

STANDING COMMITTEE REPORT NO. 14-112

RE: P.C. NO. 14-181/JGO

SUBJECT: FY 2007 BUDGET

SEPTEMBER 18, 2006

The Honorable Peter M. Christian
Speaker, Fourteenth Congress
Federated States of Micronesia
Fifth Regular Session, 2006

Dear Mr. Speaker:

Your committee on Judiciary and Governmental Operations, to which was jointly referred Presidential Communication No. 14-181, begs leave to report as follows:

Presidential Communication No. 14-181 concerns the National Government's proposed budget for Fiscal Year 2007 as set forth in a publication entitled *National Government Fiscal Year 2007 Proposed Budget* ("*Budget Book*"). Pursuant to rule 7, section 4(b), of the Official Rules of Procedure of the Fourteenth Congress of the Federated States of Micronesia, your committee has limited its review to those portions of the proposed budget relating to matters under its jurisdiction. These are:

I. Operations Budget:

- A. Department of Justice
- B. Office of Public Defender
- C. National Judiciary
- D. Agencies, Boards, Authorities, Commissions & Corporations
 - 1. National Postal Services
- E. Special Programs
 - 1. National Election Commission Office
- F. Grants, Subsidies and Contributions
 - 1. State Joint Law Enforcement
 - 2. State Judiciaries
 - 3. Micronesian Legal Services Corporation

G. Capital and Human Resources Development projects and programs related to the departments and agencies within your committee's jurisdiction

This report, and all previous and subsequent reports by this committee, should be treated as policy for this Nation, as defined by the Congress. It is your committee's intent that any commentary found in this report should be treated as policy for the guidance of the relevant departments, agencies and offices.

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Your committee's findings and recommendations follow.

INTRODUCTORY COMMENTS

Your committee commends the Department for submitting its annual plan in a timely manner, together with its proposed budget. This is in compliance with the statutory requirements of section 103 of title 55 of the FSM Code. At the same time, your committee notes that the annual plan's objectives, despite being expressed in numerical form, as required by title 55, are so broadly generalized that it remains difficult to evaluate how the Department proposes to use its expenditures to accomplish its goals. As the Department's planned accomplishments are not linked to the proposed budget in any meaningful way, the budget requests do not serve to identify the annual plan's implementation costs.

In addition, your committee notes, as it did in its FY 2006 budget report, that the Department's proposed activities and goals are similar, if not identical, to those proposed in previous years. In fact, of the Department's 95 stated objectives, 80 are identical to its objectives as stated in FY 2006. Only 15 objectives are new. This again gives rise to the question of whether the annual plan is truly representative of departmental planning or, rather, is simply a perfunctory effort to fulfill the statutory planning requirements of title 55.

Your committee is mindful of the Department's added responsibilities under the Amended Compact, as well as the fact that a certain portion of the Department's assets may be needed to respond to events that are unpredictable or unforeseen. However, your committee repeats its caution, made last year, that the Department must not allow its dominant role to be a reactive one. Furthermore, the need to be responsive does not preclude the requirement for comprehensive budgetary planning.

The suggestion that the Department consider the goals set out in the Strategic Development Plan and the Infrastructure Plan in formulating its own annual plans is reiterated. We currently see no reflection of such consideration in the Department's annual plan. One pressing concern is immigration. Whereas we must ensure that FSM businesses have sufficient genuinely skilled labor, the need to protect employment opportunities for FSM citizens is of on-going importance. The proposed budget is silent on how the Department of Justice is tracking the movements of both legal and illegal aliens in this

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country. This is a particularly urgent concern, in view of recent global security measures.

Your committee continues to encourage the Department to work in collaboration with other national government departments and agencies to establish an agenda that encompasses the nation's priorities. This, in turn, would provide a basis for a meaningful annual plan that identifies clearly the Department's intended accomplishments.

DISCUSSION OF FY 2007 BUDGET

The appropriations discussed below are presented, by entity, in the order in which they appear in the budget book. The figures given for each department/agency include the total amount appropriated by law for FY 2006 (in italics), as set forth in Public Laws Nos. 14-21 and 14-50, the amounts requested by each entity for FY 2007 (as listed under "2007 Proposed" in the *Budget Book*); and the total amount recommended by your committee for FY 2007.

