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The President
Palikir, Pohnpei
Federated States of Micronesia

PRESIDENTIAL COMM. NO. 16-187
FSM CONGRESS

March 30, 2010

The Honorable Isaac V. Figir
Speaker
16th FSM Congress
Palikir, Pohnpei State, FM 96941

Dear Speaker Figir:

Transmitted herewith is the following Congressional Act, which I have signed to become Public Law No. 16-30.

Congressional Act No. 16-31, "AN ACT TO APPROPRIATE FUNDS MADE AVAILABLE BY THE "FSM INFRASTRUCTURE SECTOR GRANT – FISCAL YEAR 2010 – ADE/PE" GRANT OF \$9,250,000 FOR THE PURPOSE OF FUNDING THE ARCHITECTURE, ENGINEERING AND DESIGN/PRELIMINARY ENGINEERING OF PUBLIC INFRASTRUCTURE PROJECTS FOR THE STATE AND NATIONAL GOVERNMENTS OF THE FEDERATED STATES OF MICRONESIA, AND FOR OTHER PURPOSES."

This Act appropriates by allocating specific dollar amounts to each of the five governments of the FSM in accordance with a formula agreed to by all the governments, pursuant to 55 FSMC Section 303. The Act explicitly states that the funds appropriated shall be allotted, managed, administered and accounted for in accordance with, inter alia, the amended Compact and its related agreements. Simply put, the funds shall be spent in a manner consistent with the grant award.

The grant award spells out specific projects for each state and for the national government; however, it does not indicate a specific amount for each project. Provided that the total cost of projects for each government does not exceed its allocation, the Act does not come in conflict with the appropriation. But in the event that the cost goes beyond the allocation, then we shall be faced with a serious legal issue. I understand that section 7 in the Act allows for the President, in consultation with the affected States, to increase or decrease the apportionment, but that mechanism in itself is legally suspect because it in effect amends an explicit appropriation made for each of the States. Being mindful of this dilemma, I previously presented to Congress C.B. No. 16-85 which was a proposed lump sum appropriation without specific allocation to each government. The reason behind the submission is to avoid a potential conflict between the grant award and an appropriation act. Furthermore, the submission was made upon a legal presumption of constitutionality and validity of certain national laws that continue to need to harmonize with the amended Compact. Unfortunately, the executive bill was not favorably acted upon.



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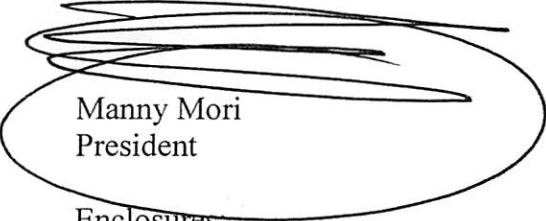
The Honorable Isaac V. Figir
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It is pursuant to the dilemma explained above that I also wish to raise the continuing necessity for us to revisit the need for FSM to take such steps necessary to conform to the provisions of the amended Compact and its related agreements. Part of FSM's obligation is to harmonize its laws with the commitments it entered into with the United States in the amended Compact. This commitment calls for the amendment of title 55 of the FSM Code to confer proper legal treatment of Compact funds. So long as FSM fails to take those needed steps, we continue to face similar challenges as those presented in this Act.

Notwithstanding the concerns I expressed herein, Public Law No. 15-71 provides a precedent where a similar appropriation act has been enacted by Congress and approved by the Executive. For the sake of consistency in our practices, I do the same here, with a word of an encouragement for both our branches of Government to progress in a dialogue towards a resolution of these continuing difficulties.

Lastly, I thank you and all your colleagues for the hard work during the last special session.

