
A BILL FOR AN ACT

To further amend chapter 5 of title 55 of the Code of the Federated States of Micronesia (Annotated), as amended in Public Laws Nos. 19-156 and Public Law No. 22-32, by amending section 502 thereof, in order to provide a definition of "auditing standards" and "document"; by amending section 503 thereof, in order to provide an immunity provision and clarify salary requirements; by amending section 505 thereof, in order to expand the duties of the Public Auditor; by amending section 507 thereof, in order to clarify the types of audits and expand powers of the Public Auditor; by inserting a new section 508 in order to establish the Office of the Public Auditor; and for other purposes.

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

2 Section 1. Section 502 of title 55 of the Code of the
3 Federated States of Micronesia (Annotated), as amended, is hereby
4 amended to read as follows:

5 "Section 502. Definitions.

6 As used in this chapter[7]:

7 (1) "auditing standards" means generally accepted
8 government auditing standards in the United States or
9 international auditing standards for public sector
10 audits.

11 (2) "document" means any record of information,
12 including:

13 (a) anything on which there is writing or any
14 image;

15 (b) anything on which there is any mark, figure,
16 symbol, or perforation having a meaning for a person

1 qualified to interpret it; and
2 (c) anything from which any sound, image or writing
3 can be reproduced, with or without other aids; and
4 includes documents or information created, recorded, or
5 stored electronically by any means whatsoever, and any
6 information derived from those documents or that
7 information.

8 (3) "public funds from the National Government" means
9 funds or reimbursements from the National Government
10 arising from the National tax revenues, including
11 National tax revenue shared with the states pursuant
12 to article IX, section 5 of the Constitution of the
13 Federated States of Micronesia, and all grants,
14 subsidies, or contributions in the form of money, goods,
15 or services from any source which are received from the
16 National Government by appropriation law, or otherwise."

17 Section 2. Section 503 of title 55 of the Code of the
18 Federated States of Micronesia (Annotated), as amended, is hereby
19 amended to read as follows:

20 "Section 503. ~~Appointment–Tenure–Removal–Salary.~~ The
21 appointment, tenure, removal, and salary of the Public
22 Auditor for the National Government of the Federated
23 States of Micronesia shall be as follows:

24 (1) Appointment. The Public Auditor shall be
25 appointed by the President with the advice and consent

1 of Congress.

2 (2) Tenure. The Public Auditor shall serve for a
3 term of four years and until a successor is confirmed.
4 An individual may be reappointed for an additional term
5 or terms with the advice and consent of Congress.

6 (3) Removal. The Congress may remove the Public
7 Auditor from office for cause by a two-thirds vote. In
8 the event of such removal, the President of the
9 Federated States of Micronesia shall appoint an Acting
10 Public Auditor until a successor is confirmed.

11 (4) Salary. The Public Auditor shall receive an
12 annual salary of \$70,000. Such salary shall not be
13 reduced during the Public Auditor's term of office. In
14 the event of removal or of a vacancy in the office,
15 the successor or Acting Public Auditor shall be
16 entitled to the salary attendant to the office as of
17 the date of succession.

18 (5) Immunity. Neither the Public Auditor nor any
19 employee of the Public Auditor acting under the
20 Public Auditor's authority shall be subject to
21 personal civil or criminal liability for any act or
22 omission in carrying out his or her duties in good
23 faith."

24 Section 3. Section 505 of title 55 of the Code of the
25 Federated States of Micronesia (Annotated), as amended, is hereby

1 amended to read as follows:

2 "Section 505. Duties.

3 The duties of the Public Auditor shall be as follows:

4 (1) The Public Auditor shall inspect and audit
5 transactions, accounts, books, and other financial
6 records of every branch, department, office, agency,
7 board, commission, bureau, and statutory authority of
8 the National Government and of other public legal
9 entities, including, but not limited to, States,
10 subdivisions thereof, and nonprofit organizations
11 receiving public funds from the National Government.

12 (2) The Public Auditor shall inspect and audit
13 transactions, accounts, books, and other financial
14 records associated with any project, program, and
15 activity receiving funding in whole or in part from
16 public funds of the National Government.

17 (3) The Public Auditor shall perform audits as
18 otherwise specifically required by statute.

19 (4) The Public Auditor may at any time perform an
20 inspection or evaluation of the design, implementation,
21 or results of the operations, programs, or policies of
22 the National Government and any instrumentality of the
23 National Government as referred to in subsection (1).
24 An inspection or evaluation shall be performed in
25 conformity with standards issued by the Council of the

1 Inspectors General on Integrity and Efficiency in the
2 United States, to the extent the Public Auditor
3 determines the standards to be practicably applicable.

4 ~~(4)~~ (5) The Public Auditor shall have the
5 discretion to perform audits, inspections, or
6 evaluations, or assist in the performance of audits,
7 upon request by the States.