Based on the foregoing thoughts, your committee makes the following recommendations, subject to availability of funds:

I. OPERATIONS BUDGET

A. DEPARTMENT OF JUSTICE

	<i>FY 2006 Approp.</i>	FY 2007 Request	Committee Recommends
Personnel	<i>\$1,837,660</i>	\$1,866,259	\$1,844,130
Travel	<i>117,190</i>	113,824	104,000
Contract Services	<i>239,900</i>	185,700	120,100
Other Expenses	<i>448,185</i>	768,959	465,359
	<i>w/ suppl 498,185</i>		
Fixed Assets	<i>21,500</i>	54,000	0
Total:	<i>\$2,664,435</i>	\$2,988,742	\$2,533,589
	<i>w/ suppl 2,714,435</i>		
#/Employees	<i>129</i>	129	129

The President recommends an FY 2007 budget for the Department of Justice that is \$274,307 higher than the amount approved for FY 2006, including supplementals. Your committee takes the view that this is a time for increased fiscal caution and so seeks to trim the budget of

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all but the most essential expenses. The recommendations that follow reflect this approach.

Your committee is concerned about what it perceives as an imbalance between the quality of legal services the Office of the Public Defender is able to provide and those available to the Department of Justice through its prosecutorial staff. Your committee is confident that this is not due to the natural abilities of the Public Defender's legal practitioners but, rather, to discrepancies in training and experience.

For example, attorneys with the Department of Justice are, as a rule, individuals who speak English as a first language, have graduated from North American law schools and have at the very least three years' of experience as practicing attorneys before coming to the FSM to work for the Department of Justice. On the other hand, lawyers with the Public Defender are frequently individuals who have not had the opportunity to attend, and graduate from, law school. Instead, they are more likely to have completed the College of Micronesia's Trial Advocacy program and subsequently passed the FSM bar exam. They may have had little or no trial experience before being assigned to act as defense counsel. Your Committee is concerned that the pitting of a lawyer from the first group against legal counsel from the second group may not be in the best interests of justice. This is to the detriment not only of the parties to a legal matter but also of Micronesian society as a whole.

Accordingly, your committee finds it surprising that the President's proposed budget contains a request for funding for a new position, "Junior Litigator". As presented to your committee by the Department of Justice, the aim of the proposed Junior Litigator position is to hire those who have become members of the FSM Bar without law degrees as attorneys with full benefits. Your committee questions whether this represents an urgent need for the Department of Justice at this time. Your committee holds the opinion that the nation would receive a greater benefit from funds expended for further training of legal counsel who are with the Office of the Public Defender. In its proposed budget, the Public Defender does not request any such funding.

Office of the Secretary

The Department of Justice's Office of the Secretary requests a Personnel budget of \$97,898. Your committee recommends this request, as set out in the Budget Book, be approved. The Office of the

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Secretary requests a travel budget of \$20,271, an increase \$273 from FY 2006. Your committee instead recommends a total of \$15,000 for the Office's travel.

The President, through Presidential Communication No. 14-202, informs your committee that the correct salary request for the Office's Legal Trainee position, as part of its Contract Services budget, is \$30,000 annually, and not \$10,000 as recorded on page 373 of the Budget Book. Your committee notes that this position is not a new one. With this amendment, the Office's total request for its Contract Services budget is \$35,600. Your committee recommends approval of this request.

In addition, the Office of the Secretary seeks a budget of \$27,600 for its Other Current Expenses, requesting, among other proposed expenses, \$20,500 for Communications. Your committee is confident the Office's goals may be achieved with a total budget of \$20,000 for Other Current Expenses and so recommends approval of this amount. Under Fixed Assets, the Office of the Secretary proposes the purchase of a desktop computer and a fax machine for a total cost of \$4,500. Your committee is unconvinced that either of these expenses is essential at this time and so does not recommend the appropriation of any funds for the Office under Fixed Assets.

Litigation

The President, again through Presidential Communication No. 14-202, alerts your committee to a further error in the Budget Book. At page 376, under Personnel, the third line item/position ("Legal Intern") is to be deleted along with its proposed salary of \$30,000, as this position properly belongs under the Office of the Secretary's Contractual Services budget, as discussed above. Accordingly, the total proposed Litigation section's Personnel budget is \$152,929.

The Litigation section's request for Personnel includes a new "Junior Litigator" position, with a proposed salary of \$22,129. As discussed, your committee is of the opinion that this proposed new position does not fill an urgent need at this time. As such, your committee recommends \$130,800 for the Litigation section's Personnel budget.

The Litigation section proposes a travel budget of \$24,080. Your committee recommends a budget of \$24,000 only. Your committee recommends approval of the proposed budget of \$7,000 for Contract Services.