With warm and personal regards, I remain,



Manny Mori
President

Enclosures.

xc: Acting Chief Justice, FSM Supreme Court
Secretary, Department of Justice
Director, Office of SBOC
Legislative Counsel, CFSM
Library, CFSM
PIO, FSM



CONGRESS OF THE FEDERATED STATES OF MICRONESIA

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Office of the Chief Clerk

PRESIDENTIAL COMM. NO. 16187
FSM CONGRESS

March 25, 2010

His Excellency Manny Mori
President
Federated States of Micronesia
Palikir, Pohnpei FM 96941



Dear President Mori:

I have the honor to transmit herewith Congressional Act No. 16-31, "AN ACT TO APPROPRIATE FUNDS MADE AVAILABLE BY THE "FSM INFRASTRUCTURE SECTOR GRANT – FISCAL YEAR 2010 – AED/PE" GRANT OF \$9,250,000 FOR THE PURPOSE OF FUNDING THE ARCHITECTURE, ENGINEERING AND DESIGN/PRELIMINARY ENGINEERING OF PUBLIC INFRASTRUCTURE PROJECTS FOR THE STATE AND NATIONAL GOVERNMENTS OF THE FEDERATED STATES OF MICRONESIA, AND FOR OTHER PURPOSES.", which was passed by the Sixteenth Congress of the Federated States of Micronesia, Third Special Session, 2010, by a two-thirds vote of all the State delegations as required and as duly certified.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Liwiana K. Ramon".

Liwiana K. Ramon
Chief Clerk, Congress of the
Federated States of Micronesia

Enclosures



PRESIDENTIAL COMM. NO. 16-187
FSM CONGRESS

SIXTEENTH CONGRESS OF THE
FEDERATED STATES OF MICRONESIA
THIRD SPECIAL SESSION
MARCH 20 - 26, 2010

PUBLIC LAW No. 16-30

An Act

TO APPROPRIATE FUNDS MADE AVAILABLE BY THE "FSM INFRASTRUCTURE SECTOR GRANT – FISCAL YEAR 2010 – AED/PE" GRANT OF \$9,250,000 FOR THE PURPOSE OF FUNDING THE ARCHITECTURE, ENGINEERING AND DESIGN/PRELIMINARY ENGINEERING OF PUBLIC INFRASTRUCTURE PROJECTS FOR THE STATE AND NATIONAL GOVERNMENTS OF THE FEDERATED STATES OF MICRONESIA, AND FOR OTHER PURPOSES.

INTRODUCED BY SENATOR: DOHSIS HALBERT

DATE: MARCH 20, 2010

REFERRED TO: WAYS AND MEANS COMMITTEE
WITHDRAWN – MARCH 24, 2010

FIRST READING: MARCH 24, 2010

SECOND READING: MARCH 25, 2010

Liwiana K. Ramon
Chief Clerk, FSM Congress



Office of the Speaker

*Congress of the
Federated States of Micronesia*

*Palikir, Pohnpei
Federated States of Micronesia*

PRESIDENTIAL COMM. NO. 16-187
FSM CONGRESS

ACT NO. 16-31

(CONGRESSIONAL BILL NO. 16-93)

We hereby certify that on March 25 the foregoing act passed Second and Final Reading of the Sixteenth Congress of the Federated States of Micronesia, Third Special Session, 2010, by a two-thirds vote of all the State delegations as required under article IX, section 20, of the Constitution of the Federated States of Micronesia.

A handwritten signature in black ink, appearing to read "Isaac V. Figir".

Isaac V. Figir
Speaker
Congress of the
Federated States of Micronesia

A handwritten signature in black ink, appearing to read "Liwiana K. Ramon".

