

STANDING COMMITTEE REPORT NO. 15-37

RE: P.C. NO. 14-389 AND 15-55/JGO/J

SUBJECT: FY 2008 BUDGET

SEPTEMBER 21, 2007

The Honorable Isaac V. Figir
Speaker, Fifteenth Congress
Federated States of Micronesia
Second Regular Session, 2007

Dear Mr. Speaker:

Your committee on Judiciary and Governmental Operations, to which was jointly referred Presidential Communications Nos. 14-389 and 15-55, begs leave to report as follows:

Presidential Communications No. 14-389 and 15-55 concern the National Government's proposed budget for fiscal year 2008 as set forth in two publications, each entitled *National Government Fiscal Year 2008 Proposed Budget* ("Budget Book"). Pursuant to rule 7, section 4(b), of the Official Rules of Procedure of the Fifteenth 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

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.

Your committee's findings and recommendations follow.

INTRODUCTORY COMMENTS

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Your committee notes that Presidential Communication 14-389 was submitted April 1, 2007, as required by subsection 103(3) of Title 55. In May 2007, a new President was elected. The new administration submitted a bill for the reorganization of the executive departments and offices. A revised budget, Presidential Communication 15-55, was submitted to accompany this bill. This bill was passed by Congress and signed into law in September 2007 and became Public Law No. 15-09. As a result, your committee has based its budget hearings and review process on both Presidential Communications 14-389 and 15-55.

The impact of the reorganization of the executive departments and offices on your Judiciary and Governmental Operations committee is limited to the move of the Registrar of Corporations Unit from the Department of Economic Affairs to the Department of Justice.

DISCUSSION OF FY 2008 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 2007 (in italics), as set forth in Public Laws No. 14-80, as amended by PL Nos. 14-95, 14-99, 14-104, 15-01 and 15-04, the amounts requested by each entity for FY 2008 (as listed under "2008 Proposed" in the *Budget Book*); and the total amount recommended by your committee for FY 2008.

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 2007 Approp.</i>	FY 2008 Request	Committee Recommends
Personnel	<i>\$1,844,130</i>	\$1,910,006	\$1,910,006
Travel	<i>\$104,000</i>	\$91,039	91,039
Contract Services	<i>\$120,100 w/ suppl \$230,100</i>	157,897	157,897
Other Current Expenses	<i>\$465,359 w/ suppl</i>	\$1,568,959	868,959

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	\$565,359		
Fixed Assets	0	0	0
	w/ suppl \$36,000		
Total:	\$2,533,589	\$3,694,138	\$3,027,901
	w/ suppl \$2,779,589		
#/Employees	129	129	131

***Office of the Secretary
Litigation
Law***

Your committee is concerned with the current high turnover of attorneys in the Department of Justice. This represents not only an unnecessary expense, in terms of recruitment time and costs, but also reflects poorly on the Department, and the national government, as a whole. Accordingly, your committee recommends that the executive seriously consider any possible reasons for this turnover and take steps to reverse this disturbing trend.

Registrar of Corporations Unit

This function has been moved to the Department of Justice from the Department of Economic Affairs (now the Department of Resources and Development). Your committee notes a new travel budget request for \$6,054. Your committee recommends approval of this request, as well as the request for personnel funding in the amount of 27,709.

Division of Immigration and Labor

Your committee is concerned that our employees overtime hours are not being reimbursed by Continental Airlines and agents for fishing companies, in accordance with our agreements. The problem appears to be our own failure to invoice adequately and in a timely manner and to follow-up on our invoices.

Further, your committee wishes to ask the Executive branch to initiate steps to collect these outstanding charges and, if necessary, negotiate an out of court settlement for a reasonable amount, keeping in mind the total value of the overdue amounts.

As a result, your committee takes the view that the responsibility for billing should go to the Department of Justice, rather than remain with the Department of Finance. Your committee therefore asks the Department of Justice to assume this new responsibility.

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National Police

The original request for fuel for purposes of surveillance was \$400,000. The new administration has increased this request by \$800,000 to \$1,200,000. Your committee notes that the amount appropriated in FY 2007 for surveillance fuel, including supplemental appropriations, was \$250,000.

Your committee calculates that one patrol boat requires \$40,000 of fuel to make one surveillance trip. The requested \$1,200,000, then, would fund 30 trips in one year. As the FSM has three patrol boats, this would be enough fuel for each patrol boat to take 10 trips each in FY 2008.

Your committee considers this level of surveillance to be excessive in it would exhaust our three patrol boats as well as our national police crews. As a result, your committee recommends the approval of \$500,000 for fuel. This fuel is to be used for surveillance only - there is to be no reprogramming of these funds.

For the avoidance of doubt, although your committee discourages the practice, any trips on our patrol boats for purposes other than surveillance must be funded by the users.

In addition, your committee has received information suggesting that national police crews on our patrol boats may be engaging in illegal fishing activity at conservation areas within state waters while on surveillance trips. This information, if true, is reprehensible and your committee strongly reprimands any such behavior. Any future such activity will not be tolerated.