8 ~~(5)~~ (6) The Public Auditor shall have the exclusive
9 audit jurisdiction over public funds of the National
10 Government of the Federated States of Micronesia,
11 including loans or grants from international
12 organizations but he shall have the authority to
13 contract for independent auditing, inspection or
14 evaluation services to be performed under his
15 supervision in instances where specialized expertise is
16 required, or where auditing, inspections, or evaluation
17 requirements are beyond the capacity of the Public
18 Auditor's staff and separate funding is available.

19 ~~(6)~~ (7) The Public Auditor shall file a report at
20 least once a year with the Congress. The Public Auditor
21 may file other reports at such other times as he may
22 determine. All reports of the Public Auditor shall be
23 made available to the public.

24 ~~(7)~~ (8) The Public Auditor may submit recommendations
25 with his audit and inspection or evaluation reports

1 which shall be confined to matters within the
2 jurisdiction of the Public Auditor, including compliance
3 or noncompliance with laws governing the expenditure of
4 public moneys, and the need for amendments or new laws
5 to secure the efficient expenditure of public funds.

6 (9) Upon receipt of an audit report or a report on an
7 inspection or evaluation, the public entity being
8 audited, inspected, or evaluated must respond to any
9 recommendations, in writing to the Public Auditor, by
10 indicating the action or actions the entity will
11 immediately take to address the recommendations and any
12 action or actions the entity will take on
13 recommendations not immediately addressed. The public
14 entity must file a monthly report with the Public
15 Auditor indicating its progress in addressing the
16 recommendations until the entity can report to the
17 Public Auditor that all recommendations have been
18 addressed, which period shall not exceed one year.

19 (10) The Public Auditor may in his report to Congress
20 under subsection (7) refer to any public entity which
21 has, in the Public Auditor's opinion, failed without
22 reasonable justification to address recommendations or
23 to comply with its obligations under subsection (9).

24 ~~(8)~~ (11) The Public Auditor shall keep a complete and
25 accurate record or file of all audit reports,

1 inspections, investigations, releases, audit work
2 papers, and other materials pertaining to the work of
3 the Office of the Public Auditor.”

4 Section 4. Section 506 of title 55 of the Code of the
5 Federated States of Micronesia (Annotated), as amended, is hereby
6 amended to read as follows:

7 “Section 506. Powers.

8 The powers of the Public Auditor shall be as follows:

9 (1) The Public Auditor may examine and inspect all
10 books, records, files papers, documents, and all
11 financial affairs of every branch, department, office,
12 agency, board, commission, bureau, and statutory
13 authority of the National Government, as well as other
14 public legal entities, including state and non-profit
15 organizations receiving funds from the National
16 Government.

17 (2) The Public Auditor may audit the records of any
18 contractor performing public work on cost-reimbursement-
19 type contracts for the National Government [~~of the~~
20 ~~Federated States of Micronesia~~] to verify the cost
21 charged to a public contract. Any contractor performing
22 public work pursuant to a contract with the National
23 Government [~~of the Federated States of Micronesia~~] shall
24 keep and maintain records adequate to establish the
25 validity of costs charged to the National Government.

1 (3) The Public Auditor may by subpoena summon persons
2 to appear at a reasonable time before him and administer
3 oaths to such persons. He may question such persons,
4 under oath, regarding receipts and expenditures of money
5 and any other reasonable and relevant matters necessary
6 for the due execution of the duties vested in the Public
7 Auditor by this chapter.

8 (4) The Public Auditor may issue subpoena *duces tecum*
9 within a reasonable time requiring the production of
10 books, records, documents, or other relevant financial
11 papers or objects necessary for the performance of his
12 duties.

13 (5) Any subpoena or subpoena *duces tecum* issued under
14 the authority of the Public Auditor shall run in the
15 name of the Federated States of Micronesia and shall be
16 addressed to the chief or other officer of the Division
17 of Security and Investigation of the Office of the
18 Attorney General of the National Government of the
19 Federated States of Micronesia. The subpoena or subpoena
20 *duces tecum* shall be signed by the Public Auditor and
21 shall identify the witness to be served or the books,
22 records, documents, or other relevant financial papers
23 or objects to be produced together with a reference to
24 the account subject to inspection and audit, or
25 inspection or evaluation, as the case may be.

1 (6) Any officer to whom such subpoena or subpoena
2 *duces tecum* is directed shall forthwith serve or execute
3 the same upon delivery thereof to him.

4 (7) Any person who will fully fails or refuses to
5 appear upon receiving service of subpoena, or who
6 willfully fails or refuses to produce any books,
7 records, documents, or other relevant financial papers
8 or objects designated in a subpoena *duces tecum* properly
9 issued by the Public Auditor, upon conviction thereof,
10 shall be fined not more than \$1,000.00, or imprisoned
11 for not more than one year, or both. Failure by the
12 Public Auditor to comply in any material respect with
13 the requirements of this chapter shall relieve any
14 person of the obligation to appear or the obligation to
15 produce designated materials, and such failure shall be
16 defense in any proceeding against such person for
17 punishment.

