and Water Dispenser to provide safe, decent, and sanitary drinking waters be hot or cold. Keep the fruits fresh for healthy consumption. The alleged missing CPU is found in former Meninkeder's office. The laptop is still missing while the Detective Division of DPS is still investigating. I met with the Captain Pelep and asked him to investigate me and all delegates and the key support staff.
- ii. Some cleaning materials and other related supplies – to keep the venue clean and sanitary. To clean the cups, plates, etc not to spread any communicable diseases, more so when we are in the COVID-19 (corona virus) pandemic.

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- iii. Food consumptions is inevitable to provide the energy for the delegates and the staff. One invoice rise the eyebrows is celebrating for the completion of the Pre-Constitution convention committee. Next time, I suggest that FSM Congress to enact legislation to state what refreshments and meals is considered suffice.
- iv. Fuel in question for the MCC related transportation purposes in delivering the documents, e.g. approved journal by the President need to be delivered to any and all delegates for their perusal and advisement before session is dully and officially called.
- v. Meeting allowances for the Pre-Convention Committee members and of the staff. It is authorized by the enacted legislation for meeting allowances for the members and any and all support staff. I will not deny that at times, we have more staff or understaffed.
  - a. Members of the PCC is to attend the officially and dully called meetings in its creation and or review of the ROP, its related details, consultations with Attorney from U constitutional convention.
  - b. It is the policy and must be in the any session day that adoption of the previous meeting minutes. This is the tasked duty of the PCC Secretary. All I know is that I signed off on the checks for the members, whereas the staff is entrusted to the Meninkeder Lapalap and Secretary.

Division of the Treasury revealed that list of names – no clue since I signed whatever is presented to me. I am requesting CID to investigate if it is the only proper avenue. If one or more staff is found not entitle, they must reimbursed the MCC account. Similarly of MCC Delegates receiving the lump-sum for 15 day to help to subsidize the transportation related expenses, etc. If the MCC will proceed and I remain the President, I will no longer authorize advance meeting allowances and will only approve refreshments while the lunch each delegate and the staff will have to pay their. **LIKILAP is now hunting me.**

**Finding 4: Payment requests not being certified by the Project Inspection Official prior to fund disbursements.**

**Management Response:**

**5.4.3 Recommendations:**

(i) Governing policy guidelines to be amended (created) to properly reflect such project similarly MCC. On this subject of PIO and its relevant functions was tasked the

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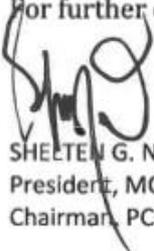
former Meninkeder Lapalap which entrusted the duty for oversight, monitoring, and compliance purposes.

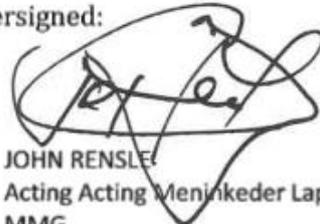
(ii) No comments

(iii) Agree

(iii) We offer our endorsement with the exceptions of the justified fixed assets purchased, e.g computer desk, toner, drawer, etc. The Allottee justified any and all fixed assets.

For further clarifications, please consult the undersigned:

  
SHEITEM G. NETH  
President, MCC  
Chairman, PCC

  
JOHN RENSLER  
Acting Acting Meninkeder Lapalap (Mayor)  
MMG

## **7.0 ONPA EVALUATION OF MANAGEMENT RESPONSE**

We requested for a management response from the Allottee and the Secretary of the Department of Finance and Administration (DoFA). Both management responses generally agreed with most of the findings and recommendations in the report. However, we would like to discuss and clarify on the findings which were disagreed by the Allottee and the Department of Finance respectively:

### **1.0 5.1 Finding No. 1: Over-Obligation of Project Funds by the Allottee**

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

**Management Response:** We do not agree with this finding because there was no time that the Allottee obligate more than what is appropriated by Congress for this project. Appropriate reprogramming of funds within budget categories were rightfully executed to cover expenses incurred for the convention. The overall expenditure for the project still remains within the amount appropriated from Congress.

Also note that the Department of Finance and Administration is currently implementing a project for municipal governments, including Madolenihmw, to install accounting software and provide accounting training for local governments to strengthen their public financial management practices.

