POHNPEI STATE GOVERNMENT

COMPLIANCE AUDIT ON INFRASTRUCTURE MAINTENANCE FUNDS FISCAL YEARS 2012 THROUGH 2016

AUDIT REPORT NO. 002-18



POHNPEI OFFICE OF THE PUBLIC AUDITOR

P. O. Box 370 Kolonia, Pohnpei 96941 Federated States of Micronesia

POHNPEI STATE GOVERNMENT COMPLIANCE AUDIT ON INFRASTRUCTURE MAINTENANCE FUNDS COVERING FISCAL YEARS 2012 TO 2016

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June 5, 2018

The Honorable Marcelo Peterson, Governor, State of Pohnpei
The Honorable Fernando Scaliem, Speaker, Pohnpei State Legislature
The Honorable Members of the Pohnpei State Legislature
Mr. Jack Yakana, Administrator, Office of Transportation and Infrastructure(OT&I)
Mr. Feliciano Perman, Director, Dept. of Treasury and Administration (DOTA)

EXECUTIVE SUMMARY

We are pleased to submit the audit report on the Infrastructure Maintenance Funds of Pohnpei State Government covering Fiscal Years 2012 to 2016. The audit was requested by the Legislature and the Director of DOTA and performed pursuant to Article 11, Section 8 (2) of the Pohnpei State Constitution and Pohnpei State Law No. 1L-10-79, as amended. The audit was also conducted in accordance with generally accepted government auditing standards contained in the *Government Auditing Standards*, issued by the Comptroller General of the United States.

The objectives of our audit were to determine whether: (1) The expenditures of the Infrastructure Maintenance Funds were in conformity with the applicable Pohnpei legal frameworks; and, (2) The projects funded and implemented under the IMF program were in compliance with the programs priorities during the audited period. Accordingly, we performed the following:

- Reviewed IMF related information, documents and records including, Public Infrastructure section in the Compact, as amended, Pohnpei State appropriation law and budget acts, contracts, disbursements, expenditure reports, relevant fund accounts and other supporting data, reports, schedules, etc.
- Randomly selected disbursements transactions, contracts and expenditures for testing;
- Interviewed relevant officials and employees
- Considered and performed other procedures as necessary to achieve our audit objectives.

As a result, we identified the following non-compliances and internal control weaknesses:

- The State started expending the infrastructure maintenance funds for fiscal years 2012 to 2016 without the required approval of specific projects by Legislature.
- The Local IMF Savings Account was not properly managed, reconciled, and monitored resulting to infrastructure maintenance funds used for unauthorized purpose.
- The IMF was used to cover expenditures of new construction projects funded under a different grant.

- Lack of proper supervisory review and monitoring of the IMF related accounting records and reports resulted to expenditures exceeding the contract price and charge made to an account not indicated in the contract.
- Pertinent IMF related records and documents could not be located due to poor system of maintenance and safeguarding.

Based on our audit we conclude that the expenditures of the infrastructure maintenance funds for FYs 2012 to 2016 by the Pohnpei State Executive Branch were not in compliance with applicable laws. The Executive Branch did not obtain the Legislature's approval of the specific projects for the period under review, yet expended more than \$1.3M of the IMF. Without the mandated review and approval of the Legislature, the State's infrastructure projects may not have received the level of attention and scrutiny required for proper accountability and transparency, including if the projects were in line with the State's infrastructure priorities. Besides this, the IMF was not properly managed and monitored resulting to funds being used for unauthorized purposes, related records were showing discrepancies and/or could not be located.

The adverse effects that may result due to non-compliance, mismanagement or even loss of IMF funds would negatively impact the infrastructure development of Pohnpei, as well as the overall performance of the government. Hence, the State Government cannot afford to let this happen and should take necessary steps to provide, improve and strengthen the overall management, monitoring and administration of the IMF and related projects, activities, and documentations.

We have discussed the draft report with appropriate management and have requested for their response(s) and corrective action plan to our findings. The Office of Transportation and Infrastructure provided its response, which is included as part of this report on page 11, as Appendix I. The Department of Treasury and Administration however, did not provide its response or corrective action plan.