Law

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Your committee recommends approval of the proposed budget for the Law section as it is set out in the Budget Book, except that approval of \$15,000 only is recommended for travel.

Division of Immigration and Labor

Your committee recommends approval of the proposed budget for the Division of Immigration and Labor as it appears in the Budget Book, with the exception that the amount recommended for travel is \$30,000. In addition, the \$36,000 requested for the purchase of new vehicles, under Fixed Assets, is not recommended.

In addition, your committee has been advised of an error in the Budget Book regarding the number of Personnel positions with the Division of Immigration and Labor. Whereas the Budget Book, at page 385, lists the number of position as 39, the correct number is 37, the same number of positions as in FY 2006. That same page lists three positions as "Vacant". In fact, only the position listed for Yap is vacant. The other two "Vacant" positions are to be deleted. Accordingly, no new positions have been created in the Division of Immigration and Labor.

National Police

Your committee recommends approval of the proposed Personnel budget for the National Police, as set out in the Budget Book. Your committee recommends approval of \$20,000 for travel. Several items are proposed as part of the Contract Services budget, including Charter/Incentive, an amount for housing in Guam, office space in Chuuk and an amount for temporary officers. None of these items are recommended for approval by your committee.

Your committee recommends approval of the proposed budget for Other Current Expenses as set out in the Budget Book, with the exception that \$150,000 only is recommended for fuel. This is because Public Law No. 14-70, a supplemental appropriation from the 2006 general fund, has already provided \$50,000 for fuel to the National Police for its patrol boats. Your committee intends to revisit the patrol boats' fuel requirements during the course of the 2007 fiscal year. In addition, your committee recommends approval of \$50,000 for provisions and \$80,000 for spare parts and supplies.

The National Police propose purchasing computer items for a combined cost of \$13,500. Your committee does not recommend approval of these purchases.

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Number of Personnel Positions

In FY 2006, the total number of positions in the Department of Justice was 129. The President proposes no change in that number. Your committee agrees with the number and allocation of the positions.

Except for the increases and decreases of funding levels recommended above, your committee agrees with the President's proposed budget for the Department of Justice.

B. OFFICE OF THE PUBLIC DEFENDER

The Office of the Public Defender requests a budget that is \$84,926 less than its FY 2006 budget, including supplemental. The Public Defender is expected to be more creative in identifying relevant programs to enforce the effectiveness of its attorneys in the area of legal representation to justify increases in its budget submissions. Whereas we commend the Office of the Public Defender for its consistency in its annual funding request levels, they will be highly commended if a staff upgrading program is successfully implemented through the regular scholarship program and a rigorous on the job training for trial councilors. Accordingly, your committee recommends the funding levels indicated below:

	<i>FY 2006 Approp.</i>	FY 2007 Request	Committee Recommends
Personnel	\$456,941	458,244	\$458,244
Travel	130,000	69,503	69,503
Contract Services	39,486 w/ suppl 54,486	52,044	52,044
Other Expenditures	37,700 w/ suppl 76,440	47,350	47,350
Fixed Assets	3,050	8,850	8,850
Total:	\$667,177 w/ suppl \$720,917	\$635,991	\$635,991
#/Employees	23	23	23

During the course of its public hearing with representatives of the Office of the Public Defender, your committee was advised of the following errors and omissions in the Budget Book:

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Under Contract Services, the \$15,000 requested for an office lease in Chuuk is no longer required. Instead, the Public Defender proposes putting this amount toward what is proposed for the engagement of a private attorney. The amount for a private attorney is accordingly increased from \$10,000 to \$25,000. Your committee supports this increase. In addition, the amount for the lease of an office in Yap is incorrectly listed as \$15,000 and should read \$11,904. Finally, the amount proposed for transcript is incorrectly listed as \$1,904 and should read \$5,000. The total amount requested for Contract Services remains \$52,044. Your committee agrees with this amount.

Under Other Current Expenses, the Public Defender requests a number of changes to what appears in the Budget Book. The amount requested for bookshelves is \$1,000. A request of \$2,000 for boat rental to conduct criminal defense investigations was inadvertently omitted from the Budget Book. The requested amount for printing and reproduction is \$1,000. The requested amount for supplies and materials is \$8,850. With these changes, the revised total for Other Current Expenses is \$47,350. Your committee recommends approval of this amount.