18 (8) Any person subject to a *subpoena duces tecum* shall
19 have only those privileges against producing books,
20 records, documents, or other relevant financial papers
21 or objects which are authorized under the rules of
22 evidence of the Supreme Court of the Federated States of
23 Micronesia, the Constitution of the Federated States of
24 Micronesia, the Trust Territory Bill of Rights, or other
25 applicable law.

1 (9) The Public Auditor, when he receives an
2 allegation of non-compliance in public office, misuse of
3 public resources, financial crime, financial corruption,
4 or any other breach of the national law or regulations
5 involving, in whole or in part, public funds from the
6 National Government, including funds received from a
7 development organization by loan or grant, from the
8 National Government, may authorize the Compliance
9 Investigation Division to conduct a preliminary inquiry
10 to ascertain whether there is a reasonable cause to
11 warrant an investigation into the allegation.

12 (10) The Public Auditor, when [~~he as part of~~] in the
13 performance of his duties has a reasonable cause to
14 suspect non-compliance in public office, misuse of
15 public resources, financial crime, financial corruption,
16 or any other breach of the national law or regulations
17 involving, in whole or in part, public funds from the
18 National Government, may authorize the Compliance
19 Investigation Division to investigate such matters.

20 (11) The Compliance Investigation Division, when
21 conducting a preliminary inquiry or an investigation,
22 shall liaise with the Department of Justice during the
23 course of conducting such preliminary inquiry or
24 investigation and advise the Department of Justice of
25 the results of such a preliminary inquiry or

1 investigation.”

2 Section 5. Section 507 of title 55 of the Code of the
3 Federated States of Micronesia (Annotated), as amended, is hereby
4 amended to read as follows:

5 “Section 507. Types of audits and audit standards.
6 The types of audits and applicable audit standards shall
7 be as follows:

8 (1) [~~Three types of audits may be performed~~] The
9 Public Auditor may perform:

10 (a) Financial audits and compliance audits.
11 Financial audits and compliance audits include, but are
12 not limited to, audits performed under section 505(1)
13 and (2). This type of audit determines whether the
14 financial statements of an audited entity present fairly
15 the financial position and results of financial
16 operations in accordance with generally accepted
17 accounting principles and whether the entity has
18 complied with laws and regulations that may have a
19 material effect upon the financial statements.

20 (b) [~~Economy and efficiency.~~] Performance
21 audits. This type of audit determines whether an entity
22 is managing and utilizing its resources effectively,
23 economically and efficiently, the cause of
24 inefficiencies or uneconomical practices, and whether
25 the entity has complied with laws and regulations

1 concerning effectiveness, economy and efficiency.

2 (c) Program results. This type of audit
3 determines whether the desired results or benefits
4 established by the Congress or other authorizing body
5 are being achieved and whether the program
6 administrators have considered alternatives that might
7 yield desired results at a lower cost.

8 (2) Any given audit or review may include one or more
9 of the objectives in subsection (1) of this section in
10 the reasonable exercise of the Public Auditor's
11 discretion.

12 (3) The Public Auditor shall perform audits in
13 conformity with auditing standards, to the extent the
14 Public Auditor determines the standards to be both
15 relevant and practicably applicable to the audit."
16 [~~generally accepted audit standards as established by~~
17 ~~the American Institute of Certified Public~~
18 ~~Accountants."~~]

19 Section 6. Chapter 5 of title 55 of the Code of the
20 Federated States of Micronesia (Annotated), as amended, is hereby
21 amended by inserting new section 508 to read as follows:

22 "Section 508. Office of the Public Auditor.

23 (1) Office of the Public Auditor for the Federated
24 States of Micronesia shall be headed by the Public
25 Auditor. The Office of the Public Auditor exists

1 independently of the National Government and shall be
2 independent of administrative and political control,
3 direction and influence.

4 (2) The Public Auditor shall be responsible for
5 management and authorization of expenditures for the
6 operation of the Office within the limits of the
7 congressional appropriation provided by law for the
8 operation of the Office. The Public Auditor may
9 establish organizational divisions in the Office,
10 including the Compliance Investigation Division, as the
11 Public Auditor determines appropriate. The Public
12 Auditor may prescribe the duties and responsibilities of
13 Office divisions. The Public Auditor may enter an
14 administrative arrangement with the Finance Department
15 for the administration of the Office's finances and to
16 ensure that all expenditure under appropriation that has
17 been authorized by the Public Auditor is certified and
18 paid according to the applicable legal requirements.

19 (3) Within the congressional appropriation provided
20 for the operation of the Office, the Public Auditor may
21 employ such staff that the Public Auditor considers
22 necessary for the effective functioning of the Office
23 and the performance of the Public Auditor's duties under
24 Chapter 5 of Title 55 of the Code. In employing staff,
25 the Public Auditor must comply with Title 52 of the

