

STANDING COMMITTEE REPORT NO. 13-124

RE: P.C. NO. 13-153/JGO/J

SUBJECT: FY 2005 BUDGET

MAY 31, 2004

The Honorable Peter M. Christian
Speaker, Thirteenth Congress
Federated States of Micronesia
Third Regular Session, 2004

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations, to which was jointly referred Presidential Communication No. 13-153, begs leave to report as follows:

Presidential Communication No. 13-153 concerns the National Government's proposed budget for Fiscal Year 2005 as set forth in a publication entitled *National Government Fiscal Year 2005 Proposed Budget* ("*Budget Book*"). Pursuant to rule 7, section 4(b), of the Official Rules of Procedure of the Thirteenth 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

As stated last year, your committee notes that if there is no previously set policy about the implementation of the matters covered by this report, the provisions of this report, as adopted by Congress, must prevail. To protect the interests of our citizens, Congress has a duty to carefully review and question all requests for funding. As such, Congressional approval of committee reports detailing its reasoning for approval of each funding request signals Congress' intent with respect to such funding and must not be taken lightly.

STANDING COMMITTEE REPORT NO. 13-124

RE: P.C. No. 13-153/JGO/J

SUBJECT: FY 2005 BUDGET

MAY 31, 2004

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, therefore, 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

In its committee report last year concerning the FY 2004 budget, your committee noted several concerns in the hope that the Executive would examine them and take the necessary steps towards resolving them. Unfortunately, some of those concerns remain unresolved. Lest those concerns be forgotten, they are once again presented in this report.

Your committee notes with serious concern the continuing downturn in our revenue projection and the failure on the part of the Executive Branch to suggest more "creative", long-term solutions to the problem. Your committee would find it much more helpful and productive to know: (1) What is being done to improve our government's ability to more accurately project revenues?; (2) What actions have been taken to *increase* revenues?; (3) What are the government's plans to improve tax collections and the collection of judgments and fines due the national Government?; and (4) What does the Executive plan to do about uncollected overtime charges that are to be reimbursed by carriers to the FSM?

Congress has raised these and related questions numerous times, to no avail. This is not the first year that such questions have been asked, and, unfortunately, probably will not be the last. In the long run, *positive, specific, pro-active plans* in these and related areas would do much to help Congress and the President address the issue of "declining" revenues.

It is also noted that the performance based reports submitted by the various offices and agencies are, as they were in previous years, all noticeably different. There appears to be no standard reporting system or format. Seemingly, each agency or office devised its own reporting form. Furthermore, your committee understands that some funds in the Department of Justice budget were reprogrammed during FY 2004. However, it is unclear what performance objectives and outputs

STANDING COMMITTEE REPORT NO. 13-124

RE: P.C. No. 13-153/JGO/J

SUBJECT: FY 2005 BUDGET

MAY 31, 2004

were adjusted or eliminated as a result of such reprogramming. That does not help your committee in understanding what performance objectives or outputs have been achieved.

Moreover, your committee continues to harbor the view that the patrol boats are not properly used for their intended purposes. It has been reported that the boats have been ferrying selected people around and spending a substantial amount of time in Chuuk providing "support" to Department of Justice personnel engaged in criminal investigations and court litigation. It is unclear why these boats have to be deployed there when the officers providing "support" can conveniently travel there on Air Mike.

Last week some illegal drugs were washed ashore in Mokil and Pingelap. And a helicopter was seen flying over those islands apparently looking for the drugs. The boats were not available to protect the citizens out there and enforce our laws because one was in Chuuk to provide "support" to the Department of Justice personnel there, and another was in the Mortlocks taking a family to a funeral. Clearly, a deployment plan must be developed so that the patrol boats may be used to protect our marine resources. It will also help the people in understanding the other services that the boats may be used for.

In this report, your committee recommends only the "total amount" it believes reasonable and justifiable for each entity under its jurisdiction. Your committee emphasizes that these figures are "recommendations" only and may change, depending on available resources, prior to the start of the new fiscal year.

DISCUSSION OF FY 2005 BUDGET

Given the uncertainties of the use of the grant awards for the capacity building and private sectors under the Amended Compact, your committee confined its review of the budget proposals of the various offices and agencies under its jurisdiction to the amount of funds requested and declined to consider the application of the various sector grants. Where an increase or decrease in funding level is justified, your Committee adjusted the total budget amount of the requesting entity and indicated on commentary notes the budget items being increased or decreased.