The Office of the Public Defender also proposes a number of changes to what is listed in the Budget Book under Fixed Assets. The requested \$600 for bookshelves may be deleted as the shelves are being provided as part of the Other Current Expenses budget. This also applies to the \$550 and \$300 requested for a storage shelf and weed eater, respectively. In addition, the \$1,800 requested for a copier was provided for as part of the FY 2006 budget and may therefore be deleted. As a result of these changes, the total amount requested for the Office's Fixed Assets budget is \$8,850. Your committee recommends approval of this amount.

C. NATIONAL JUDICIARY

The total amount recommended by the President for FY 2007 is \$1,198,393. This represents an increase of \$6,984 from the FY 2006 funding. Your committee does not agree with this amount and instead approves the following overall decrease of \$88,374 from the FY 2006 budget amount.

	<i>FY 2006 Approp.</i>	FY 2007 Proposed	Committee Recommends
Personnel	\$705,901	\$709,735	\$709,735
Travel	165,371	168,963	100,000

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Contract Services	126,900	126,900	126,900
Other Expenditures	165,748	165,306	166,400
Fixed Assets	27,489	27,489	0
Total:	\$1,191,409	\$1,198,393	\$1,103,035
#/Employees	31	31	31

Your committee supports the amount requested for Personnel, \$709,735. \$168,963 is requested for travel. Instead, your committee recommends a travel budget of \$100,000. A budget of \$126,900 is requested for Contract Services. Your committee agrees with this amount.

During the public hearing with representatives of the National Judiciary, your committee was advised of an error in the Budget Book at page 448, under Other Current Expenses. The amount listed for "National Law Day Debate" incorrectly reads \$36,500 and should be \$25,000. \$36,500 is the amount allocated for the FY 2006 Law Day celebrations, as 2006 marks the Court's 25th anniversary. Accordingly, in 2007, the amount for the Law Day Debate returns to the usual \$25,000 and the total amount requested for Other Current Expenses is \$165,306. Your committee agrees with this amount, as well as a small increase to the Court's fuel budget, bringing the total amount for fuel to \$7,000. Your committee also recommends increasing the amount for printing to \$13,900, making the total amount recommended for Other Current Expenses \$166,400.

The President proposes the amount of \$27,489 under Fixed Assets for the purchase of certain office equipment. Your committee does not recommend approval of the purchase of these items.

D. BOARDS, COMMISSIONS & AUTHORITIES

1. National Postal Service

For FY 2007, the National Postal Service seeks a \$34,088 increase over its FY 2006 appropriation. The greatest portion of this increase is requested for mail service transportation; most particularly, mail service to the outer islands.

In its public hearing with representatives of the Postal Services, your committee was advised of the following error in the Budget Book. At page 505, an amount of \$41,613 is listed as recommended for "Leased Offices/Chuuk & Kosrae & Yap" and an amount of \$18,506 is listed for "Outer Island Mail contracts". The amount for leased offices should

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be \$31,613 and the amount for Outer Island Mail contracts should read \$28,560. Your committee supports this change.

Your committee declines to make any changes either upward or downward on the budget for the National Postal Service recommended by the President and as indicated below:

	<i>FY 2006 Approp.</i>	FY 2007 Proposed	Committee Recommends
Personnel	\$402,488	\$409,401	\$409,401
Travel	40,692	41,000	41,000
Contract Services	98,273	125,000	125,000
Other Expenditures	84,900	85,400	85,400
Fixed Assets	-0-	-0-	-0-
Total:	\$626,353	\$660,441	\$660,441
#/Employees	38	38	38

There is no increase or decrease in the number of positions allocated for the National Postal Service.

E. SPECIAL PROGRAMS

1. National Election Director's Office

The proposed budget for the National Election Director's Office is increased from the amount appropriated for FY 2006 by \$8,493. This is attributable to a number of decreased items from FY 2006 as well as some increases in FY 2007. The FY 2006 budget included two significant one-time fixed asset purchases: two pick-up trucks for Chuuk and Pohnpei for a total of \$30,000 and office equipment for a voter identification system at a cost of \$16,000. In addition, the number of proposed trips has been reduced by half to two in FY 2007, decreasing the proposed travel budget by \$8,106. Furthermore, the proposed budget for Contract Services is reduced by \$6,100 as appropriations in FY 2006 for voter registration and the accompanying system repair and maintenance are not requested in FY 2007.

The increases requested by the National Election come under Other Current Expenses. A \$10,200 increase is requested for communications as well as maintenance and repair services. More significantly, the FSM's new election legislation allows for special polling places in Guam and Honolulu. Additional funding will be required that was not

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foreseen at the time the Budget Book was formulated. Accordingly, your committee recommends approval of an additional \$60,000 under Other Current Expenses to fund the operations of the two special polling places.