Finally, your committee notes that, whereas funds were appropriated in FY 2007 for the purchase of uniforms for the national police, uniforms have not been purchased. Your committee supposes the funds thus earmarked have been reprogrammed. Your committee is prepared to appropriate funds for uniforms again in FY 2008, with the proviso that the funds are not, under any circumstances, to be reprogrammed.

Number of Personnel Positions

In FY 2007, the total number of positions in the Department of Justice was 129. The move of the Registrar of Corporations to the Department increases the number of positions by two to 131.

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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

	<i>FY 2007 Approp.</i>	FY 2008 Request	Committee Recommends
Personnel	\$458,244	\$499,599	\$499,599
Travel	\$69,503	107,240	\$69,503
Contract Services	\$52,044 w/ suppl \$	\$38,150	\$38,150
Other Current Expenditures	\$47,350 w/ suppl \$	\$44,680	\$84,680
Fixed Assets	\$8,850	\$32,200	\$17,000
Total:	\$635,991 w/ suppl \$	\$721,869	\$708,932
#/Employees	23	24	24

In Personnel, a new entry level staff attorney position is proposed, with a salary of \$31,880. Your committee recommends approval of this request. Under Travel, your committee underlines that it recommends approval of \$69,503 only. Under Contract Services, your committee recommends approval of the requested \$38,150.

Under Other Current Expenses, your committee recommends approval of the requested items in the Budget Book and also recommends approval of an additional \$40,000 to be used exclusively as a scholarship fund for two law students. These funds are not be reprogrammed. Criteria for the scholarship are that the students must attend law schools that are recognized by the American Bar Association. Your committee also asks the Office of the Public Defender to set up the scholarship so that the recipients will be required to return to the FSM and work for at least three years after graduation. Although this need not take place immediately after graduation, the graduate must agree to return to work in the FSM within the first five years following graduation.

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These scholarship funds may be supplemented by the students with other scholarship or grant funds.

Also under Other Current Expenses, your committee notes that \$12,000 is requested for fuel. Your committee is prepared to recommend approval of this amount, with the caution that these funds are not to be either abused or reprogrammed.

Under Fixed Assets, there is a request for \$20,000 to purchase a new vehicle. Your committee does not recommend approval of this request. However, your committee recommends approval of an additional \$4,800 under Fixed Assets for the purchase of two laptop computers for use by staff attorneys.

Number of Personnel Positions

In FY 2007, the total number of positions in the Office of the Public Defender was 23. The creation a new staff attorney position increases the number of positions by one to 24.

C. NATIONAL JUDICIARY

	<i>FY 2007 Approp.</i>	FY 2008 Proposed	Committee Recommends
Personnel	\$709,735	\$701,220	\$707,360
Travel	100,000 w/ suppl 105,000	148,834	148,834
Contract Services	126,900	94,700	109,900
Other Expenditures	166,400	109,481	109,481
Fixed Assets	0 w/ suppl 20,000	27,000	27,000
Total:	\$1,103,035 w/ suppl 1,128,035	\$1,103,035	1,102,575
#/Employees	31	31	31

Your committee wishes to express its concern over the backlog of cases pending before the Court. Your committee understands that appeal hearings are not being scheduled, even as the appellants are serving, and even completing, their sentences. Your committee views this

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backlog as a very grave matter and asks the Court to prioritize the resolution of cases, both trial and appeals.

Your committee is also concerned by the lack of regular and ongoing reporting by the Court on the use of Compact funds provided for training of judges. This impacts on your committee's ability to determine the amount required in this budget for training.

With respect to Personnel, your committee notes that the total amount recommended in the Budget Book at page 459 is incorrect and should read \$701,220, as the amounts recommended for Associate Justices Yamase and Yinug, \$52,320 each, should read \$41,420 each.

A salary increase for judges of the FSM Supreme Court has been passed by Congress, by way of an amendment to Title 4 of the FSM Code. This will increase the total Personnel request to 707,360. Your committee recommends approval of this amount.

For Travel, your committee recommends approval of the amount requested in the Budget Book, \$148,834. Your committee asks the Court to focus its travel funds on domestic travel and particularly court sittings, in order to reduce the case backlog currently facing the Court. With regard to international travel, your committee takes the view that any international travel is ultimately at the expense of the case backlog. Accordingly, your committee asks the Court to restrict international travel to only what is absolutely necessary and to rotate international travel among the judges, so that all may have an opportunity to represent our Court abroad.

In addition, your committee asks the Court to look into the use of new technologies, including video conferencing, to reduce the travel costs of the Court.

Under Contract Services, your committee recommends approval of the items listed in the Budget Book. Furthermore, your committee recommends approval of an additional \$5,000 for the Chuuk Courthouse lease, on the understanding that the lease is in fact for \$15,000 and not \$10,000 as listed in the Budget Book on page 461. Furthermore, your committee is concerned about the costs of continued leasing for the Chuuk Courthouse, as this may become prohibitively expensive when the current lease expires. Your committee therefore asks the Court to look for a permanent home for the Court in Chuuk.