In closing we would like to remind those charged with governance and the auditee regarding their responsibilities under the Pohnpei State Law No. 5L-08-00 to submit monthly reports to the Pohnpei Office of the Public Auditor (POPA) indicating corrective measures already taken or will be shortly implemented to correct the deficiencies cited in the audit report. The law also requires that the resolution of the audit findings shall not exceed six months.

We also would like to extend our sincere appreciation to the management and staff of OT&I and DOTA for their support and assistance extended to us during the course of our audit.

Sincerely,

Ihlen K. Joseph State Public Auditor

POHNPEI STATE GOVERNMENT COMPLIANCE AUDIT ON INFRASTRUCTURE MAINTENANCE FUND (IMF) FISCAL YEARS 2012 TO 2016

AUDIT REPORT NO. 002-18

INTRODUCTION

The Director, Department of Treasury and Administration (DoT&A), requested the Pohnpei Office of the Public Auditor (POPA) to conduct an audit of the Pohnpei State Government Infrastructure Maintenance Fund (IMF) account. The Pohnpei Legislature Standing Committee Report also recommended an audit of the IMF account. We have conducted and completed an examination of the Pohnpei IMF account. This report contains the findings and conclusions of our review.

BACKGROUND INFORMATION

Article VII (7) of the Fiscal Procedures Agreement concerning the implementation of the economic assistance provided in the amended Compact of Free Association between the United States and the Federated States of Micronesia allocates 5% of the annual public infrastructure grant to the Infrastructure Maintenance Fund (IMF). The FSM Government is required to contribute an equal amount annually as matching. In line with this, the Pohnpei State Government has contributed an average of \$314,329 annually or a total of \$1,571,646 to its IMF sub-account for the period covering Fiscal Years 2012 to 2016.

The table below provides summary information of the Pohnpei Government Infrastructure Maintenance Funds as reflected in the Comprehensive Budget Act (CBA) for the audited period (2012 to 2016).

Fiscal Year	US Contribution Pohnpei Contribution		Total
2012	306,532	306,532	613,064
2013	309,262	309,262	618,524
2014	308,826	308,826	617,652
2015	308,826	308,826	617,652
2016	338,200*	338,200	676,400
Total	1,571,646	1,571,646	3,143,292

Source: Pohnpei State Comprehensive Budget Acts for FYs 2012 to 2016. *Note: the US share for FY 2016, although in the CBA, has not been received by Pohnpei State Government as of the date of this report. Thus, the total US share received is \$1,233,446 for the 5-years period and the combined total is \$2,805,092.

The Infrastructure Maintenance Fund (IMF) is to be utilized for the upkeep and maintenance of the Pohnpei Governments' capital infrastructure facilities and related assets in accordance with the government's Infrastructure Maintenance Plan (IMP).

Title 55, Chapter 3, Section 313 of the FSM Code requires each State Government to create an IMF interest bearing account at a bank or financial institution organized in accordance with the laws of Federated States of Micronesia for the purpose of receiving infrastructure maintenance

contributions from the Government of the United States and the Government of the Federated States of Micronesia.

The Secretary of Finance, FSM National Government shall deposit matching contributions received from the Government of the United States into each Government's IMF sub-account proportionally based upon the amount contributed by each government in that Fiscal Year.

AUDIT OBJECTIVES

The audit objectives were to determine whether:

- 1) The expenditures of the Infrastructure Maintenance Funds were in conformity with the applicable Pohnpei legal frameworks; and,
- 2) The projects funded and implemented under the IMF program account were in compliance with the IMF program priorities during the audited period.

AUDIT SCOPE AND METHODOLOGY

The audit covered the Pohnpei Government IMF program activities for the fiscal years 2012 to 2016. We conducted the audit in accordance with the generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide reasonable basis for our findings and conclusions, based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We also performed the audit in conformity with the provisions of Article 11, Section 8 of the Pohnpei Constitution and the State Law No. 1L-10-79, as amended.

