

STANDING COMMITTEE REPORT NO. 17-106

RE: P.C. NO. 17-202/J&GO

SUBJECT: FY 2012 SUPPLEMENTAL APPROPRIATION

MARCH 26, 2012

The Honorable Isaac V. Figir  
Speaker, Seventeenth Congress  
Federated States of Micronesia  
Third Special Session, 2012

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations, to which was jointly referred Presidential Communication No. 17-202, begs leave to report as follows:

Presidential Communication No. 17-202 is a supplemental budget request for items identified as priorities by the President. Pursuant to rule 7, section 4(b) of the Official Rules of Procedure of the Seventeenth Congress of the Federated States of Micronesia, your Committee has limited its review to that portion of the Presidential Communication relating to matters under its jurisdiction, namely a request for \$250,000, for partial payment of monies purportedly owed to the United States Postal Service (USPS) and a request for \$10,000 for the creation of an FSM Postal Service website.

Your Committee held two public hearings on this matter in Palikir on March 20 and March 22, 2012, attended by representatives of the FSM Postal Service, the Department of Foreign Affairs, the Department of Justice, and the President's office.

With regard to the request for funds to reimburse the United States Postal Service, the Postmaster General explained that the USPS had assessed the FSM a total of \$1.1 million in expenses incurred for handling mail volumes in 2007, 2008, and 2009 that had exceeded the levels anticipated by the

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Federal Programs and Services Agreement (FPSA) pursuant to the Amended Compact of Free Association. After negotiations in Hawaii which had been attended by the Postmaster General and by staff from the Department of Justice, the USPS had agreed to accept \$500,000 in full settlement of the amount purportedly owed, with the first \$250,000 to be due immediately.

Referring to the text of the FPSA, your Committee inquired whether a subsidiary agreement had been entered into between the Government of the FSM and the United States Government on the appropriate amount of reimbursement for any increases in the volume of mail in excess of twenty percent. It appeared that no such agreement had been reached prior to the demand for \$1.1 million, which was apparently based on costs incurred by the USPS and communicated via a diplomatic note. In response to a question, the Acting Secretary of the Department of Justice stated that a diplomatic note could not amend the terms of the Federal Programs and Services Agreement.

Your Committee also inquired whether both governments had reviewed the twenty percent threshold for mail volumes above which the FSM was required to pay reimbursements, as provided for by the FPSA for services provided after January 1, 2009. The Committee was advised that no such review had been conducted and noted that of the \$1.1 million purportedly owed, \$795,000 related to 2009, when not only was no agreement in place for the appropriate amount of reimbursement but there had been no review of the threshold beyond which any reimbursement would be due.

At the second hearing, the Postmaster General provided a letter from the United States Postal Service indicating its willingness to accept \$500,000 as "full settlement of this matter." The Acting Secretary of the Department of Justice acknowledged that this letter was not sufficient as a signed agreement between the parties. Legal staff also noted that the FPSA appeared to contemplate payment to the United States Government and the reimbursement of the USPS via appropriation by the United States Congress, and not direct payment to the USPS as requested by the letter. The Committee also notes that the letter does not specify the

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time period covered by the agreement and whether the proposed settlement amount includes amounts purportedly owed for any time period after 2009.

Your Committee urged the Department of Foreign Affairs, the Department of Justice, and the FSM Postal Service to confer on this matter and to ensure that an agreement was reached with the United States Government at the appropriate level. In particular, the Committee suggested that the FSM Government seek to have the twenty percent threshold raised for services provided after January 1, 2009 as provided in the FPSA, given the growth of local commercial enterprise and the increase in Micronesian populations in both the FSM and the United States served by the FSM Postal Service.

Your Committee also requested that the FSM Postal Service look at options for using its existing revenue to pay any amounts ultimately agreed to be due, and consider what could be done to avoid incurring future costs for volumes of mail above any agreed threshold, or where appropriate to pass such costs on to users of the service.

With regard to the request for funds to create a website for the FSM Postal Service, the Postmaster General stated that the Postal Service did not currently have a website, and anticipated using such a website to sell philatelic products and other items such as gifts and t-shirts, as well as promoting the history and culture of the FSM.

The Postal Service did not provide the Committee with any projections of revenue anticipated from the website or any estimate of costs which would be incurred to maintain the site, including any fees associated with the acceptance of online payments. The Committee therefore suggested that the Postal Service review the cost-effectiveness of such a website, and if it decides to proceed that it use existing funds where possible and submit a request for further funding if needed as part of the FY2013 budget process.

In conclusion, your Committee on Judiciary and Government Operations finds there is no legal basis for the President's request for the \$250,000 to reimburse the United States Postal Service, and that an appropriation of \$10,000 for an

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FSM Postal Service website is not warranted at this time. Your Committee therefore recommends that these items not be included as part of any supplemental appropriation made during the present Special Session.

Respectfully Submitted,

/s/ David W. Panuelo  
David W. Panuelo, chairman

/s/ Bonsiano F. Nethon  
Bonsiano F. Nethon, vice chairman

/s/ Tiwiter Aritos  
Tiwiter Aritos, member

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

/s/ Yosiwo P. George  
Yosiwo P. George, member

/s/ Dohsis Halbert  
Dohsis Halbert, member

Roger S. Mori, member