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In addition, your committee notes that Section 108(4) of Title 4 of the FSM Code gives an entitlement to housing and utilities without cost to each Justice of the Supreme Court. As no housing amount has been requested for Justice Ready Johnny in Chuuk, your committee recommends approval of an additional \$7,200 for the justice's housing.

Furthermore, your committee is advised that the housing in Palikir constructed for the use of the Chief Justice is not yet ready for occupation. For this reason, your committee recommends approval of an additional \$3,000 for rental of the Chief Justice's current housing so that he may remain there for another two months. These amendments bring the total amount approved for Contract Services to \$109,900.

Your committee recommends approval of the amount recommended under Other Current Expenses, \$109,481. Your committee also recommends approval of the amount recommended under Fixed Assets, \$27,000, for four air conditioning units for a total of \$9,000 and a court recording system for \$18,000.

The number of personnel positions remains the same, at 31.

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D. BOARDS, COMMISSIONS & AUTHORITIES

1. National Postal Service

	<i>FY 2007 Approp.</i>	FY 2008 Proposed	Committee Recommends
Personnel	\$409,041	\$409,041	\$409,041
Travel	\$41,000 <i>w/ suppl</i> \$51,000	\$36,623	\$36,623
Contract Services	\$125,000	\$125,000	\$128,952
Other Expenditures	\$85,400	\$85,400	\$85,400
Fixed Assets	\$0	\$0	\$0
Total:	\$660,441 <i>w/ suppl</i> \$670,441	\$656,064	\$660,016
#/Employees	38	38	38

Your committee recommends approval of the amount requested by the FSM Postal Services and further recommends approval, under Contractual Services, of \$3,952 for two postal agents in Chuuk for the outer islands.

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

Your committee recommends partial implementation of the voter identification system, beginning with VAAP and Special Polling Places. Whereas the Budget Book recommends \$17,000 for this project, your committee recommends approval of \$30,000, under Fixed Assets.

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

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	<i>FY 2007 Approp.</i>	FY 2008 Proposed	Committee Recommends
Personnel	\$180,080 w/ reprog \$157,330	\$179,850	\$179,850
Travel	\$5,220 w/ suppl \$10,605	\$11,993	\$11,993
Contract Services	\$21,000 w/ suppl \$142,715	\$28,000	\$28,000
Other Expenditures	\$108,000 w/ suppl 133,650	\$66,650	\$66,650
Fixed Assets	\$0	\$18,000	\$31,000
Total:	\$314,300 w/suppl 444,300	\$304,493	\$317,493
#/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

	<i>FY 2007 Approp.</i>	FY 2008 Proposed	Committee Recommends
Kosrae	\$25,000	\$25,000	\$25,000
Pohnpei	\$50,000	\$50,000	\$50,000
Chuuk*	\$50,000	\$50,000	\$50,000
Yap	\$25,000	\$25,000	\$25,000
Total:	\$150,000	\$150,000	\$150,000

* 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 used to provide meals to prisoners and fuel for Public Safety and the

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Office of the Attorney General official vehicles and boats, and trips, only. Your committee recommends that the President shall be the allottee of these funds.

2. State Judiciaries

	<i>FY 2007 Approp.</i>	FY 2008 Proposed	Committee Recommends
Kosrae	<i>\$30,000</i>	\$30,000	\$30,000
Pohnpei	<i>45,000</i>	45,000	\$45,000
Chuuk	<i>45,000</i>	45,000	\$45,000
Yap	<i>30,000</i>	20,000	\$30,000
Total:	<i>\$150,000</i>	\$140,000	\$150,000

Of the \$30,000 recommended for the State of Yap, \$15,000 may be reserved for law school scholarships, at the discretion of the Court.

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3. Micronesian Legal Services

Congress appropriated \$150,000 to contribute to the support of Micronesian Legal Services in FY 2007. The President requests the same level of funding be appropriated for MLS in FY 2008. Your committee recommends approval of this amount.

	<i>FY 2007 Approp.</i>	FY 2008 Proposed	Committee Recommends
Total:	<i>\$150,000</i>	\$150,000	\$150,000

G. CAPITAL DEVELOPMENT PROJECTS

The President recommends no funding for capital development projects in FY 2008.

CONCLUSION

With the modifications identified above, your committee on Judiciary and Governmental Operations recommends authorizing those portions of the FY 2008 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/ Peter Sitan
Peter Sitan, chairman

/s/ Fredrico O. Primo
Fredrico O. Primo, vice chairman

/s/ Tiwiter Aritos
Tiwiter Aritos, member

/s/ Isaac V. Figir
Isaac V. Figir, member

/s/ Dohsis Halbert
Dohsis Halbert, member

/s/ Moses A. Nelson
Moses A. Nelson, member

/s/ Paliknoa K. Welly
Paliknoa K. Welly, member