In ensuring that we achieve the audit objectives, we applied the following audit procedures:

- 1) We obtained and reviewed the IMF related documentary information, including:
 - a) Compact Fiscal Procedures Agreement,
 - b) appropriation laws,
 - c) IMF funded contracts,
 - d) IMF related communications, and,
 - e) IMF disbursements, accounting, supporting documents, reporting history, etc. for the five fiscal years under audit;
- 2) We interviewed responsible IMF contracting and implementation officials and related support staffs; and,

3) We performed other audit procedures deemed necessary to achieve the audit objectives.

PRIOR AUDIT

This is POPA's first review of the Pohnpei Infrastructure Maintenance Funds program activities. The IMF however is included in the Single Audit of the Pohnpei State Government conducted by its external auditor annually.

AUDIT CONCLUSION

Based on our audit, we conclude that the expenditures of the Pohnpei State Government's infrastructure maintenance for the fiscal years 2012 through 2016 were not in compliance with applicable laws. The government expended more than 1.3M of the infrastructure maintenance funds without proper approval of the Legislature as required by the Pohnpei Financial Management Regulations and the Comprehensive Budget Acts. The reason was the Executive Branch did not submit the 2012 to 2016 specific projects' plans to the Legislature for review and approval. Without the Legislative due process, the implemented projects did not receive the level of attention and scrutiny required for proper accountability and transparency, including whether the projects were in line with the State's IMF program priorities.

Moreover, the State IMF program was not properly managed, thus resulted to funds being used for unauthorized purposes and related records not properly maintained and safeguarded.

The detail of our findings and recommendations are fully described in the <u>Schedule of Findings</u> and <u>Recommendations</u> on pages 4 to 9 of this report.

POHNPEI STATE GOVERNMENT COMPLIANCE AUDIT ON INFRASTRUCTURE MAINTENANCE FUND (IMF) FISCAL YEARS 2012 TO 2016

SCHEDULE OF FINDINGS AND RECOMMENDATIONS

Finding No. 1: Non-Compliance with the Financial Management Laws and Related Regulations

Criteria: The Pohnpei Financial Management Law and related regulations strictly prohibit disbursement of government funds without proper authorization and appropriation. Similarly, the annual Comprehensive Budget Act (CBA) of the Pohnpei Government in each of the audited fiscal years placed IMF in "reserved" and states that "no monies may be expended from the IMF herein appropriated except as allocated to specific projects". In essence, the annual CBAs require the submittal of listings of specific projects with corresponding allocations (costs) to the Legislature for review and approval prior to the implementation of infrastructure maintenance projects.

Condition: Our review disclosed that annual IMF plans or equivalent schedules listing specific projects for the fiscal years 2012 to 2016, along with corresponding estimated costs were not submitted to the Legislature for review and approval. In spite of this, the State Government implemented several infrastructure maintenance projects and expended corresponding IMF funds for the 5 years period (2012 to 2016), as summarized below:

Fiscal Year	# of Projects	Total Amount
2016	2	\$ 72,411.83
2015	15	566,502.89
2014	8	617,652.63
2013	0	-0-
2012	<u>4</u>	55,375.45
Total^	<u>29</u>	\$ 1,311,942.80

AThe sum authorized and made available for FYs 2012 to 2016 is \$2,805,092.

Cause: This is because: (1) the legislative due process is not incorporated as part of IMF planning, administration and approval procedures documented in the Pohnpei State Infrastructure Development Plan (IDP); (2) the Executive Branch did not provide the lists of specific projects with corresponding allocations to the Legislature for approval; and, (3) the Department of Treasury and Administration (DOTA) processed the IMF transactions and disbursements without verifying that all the compliance issues and requirements have been met.

Effect: As a result, the State Government improperly expended more than \$1.3M of the IMF and the Legislature was not adequately informed of the status and updates of the State's infrastructure maintenance funds and projects. Without the required due process, accountability and transparency can be questioned.