STANDING COMMITTEE REPORT NO. 13-124

RE: P.C. No. 13-153/JGO/J

SUBJECT: FY 2005 BUDGET

MAY 31, 2004

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 2004 (in italics), as set forth in Public Law No. 13-19, as amended; the amounts requested by each entity for FY 2005 (as listed under "2005 Proposed" in the *Budget Book*); and the total amount recommended by your Committee for FY 2005.

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 2004 Approp.</i>	FY 2005 Request	Committee Recommends
Personnel	<i>\$1,763,134</i>	\$1,803,530	\$1,808,530
Travel	<i>113,920</i>	112,172	110,127
Contract Services	<i>107,300</i>	128,300	105,800
Other Expenditures	<i>694,481</i>	693,881	293,881
Fixed Assets		-0-	
Total:	<i>\$2,678,835</i>	2,737,883	\$2,318,338
#/Employees	<i>128</i>	128	129

The total amount proposed for the Department of Justice in FY 2005 is \$2,737,883, an increase of \$59,048 from the previous year. Your committee recommends a total amount of \$2,318,338, a reduction of \$421,345. It is noted that in the President's proposed budget, the salary and benefits of the Secretary of the Department of Justice are equal to some of the staff attorneys in the department. Your committee finds it fair and necessary to increase his/her salary and benefits by \$5,000. That increase is therefore noted in the recommended amount for personnel in the department's expense summary. The President also proposed a new staff attorney position in the Division of Law with salary and benefits totaling \$42,800. Your committee agrees with the President's proposal and recommends its approval.

STANDING COMMITTEE REPORT NO. 13-124

RE: P.C. No. 13-153/JGO/J

SUBJECT: FY 2005 BUDGET

MAY 31, 2004

The Division of Litigation requested at the public hearing an additional \$120,000 to fund compensation of employees whose pay levels are being reallocated. The committee was informed that following the merging of the immigration and labor functions in 1997 into the Division of Immigration and Labor as a result of the Early Retirement Program, all Division employees have been assigned and performing both immigration and labor duties. Since labor officers are classified and paid at a higher pay level, the employees of the former Labor Division have hitherto been receiving higher salaries than those from the former Immigration Division. To resolve the disparity in their salaries, the Department of Justice processed personnel actions to reallocate the salaries of the employees of the former Immigration Division. The personnel actions have all been completed, but there are no funds available within the division's budget to pay them. The processing of the personnel actions occurred after the submission of their proposed FY 2005 budget, so it is not reflected therein. At the public hearing, your committee advised the Special Assistant to the President on Legislative Matters, Mr. Tony Otto, to consult with the President and then advise the committee as to the recommended funding source for this request. Mr. Otto later represented that the President has determined that the request should be withdrawn as the President intends to verify the requested amount, then resubmit the request in a separate appropriation bill. Based on that representation, your committee does not recommend the inclusion of the \$120,000 request in the FY 2005 budget.

With respect to travel, your committee recommends the approval of the President's request, with the exception of one trip. It is noted that two trips are proposed in the Division of National Police for aerial surveillance in the State of Yap. Your committee is of the view that one trip is enough. Therefore, it is recommended that the department's travel budget be reduced by \$2,045.

For FY 2004, the department was given \$22,500 under its contractual services to fund the legal internship program. For FY 2005, the President has proposed an additional \$22,500 for a new intern position. Your committee agrees that the internship program will, if done properly, help train legal professionals needed by the state and national governments as well as the private sector. However, it is recommended that the additional funding request not be approved until a detailed report is made to explain the types of training the legal interns have received, the benefits realized as a result of the

STANDING COMMITTEE REPORT NO. 13-124

RE: P.C. No. 13-153/JGO/J

SUBJECT: FY 2005 BUDGET

MAY 31, 2004

program, and the improvements, if any, required to make the program more effective. Since the inception of the program several years ago, no such report has ever been submitted to Congress. Because of that Congress is in the dark as to the effectiveness of the program.

The President has proposed \$430,000 in the Division of National Police budget for "Fuel Lube Oil". Your committee recommends only \$30,000 until the President and the Department of Justice has developed a policy to address the concerns raised above concerning the use of the patrol boats. As indicated above, this is not the first time that Congress has expressed those concerns. It is hoped that with the recommended cut, those concerns will be taken seriously.

In FY 2004, the total number of positions in the Department of Justice was 128. For FY 2005, the President has proposed a new Assistant Attorney position in the Division of Law. The total of 129 positions for the Department of Justice are allocated as follows:

Office of the Secretary	5 positions
Litigation Division	3 positions
Law Division	4 positions
Immigration & Labor	37 positions
National Police	80 positions

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 budget amount for the Public Defender's Office in FY 2004 (\$480,362) was a reduction of approximately 10.6% from the FY 2003 appropriation. Although the Chief Public Defender asked for additional funding during your committee's oversight and budget hearing last year, given the state of the proposed budget then, your committee was unable to accommodate those additional requests.