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

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

Although obligations may not be over-obligated in terms of the amount appropriated by Congress, the matter in question was concerning the allocations that were originally made and approved specifically for consumables and contractual services respectively. As clearly stated in Section 5.4.7 of the FMR, "*Unless otherwise specifically authorized by law, no officer or employee of the Federated States of Micronesia, or Allottee of funds shall make or authorize an expenditure from, or create or authorize an obligation pursuant to any appropriation, apportionment, reapportionment, or allotment of funds .... c) for purposes other than those for which an allotment has been made*". As a result of such over-obligation under contractual services, the need for reprogramming and amending the PCD was seen to be required to align the expenditures to the PCD and Advice of Allotment; to avoid any unnecessary violations of the FMR.

In addition, we also noted that several transactions concerning this matter were done on a reimbursement basis whereas the Allottee utilized local/municipal government funds for utilization and later seek for reimbursements from the FSM National government. The concern here was that although this may at times, expedite the payment process, it only leaves more room for unnecessary and questionable purchases given that the scrutiny to do a thorough review in ensuring that expenditures must be in line with national laws and regulations may be lacking by the Allottee. Furthermore, we could not find any reasons as to why reimbursements had to take place when the pertinent financial regulations concerning payment requisitions are very clear and efficient.

Furthermore, we also noted that such transactions were being paid for by the Allottee's local government funding prior to the approval of the amended PCD. Thus, further adding to the notion of possible, inappropriate and unnecessary spending of public funds. Nonetheless, ONPA feels that although it may not be an over-obligation of the appropriation amount, it is an over-obligation with regards to the funds' allocation of the appropriated

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amount as captured in the Advice of Allotment. Furthermore, ONPA feels that although such matters may not be illegal, they are unethical.

## **2.0 5.3 Finding No. 3: Questionable Costs Relating to the Madolenihmw Constitutional Convention During Pre-Convention**

### **2.1. Response by Madolenihmw Municipal Government :**

**Management Response: 5.3.3 Recommendations:** (i & ii) is noted, however, let me register my disgruntled and dismayed that the ALOTTEE is equally or even more accountable than the Divisions of Budget & Treasury.

- i. Refrigerator, vertical drawers, water dispenser, desktop computer, printers and toners, these are all justified the health related, recordkeeping to safeguard any and all documents transpired duration of the MCC during its deliberations. Constitution is the Law of the Land, thus, desktop and its relevant accessories are equally needed. The MCC is not a road construction project which will not require computer, toners, etc. The support staff to type the journals, committee notices, etc. Refrigerator and Water Dispenser to provide safe, decent, and sanitary drinking waters be hot or cold. Keep the fruits fresh for healthy consumption. The alleged missing CPU is found in former Meninkeder's office. The laptop is still missing while the Detective Division of DPS is still investigating. I met with the Captain Pelep and asked him to investigate me and all delegates and the key support staff.
- ii. Some cleaning materials and other related supplies – to keep the venue clean and sanitary. To clean the cups, plates, etc not to spread any communicable diseases, more so when we are in the COVID-19 (corona virus) pandemic.
- iii. Food consumptions is inevitable to provide the energy for the delegates and the staff. One invoice rise the eyebrows is celebrating for the completion of the Pre-Constitution convention committee. Next time, I suggest that FSM Congress to enact legislation to state what refreshments and meals is considered suffice.
- iv. Fuel in question for the MCC related transportation purposes in delivering the documents, e.g. approved journal by the President need to be delivered to any and all delegates for their perusal and advisement before session is dully and officially called.
- v. Meeting allowances for the Pre-Convention Committee members and of the staff. It is authorized by the enacted legislation for meeting allowances for the members and any and all support staff. I will not deny that at times, we have more staff or understaffed.
  - a. Members of the PCC is to attend the officially and dully called meetings in its creation and or review of the ROP, its related details, consultations with Attorney from U constitutional convention.
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Division of the Treasury revealed that list of names – no clue since I signed whatever is presented to me. I am requesting CID to investigate if it is the only proper avenue. If one or more staff is found not entitle, they must reimbursed the MCC account. Similarly of MCC Delegates receiving the lump-sum for 15 day to help to subsidize the transportation related expenses, etc. If the MCC will proceed and I remain the President, I will no longer authorize advance meeting allowances and will only approve refreshments while the lunch each delegate and the staff will have to pay their. **LIKILAP is now hunting me.**

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2.2 ONPA Evaluation:

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

All the questionable costs listed herein under finding no. 3, as also agreed by the DoFA, should not have been incurred given the extent and nature of the project. ONPA feels that such purchases were done in a way that serves the needs of the local municipal government's operations rather than what was intended by the appropriation law.