Recommendation:

- 1) We recommend the Administrator of OT&I should incorporate in the infrastructure maintenance plan the Legislature's due process relating to the annual specific projects.
- 2) We also recommend the Governor and the responsible government management official (s) to ensure that the annual IMP listing specific projects, along with estimated costs is prepared and transmitted timely to the Legislature for review and approval prior to implementation.
- 3) We further recommend the Director of DoT&A to only authorize the obligation, disbursement or expenditure of IMF that has satisfied all compliance issues including requirement for approval of Legislature.

Auditee Response: Please refer to the entire response from the Administrator of OT&I on page 11 as Appendix I. Specific to this finding, the Administrator stated that "While we agree with the finding, we however noted that it does not indicate for what specific fiscal year, IMF projects funds were not appropriated by the Pohnpei Legislature."

Auditor Reply: What OPA said in Finding No. 1 is that the specific projects for fiscal years 2012 through 2016 were not submitted to the Legislature as required by law and the Comprehensive Budget Acts for the 5-years period. Without the required due process, the corresponding infrastructure maintenance funds of more than \$1.3M were expended improperly. We have provided a table with our finding for reference.

Finding No 2: Pohnpei IMF Savings Account Not Properly Managed

Criteria: Chapter 2, Section 3 (4) of the Pohnpei Code authorizes the use of the "Paved Road Maintenance Fund" for the State's contributions to the Infrastructure Maintenance Fund (IMF), as required under the amended Compact. Accordingly, an interest bearing savings account was established at a local bank to account for the Pohnpei IMF. Equally important, the Pohnpei IMF bank account (Local IMF Savings Account) must be managed and accounted for properly.

Condition: Our review of the Local IMF Savings Account revealed that it was not properly managed, reconciled and monitored to ensure that only authorized and appropriate transactions are processed through the account. We noted instances of transactions transferred to and from the account that were not IMF related expenses and/or were not in line with the purpose the bank account was established for. Examples of the transfers are shown in the table below:

#	Date	Description	Amount
1	08/07/13	Transfer from G/F to Local IMF	\$ 100,000
2	10/01/13	Transfer from Local IMF to Payroll	(100,000)
3	10/03/13	Transfer from Local IMF to Sector Fund	(50,000)
4	10/11/13	Transfer from Local IMF to Payroll	(100,000)
5	09/05/14	Transfer from Local IMF to G/F	(300,000)
		Total (net)	\$ (450,000)

Source: DoT&A Financial and Accounting records.

In regards to the table above, we observed the following:

1. The transfers of Compact IMF were often done in portions making it difficult overtime to trace and identify specific IMF and the balance status or to perform reconciliation of the accounts. As an example, the total amount of the IMF account at September 30, 2012, reflected in the State Finance schedule did not match the bank balance by more than \$180,000.

State Finance record also showed that transfers of the Pohnpei contribution to the IMF account was described as "transfer G/F to Local IMF". This may create confusion and can lead to general fund being charged instead of the "Road Maintenance Fund".

- 2. Transfers out of IMF bank account to payroll is not serving the purpose the bank account was created. This is a violation of the Fiscal Procedures Agreement prohibiting use of IMF for other purpose.
- 3. Similar to item #1, this transaction should be explained or sufficiently justified to avoid or prevent misconception.
- 4. Similar to item #2, this transaction should not have been approved without proper authorization and justification.
- 5. This is the same as items #1 and #3. Without adequate explanation and justification, this can lead to misunderstanding.

Although, the IMF savings account balance at September 30, 2017 was \$812,713 (FY- 2016 and 2017 not yet included), this may not be the true balance due to lack of regular reconciliation and also because of the frequent transfers in and out of the account. DoT&A has started the reconciliation of the account.

Cause: The oversight over the account is weak in addition to lack of appropriate policy to provide for proper management, review, monitoring, as well as the uses (e.g., allowable and unallowable) of the Local IMF Savings Account.

Effect: As a result, the infrastructure maintenance funds were used for unrelated purposes and there is possibility the balance is misstated.

Recommendation: We recommend the Director of DoT&A to improve and strengthen the oversight over the IMF account to ensure that the uses and expenditures are restricted to only those allowable under the Fiscal Procedures Agreement and other applicable laws.