Your committee therefore recommends approval of the following budget for the National Election Office:

	<i>FY 2006 Approp.</i>	FY 2007 Proposed	Committee Recommends
Personnel	\$180,081	\$180,080	\$180,080
Travel	13,326	5,220	5,220
Contract Services	27,100	21,000	21,000
Other Expenditures	37,800	108,000	108,000
Fixed Assets	47,500	0	0
Total:	\$305,807	\$314,300	\$314,300
#/Employees	11	11	11

There is no increase or decrease in the number of regular positions allocated to this Office.

F. GRANTS, SUBSIDIES, AND CONTRIBUTIONS

1. State Law Enforcement

As in FY 2006, the President, in FY 2007, recommends \$150,000 for State Law Enforcement. Your committee agrees with this recommendation. In addition, your committee understands that, in previous years, the Office of the Attorney General has distributed this amount to the state law enforcement entities in accordance with agreements between the AG and each state law. For FY 2007, your committee has decided to determine the distribution of the funds to the states, as set out below.

	<i>FY 2006 Approp.</i>	FY 2007 Proposed	Committee Recommends
Kosrae			\$25,000
Pohnpei			\$50,000
Chuuk			\$50,000*
Yap			\$25,000
Total:	\$150,000	\$150,000	\$150,000

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	w/ suppl \$180,000		
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* Regarding the use of funds appropriated for Chuuk, your committee does not recommend approval of the use of any state law enforcement funds for salaries or personnel in any regard. Furthermore, of the \$50,000 recommended for Chuuk, your committee recommends that amount be divided equally between the Chuuk State Office of the Attorney General and the Chuuk State Office of Public Safety.

2. State Judiciaries

The President recommends that \$60,000 be appropriated to "subsidize the operations of the State Judiciary Branches". This represents a significant reduction from the \$153,500 approved for FY 2006. Your committee also notes that, in FY 2006, an additional \$60,000 was appropriated for "Court congestion relief projects". Accordingly, a total of \$213,500 was appropriated for State Judiciaries in FY 2006. For FY 2007, your committee recommends small increases in the amounts appropriated for each state, as set out below. However, your committee does not recommend a further appropriation for court congestion relief as no information has been provided from the state judiciaries regarding their success in reducing case backlogs and accelerating the disposition of cases. Your committee supports the on-going contribution to state judiciaries by the National Government, in accordance with Article XI of the Constitution, although your committee recommends that continued reductions be sought in the amount of the National Government contribution.

	<i>FY 2006 Approp.</i>	FY 2007 Proposed	Committee Recommends
Kosrae	\$37,500	\$10,000	\$30,000
Pohnpei	40,500	20,000	45,000
Chuuk	40,500	20,000	45,000
Yap	35,000	10,000	30,000
Court congestion relief projects	60,000	0	0
Total:	\$213,500	\$60,000	\$150,000

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*See note below re: use of funds appropriated for Yap.

In FY 2006, the full amount of Yap's portion of these funds was subsequently re-appropriated to the Public Defender's Office for use in funding law school scholarships. Your committee recommends that this be repeated in FY 2007 so that the full amount of Yap's portion will again be used for law school scholarships.

3. Micronesian Legal Services

Congress appropriated \$150,000 to contribute to the support of Micronesian Legal Services in FY 2006. The President requests the same level of funding be appropriated for MLS in FY 2007. Your committee agrees.

	<i>FY 2006 Approp.</i>	FY 2007 Proposed	Committee Recommends
Total:	<i>\$150,000</i>	\$150,000	\$150,000

G. CAPITAL DEVELOPMENT PROJECTS

The President recommends the following capital development project for FY 2007:

Patrol Boat Slipping--\$250,000

Your committee recommends approval of this item.

CONCLUSION

With the modifications identified above, your committee on Judiciary and Governmental Operations recommends authorizing those portions of the FY 2007 budget relating to matters under its jurisdiction, *subject to the availability of funds*, as determined by your committee on Ways and Means.

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Respectfully submitted,

/s/ Dohsis Halbert
Dohsis Halbert, chairman

/s/ Roosevelt D. Kansou
Roosevelt D. Kansou, vice chairman

/s/ Alik L. Alik
Alik Alik, member

/s/ Tiwiter Aritos
Tiwiter Aritos, member

Moses A. Nelson, member

Peter M. Christian, member

/s/ Ramon Peyal
Ramon Peyal, member