Liwiana K. Ramon
Chief Clerk
Congress of the
Federated States of Micronesia

SIXTEENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

THIRD SPECIAL SESSION, 2010

CONGRESSIONAL BILL NO. 16-93

PUBLIC LAW No. 16-30

AN ACT

To appropriate funds made available by the "FSM Infrastructure Sector Grant – Fiscal Year 2010 – AED/PE" grant of \$9,250,000 for the purpose of funding the Architecture, Engineering and Design/Preliminary Engineering of Public Infrastructure Projects for the State and National Governments of the Federated States of Micronesia, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Appropriation. There is hereby appropriated
2 from the General Fund of the Federated States of Micronesia
3 the sum of \$9,250,000, or so much thereof as may be necessary,
4 for the purpose of funding the Architecture, Engineering and
5 Design/Preliminary Engineering of Public Infrastructure
6 Projects for the State and National Governments of the
7 Federated States of Micronesia through the fiscal year ending
8 September 30, 2010, as designated in the "FSM Infrastructure
9 Sector Grant – Fiscal Year 2010 – AED/PE" grant of \$9,250,000.
10 Of the funds appropriated herein, the total sum shall be
11 deemed to come from funds available under the "FSM
12 Infrastructure Sector Grant – Fiscal Year 2010 – AED/PE."

13 Section 2. Public Infrastructure Projects of Chuuk
14 State. Of the sum appropriated by Section 1, \$1,960,000 is
15 apportioned for the purpose of funding the Architecture,
16 Engineering and Design/Preliminary Engineering of Public
17 Infrastructure Projects for Chuuk State, subject to the

PUBLIC LAW No. 16-30

1 procedures for submission and approval of such projects
2 through JEMCO.

3 Section 3. Public Infrastructure Projects of Kosrae State.

4 Of the sum appropriated by Section 1, \$1,644,000 is apportioned
5 for the purpose of funding the Architecture, Engineering and
6 Design/Preliminary Engineering of Public Infrastructure Projects
7 for Kosrae State, subject to the procedures for submission and
8 approval of such projects through JEMCO.

9 Section 4. Public Infrastructure Projects of Pohnpei State.

10 Of the sum appropriated by Section 1, \$2,688,000 is apportioned
11 for the purpose of funding the Architecture, Engineering and
12 Design/Preliminary Engineering of Public Infrastructure Projects
13 for Pohnpei State, subject to the procedures for submission and
14 approval of such projects through JEMCO.

15 Section 5. Public Infrastructure Projects of Yap State. Of
16 the sum appropriated by Section 1, \$756,000 is apportioned for the
17 purpose of funding the Architecture, Engineering and
18 Design/Preliminary Engineering of Public Infrastructure Projects
19 for Yap State, subject to the procedures for submission and
20 approval of such projects through JEMCO.

21 Section 6. Public Infrastructure Projects for the National
22 Government of the Federated States of Micronesia. Of the sum
23 appropriated by Section 1, \$2,202,000 is apportioned for the
24 purpose of funding the Architecture, Engineering and
25 Design/Preliminary Engineering of Public Infrastructure Projects

PUBLIC LAW No. 16-30

1 for the National Government of the Federated States of Micronesia,
2 subject to the procedures for submission and approval of such
3 projects through JEMCO.

4 Section 7. Change in Apportionment of Funds. The President
5 of the Federated States of Micronesia, upon consultation and
6 consent of the affected States, may increase or decrease the
7 apportionment set forth in Sections 2 through 6, provided that the
8 total shall not exceed the amount of the grant.

9 Section 8. Allotment and Management of Funds and Lapse Date.

10 (1) General Provisions.

11 (a) All funds appropriated by this act shall be
12 allotted, managed, administered and accounted for in accordance
13 with applicable laws, including, but not limited to, Public Law
14 No. 13-72, the Financial Management Act of 1979 and the amended
15 Compact of Free Association between the Government of the United
16 States and the Government of the Federated States of Micronesia
17 and its related agreements.

18 (b) The allottee shall be responsible for ensuring
19 that these funds, or so much thereof as may be necessary, are used
20 solely for the purposes specified in this act and the grant award,
21 and that no obligations are incurred in excess of the sum
22 appropriated.

23 (2) Allottee. For funds appropriated in this act, the
24 allottee shall be the President of the Federated States of
25 Micronesia, or his designee.

4 Section 9. Effective date. This act shall become law
5 upon approval by the President of the Federated States of
6 Micronesia or upon its becoming law without such approval.

March 30, 2010

Manny Mori
President
Federated States of Micronesia