We further recommend that DoT&A should update, reconcile and maintain true and accurate information on the IMF account that could be relied on by the government leaders and officials to make well informed decisions.

Auditee Response: See auditee's response on page 11 of this report as Appendix I.

Finding 3: Use of Local IMF for Unauthorized Purpose

Criteria: In connection with the implementation of the IMF account under the amended Compact, the Pohnpei Legislature authorized the Pohnpei matching contributions to be taken out annually from the "Paved Road Maintenance Fund". The IMF should be used only for the implementation of specific projects identified in the State's annual infrastructure plan approved by the Legislature.

Condition: Based on our review, we noted that the State Government used nearly \$32,350 of the Pohnpei contribution to the IMF to cover expenditures resulting from a change order for the completion of a new gymnasium construction project funded under a different grant.

Cause: The Department of Treasury and Administration approved and processed the disbursements without proper review to ensure the expenditure was in line with the purpose of IMF.

Effect: This is contrary to the authorized use of IMF. Also, the fund was expended without proper authorization and appropriation by the Legislature.

Recommendation: We recommend that DoT&A should be more diligent in its certification of funds and reviewing of disbursements to ensure that only those transactions that are properly authorized by law and has satisfied all compliance and legal requirements are processed. IMF should only be used for specific projects approved by Pohnpei Legislature and US.

Auditee Response: See auditee's response on page 11 of this report as Appendix I.

Finding No. 4: Lack of Proper Supervisory Review and Monitoring of the IMF Accounting Records

Criteria: Best practice requires proper management, maintenance, review and monitoring of the underlying accounting records of IMF to ensure that they fairly represent, demonstrate and support the related financial management, administration and reporting of the IMF account including related projects and activities.

Condition: Our review disclosed certain adjusting entries made to the two contracts listed below that affected the total contract price.

Contract No.

C150227

Fund 18:

17,500.00

Contract Price:

35,000.00

Fund 33:

17,500.00

Date	Check# or JV#	Fund 18	Fund 33
4/06/2015	40822/245046	1,750.00	1,750.00
4/16/2015	41002/245181	4,475.25	4,475.25
4/27/2015	41128/245278	5,421.06	5,421.06
5/06/2015	41288/245391	3,002.04	3,002.04
5/28/2015	41527/245538	2,566.49	2,566.49
7/23/2015	42148/246314	285.16	285.16
Total		17,500.00	17,500.00
9/30/15	JV 150257	285.16	0.00
Total after JV		17,785.16	17,500.00

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Contract No.

C150204

Fund 18:

47,531.72

Contract Price:

95,063.44

Fund 33:

47,531.72

Date	Check# or JV#	Fund 18	Fund 33
2/18/2015	40187/244633	4,753.17	4,753.17
3/10/2015	40482/244796	5,153.95	5,153.95
3/31/2015	40756	9,163.55	0.00
4/1/2015	245010	9,163.55	0.00
4/16/2015	40999/245178	8,061.08	8,061.08
5/6/2015	41270/245366	6,040.99	6,040.99
5/18/2015	41367/245473	4,503.74	4,503.74
7/16/2015	246238	0.00	3,003.38
7/27/2015	42162	0.00	3,003.38
8/25/2015	42584	691.69	
8/26/2015	246645		13,012.03
Total		47,531.72	47,531.72
6/30/15	JV 150167	(9,163.55)	9,163.55
Total with JV		38,368.17	56,695.27

We also found IMF transaction charged to a different account instead of the right account as indicated in the contract. Correction was made a year later. (see table below for details).

Contract No.

C140153

Fund 18:

\$112,000.00

Contract Price:

\$224,000.00

Fund 33:

\$112,000.00

Date	Check# or JV#	Fund 18	Fund 33	Fund 25
7/22/2014	242411			41,000.00
9/9/2014	38004	99,580.00		
1/27/2015	244489		71,000.00	
1/27/2015	38964	12,420.00		۸
Total		112,000.00	71,000.00	41,000.00
7/31/2015	JV 150184	0.00	41,000.00	(41,000.00)
Total after JV		112,000.00	112,000.00	0.00

We noted further that \$3,342 of the IMF account was used to pay laborers renovating the Pohnpei State Hospital. The payment was approved by US OIA representative (managing the infrastructure funds) as reflected in the supporting documents to be reimbursed on a later date by OIA. As of the writing of this report, the amount has not yet reimbursed by OIA.