Furthermore, we also feel that such fixed assets and other expendable equipment purchased for the MCC will eventually be turned over to the local municipal government once the Convention is over with. Thus, contributing to the notion of public funds being spent more on the operations of the local municipal government rather than for the use and purpose of the MCC.

**1. Fixed assets and other expendable equipment:** Due to the nature and extent of the project, such items purchased to be used in that regard may be inappropriate and unnecessary with the exception of the purchases of a laptop, computers and its supporting parts and accessories. We would like to point out that upon our physical inspection of said items, the laptop and parts of the computers were not accounted for. Furthermore, we do not agree on the excessive toners that were also purchased.

**2. Cleaning supplies and materials:** We noted that the venue of this event was originally at the Conference room of the Sacred Heart Catholic Church, where the MCC was held and lasted only a few days due to exhausting the number of leased days in utilizing the venue before relocating to the basketball gym situated on the compound of Madolenihmw Municipal Government. We questioned as to why such cleaning materials and supplies were necessary and appropriate given this is a new venue, which was an open area and very spacious. Thus, the chances of spreading communicable diseases may not be as likely when conferencing in a closed and limited space area. Furthermore, we did not come across any eating utensils, as stated in the management response, that the cleaning materials, in part, were purchased for.

**3. As for the questionable item concerning food purchases,** the matter in question here is not merely on the importance and vitality of having meals and refreshments, but more so on the amount that was spent on food during the activities of the Pre-Conventional Committee. For instance, we found one invoice belonging to one of the members of the Pre-Conventional Committee, who catered the food, which contributed largely to the amount expended on food. Additionally, we also found some other food expenses that were incurred at various vendors during the Pre-Conventional Committee and during the actual Constitutional Convention. Such food costs could have been used more appropriately during the actual Convention and not so much during its Pre-Convention.

**4. Most of the fuel expenses** were for Madolenihmw Municipal Government Police Station and the Election Commissioners Office. We do not see how these expenses relate to the intended purpose of the appropriation law. Furthermore, we noted that it was not specified in the PCD.

**5. As for the meeting allowances and the compensation for the MCC Staff,** as mentioned earlier for this particular finding, we could not provide reasonable assurance that such meetings were attended by those who had received meeting allowances. Similarly, we could not provide reasonable assurance that such services were actually carried out for the MCC as there were no sufficient supporting documents.

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## 8.0 NATIONAL PUBLIC AUDITOR COMMENTS

We would like to thank the management and staff of the FSM Department of Finance and Administration, the Former and Acting Meninkeder Lapalap or Mayor of Madolenihmw and its local Municipal Government, the President and Members of the Pre-Convention Committee and the Madolenihmw Constitutional Convention 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 FSM 22<sup>nd</sup> Congress, the Secretary of Finance and Administration and the Mayor or Meninkeder Lapalap of Madolenihmw Municipal Government for their use and information. We will make copies available to other interested parties upon request.

If there are any questions or concerns regarding this inspection 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 prepared this report.



Haser H. Hainrick

National Public Auditor

June 25, 2021

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## 9.0 ONPA CONTACT AND STAFF ACKNOWLEDGEMENTS

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**ONPA CONTACT**                      Haser H. Hainrick, National Public Auditor  
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**ACKNOWLEDGEMENTS**            In addition to the contact named above, the following staff made  
key contributions to this report:

Miriama Naivalu, Audit Manager  
Brandon Rodriguez, Team Leader  
Christopher Delcampo, Assisting staff

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**REFERENCE**                            We do not own the rights of the picture on the cover page of this  
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