For FY 2005, it is noted that with the increasing number of cases the Office defends, and the reduction in its budget during the past several years, the Office should be given sufficient funds to enable

STANDING COMMITTEE REPORT NO. 13-124

RE: P.C. No. 13-153/JGO/J

SUBJECT: FY 2005 BUDGET

MAY 31, 2004

it to effectively carry out its mandate. Your committee therefore recommends the funding levels indicated below:

	<i>FY 2004 Approp.</i>	FY 2005 Request	Committee Recommends
Personnel	\$409,723	423,869	426,921
Travel	22,897	32,154	32,154
Contract Services	28,943	51,543	54,043
Other Expenditures	52,942	31,045	34,545
Fixed Assets	1,800	1,800	7,850
Total:	\$516,305	\$540,411	\$555,513
#/Employees	23	23	23

Your committee noted that the salary and benefits of two attorney positions are incorrectly reflected in the Budget Book at \$41,274 each. The correct amount for each is \$42,800. Your committee therefore recommends the increase in the personnel category of \$3,052 to correct those mistakes. No changes are recommended on the travel category. With respect to the "Contract Service" category, an increase of \$2,500 is recommended to defray anticipated costs of appeal transcripts. Your committee also recommends an increase of \$3,500 in the "Other Current Expenses" category. That amount is constituted of an increase of \$1,000 for communication; \$500 for printing and reproduction; \$1,000 for supplies and materials; and \$1,000 to defray increases in utility charges, especially in Kosrae where utility charges have recently significantly increased as a result of equivalent increase in fuel cost. In the "Fixed Asset" category, an increase of \$6,050 is recommended. That amount includes \$2,000 for two air conditioners for the Kosrae Office; \$2,300 for a computer and \$500 for a printer also for the Kosrae Office; and \$1,250 for a backup generator for the Chuuk Office.

Last year, your committee expressed serious concern about the failure of the Office of the Public Defender to fill the vacant attorney positions in Chuuk and Kosrae. Your committee learned with appreciation that the two attorney positions have been filled and the two offices are now fully functioning.

C. NATIONAL JUDICIARY

STANDING COMMITTEE REPORT NO. 13-124

RE: P.C. No. 13-153/JGO/J

SUBJECT: FY 2005 BUDGET

MAY 31, 2004

The total amount requested by the Judiciary for FY 2005 is \$1,175,847. The President recommended only \$1,028,344. Your committee reviewed the two versions and agreed to recommend the reinstatement of the proposed budget requested by the Judiciary as indicated in the table below:

	<i>FY 2004 Approp.</i>	FY 2005 Proposed	Committee Recommends
Personnel	\$585,000	\$608,236	\$689,312
Travel	85,350	169,088	169,088
Contract Services	119,070	104,800	114,600
Other Expenditures	101,357	143,120	175,820
Fixed Assets	17,600	3,100	28,335
Total:	\$898,767	\$1,028,344	\$1,176,055
#/Employees	26	27	27

The Judiciary requested four new positions: 1 Legal Information Webmaster; 1 Secretary/Court Reporter; 1 Associate Justice; and 1 Staff Attorney. The President recommended funding for the Legal Information Webmaster, but not the others. The increase of \$81,076 recommended by your committee is for: the Secretary/Court Reporter in the amount of \$8,281; the Associate Justice in the amount of \$40,660; and the Staff Attorney in the amount of \$32,135. Given the number of cases pending in the FSM Supreme Court, your committee agrees with the Chief Justice and the President that the time has come to add a new Associate Justice to the bench. To do so, funding for the core support staff should also be added.

No changes in the President's proposed budget for the Judiciary's travel are recommended. In the "Contract Services" category, the Judiciary requested \$114,600. The President recommended changes in the proposed budget and decreased the total amount to \$104,800. For reasons not known to the Court and your committee, the President increased funding for the Chuuk Courthouse lease from the \$15,000 proposed by the Judiciary to \$24,800. The President also recommended a decrease in the housing allowance for Associate Justice Yamase of \$2,600 and a decrease of 17,000 in the funding of \$17,000 for training. Your committee respectfully disagrees with the President.

STANDING COMMITTEE REPORT NO. 13-124

RE: P.C. No. 13-153/JGO/J

SUBJECT: FY 2005 BUDGET

MAY 31, 2004

Instead, we recommend the approval of the total amount proposed by the Judiciary.