Cause: The condition happened due to inadequate supervisory review and monitoring of the IMF and related accounting records including posting of the adjusting entries.

Effect: As a result, the records and reports from State Finance show difference of total funds expended through Fund 18 (Compact IMF) and Fund 33 (Local IMF or Paved Road Maintenance Fund) by \$18,041.94. Also, \$3,342 owed to Pohnpei IMF account has not been reimbursed by US OIA and still outstanding.

Recommendation: We recommend the Director of DOTA to direct responsible personnel to provide regular and proper supervisory review and monitoring of staffs' work to ensure that errors are detected and corrected timely; and, that the underlying accounting records and reports are accurate and are maintained to provide useful financial information to decision makers.

Auditee Response: See auditee's response on page 11 of this report as Appendix I.

Finding No. 5: Poor Maintenance and Safeguarding of Pertinent Records and Documents.

Criteria: Good practice requires an effective management and administrative system that would enable an entity to gather, maintain and keep safely in organized manner all necessary and relevant files, records, data, information, and other important documents to support management plans, objectives, goals, activities, responsibilities and purpose for its existence.

Condition: During our review, the Comprehensive Budget Act for Fiscal year 2014 could not be located by Budget Office and even the Public Affairs Office. In addition, grant award from the Office of Insular Affairs for the Fiscal years 2012 and 2013 could not be located.

Effect: Without good and effective records maintenance and management system in place, proper accountability, transparency and even fraud could not be ascertained, relevant audits cannot be carried out timely and well informed decisions cannot be made.

Recommendation: Relevant information that is in public interest should be accessible for review. This is part of transparency that demonstrates good accountability to the public. In connection with this, we recommend that the Budget Office and the Public Affairs Office improve the maintenance and the management of records and filing system to provide good documentation and ready access to documents and information required for timely audit and oversight review.

Auditee Response: See auditee's response on page 11 of this report as Appendix I.

Pohnpei State Government Compliance Audit on Infrastructure Maintenance Funds

Appendix I – Auditee Response

Fiscal Years 2012 to 2016



WEELS OF TRANSPORTATION & INTELLIBRICATION

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May 21, 2018

Honorable Ihlen K. Joseph State Auditor Office of the State Auditor P. O. Box 370 Kolonia, Pohnpei FM 96941



Subject: Compliance Audit of Infrastructure Maintenance Funds FY-12 to FY-16

Dear State Auditor Joseph:

I am pleased to inform you that we have reviewed the draft report of the above subject audit and wish to congratulate you and your staff for a job well done. We wish to share the following comments with regards to the result of the audit, specifically, finding number 1.

While we agree with the finding, we however noted that it does not indicate for what specific fiscal year, IMF projects funds were not appropriated by the Pohnpei Legislature. As I am sure you noted during the audit, we actually notified all concerned including the Pohnpei Legislature that IMF project funds for fiscal years 2015, 2016 and 2017 had not been appropriated during the course of our implementation of IMF projects that had been earlier approved by the Office of Insular Affairs for those fiscal years. These project funds were eventually appropriated under the Comprehensive Budget Act for Fiscal Year 2017.

We agree with the rest of the findings and will be mindful of the respective recommendations as we continue to implement the Pohnpei State Infrastructure Development Plan and the IMF projects.

Thank you,

Sincerely,

Page 11 of 11 P.O. BOX 2246, KOLONIA, POHNPEI FM 96941

IMPORTANT MESSAGE

The Pohnpei Office of the Public Auditor (POPA) actively solicits and welcomes allegations of any insufficient and wasteful practices, fraud and abuse of Pohnpei Government resources. Fraud, waste, mismanagement, misuse, abuse or any allegation or sign of corruption in the government should be a concern of everyone in Pohnpei. You can report allegation of fraud and abuse by contacting POPA at the following addresses:

Mail

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