For "Other Current Expenses" the Judiciary proposed a total amount of \$175,820. The President recommends only \$143,120. The decrease of \$32,700 is constituted of: \$9,970 for communication; \$2,730 for printing and reproduction; and \$20,000 for supplies and materials. Your committee recommends the reinstatement of the Judiciary's requests. It is also recommended that the Judiciary's proposed budget for "Fixed Assets" in the total amount of \$28,335 also be approved, instead of the President's recommendation of only \$3,100.

For FY 2005, the Judiciary proposed 31 positions, four of which are new positions. The President recommended only 28, including the position of the Legal Information Webmaster. Your committee, having recommended the approval of funding for the new Associate Justice position and his/ her two staff members, recommends the approval of the 31 positions proposed by the Judiciary.

Your committee wishes to commend the Court for its dedication in developing a strong body of FSM judicial precedent. Court decisions that take into account custom and tradition and the social and geographical configuration of our nation only add to the great respect with which our citizens view the Court. Your committee encourages the Court to continue to develop "Micronesian" judicial precedent to give life to the 1990 constitutional amendment that requires the Supreme Court to consult and apply sources of the Federated States of Micronesia in rendering a decision.

D. BOARDS, COMMISSIONS & AUTHORITIES

1. National Postal Service

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 2004 Approp.</i>	FY 2005 Proposed	Committee Recommends
Personnel	\$394,597	\$396,268	\$396,268
Travel	34,563	36,230	36,230

STANDING COMMITTEE REPORT NO. 13-124

RE: P.C. No. 13-153/JGO/J

SUBJECT: FY 2005 BUDGET

MAY 31, 2004

Contract Services	96,673	97,273	97,273
Other Expenditures	86,704	84,000	84,000
Fixed Assets	-0-	-0-	-0-
Total:	\$612,527	\$613,789	\$613,789
#/Employees	38	38	38

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

As usual, the Postal Service's budget presentation was straightforward and *more than responsive* to the President's request for cuts. The Postmaster General and his staff are to be commended again for their dedication and willingness to "do more with less" each and every year. Others should learn from them.

E. SPECIAL PROGRAMS

1. National Election Director's Office

As with the budget proposed for the National Postal Service, your committee recommends the approval of the proposed budget for the National Election Director's Office as indicated below. It is, however, noted that the President made no recommendation on the National Election Director's Office proposed budget.

	<i>FY 2004 Approp.</i>	<i>FY 2005 Proposed</i>	Committee Recommends
Personnel	\$176,550	\$176,550	\$176,550
Travel	9,348	33,777	33,777
Contract Services	12,000	163,025	163,025
Other Expenditures	39,952	82,766	82,766
Fixed Assets	-0-	-0-	-0-
Total:	\$237,850	\$456,118	\$456,118
#/Employees	11	11	11

The increase in the National Election Director Office proposed FY 2004 budget is necessary to defray the costs of administering the congressional elections in March 2005.

STANDING COMMITTEE REPORT NO. 13-124

RE: P.C. No. 13-153/JGO/J

SUBJECT: FY 2005 BUDGET

MAY 31, 2004

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

The President has recommended \$100,000 for "State Law Enforcement" in FY 2005. That is a decrease of \$45,000 from last year's appropriation. Your committee agrees with the President's recommended amount and the recommended purpose of the proposed request.

	<i>FY 2004 Approp.</i>	FY 2005 Proposed	Committee Recommends
Kosrae JLE			
Pohnpei JLE			
Chuuk JLE			
Yap JLE			
Total:	<i>\$153,000</i>	\$100,000	\$100,000

2. State Judiciaries

In the Budget Book \$153,500 is proposed by the President to "subsidize the operations of the State Judiciary Branches". In C.B. No. 13-99, the total amount is broken down as follows:

	<i>FY 2004 Approp.</i>	FY 2005 Proposed	Committee Recommends
Kosrae		\$37,500	\$37,500
Pohnpei		40,500	40,500
Chuuk		40,500	40,500
Yap		35,000	35,000

STANDING COMMITTEE REPORT NO. 13-124

RE: P.C. No. 13-153/JGO/J

SUBJECT: FY 2005 BUDGET

MAY 31, 2004

Respectfully submitted,

/s/ Dohsis Halbert
Dohsis Halbert, chairman

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

Alik Alik, member

/s/ Jack Fritz
Jack Fritz, member

/s/ Henry C. Asugar
Henry C. Asugar, member

Peter M. Christian, member

Ramon Peyal, member