

THIRD CONGRESS OF THE FEDERATED STATES OF MICRONESIA

SECOND REGULAR SESSION, 1983

CONGRESSIONAL BILL NO. 3-63, C.D.1,
C.D.2

AN ACT

To provide for the appointment, tenure, removal, salary, benefits, duties, and powers of the National Public Auditor of the Federated States of Micronesia; for the authorized types of audits and applicable audit standards; and for other purposes.

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

1 Section 1. Short title. This act shall be known as the "National
2 Public Auditor Act of the Federated States of Micronesia."

3 Section 2. Definitions. As used in this act "public funds from
4 the National Government" means funds or reimbursements from the National
5 Government arising from the National tax revenues, including National
6 tax revenues shared with the States pursuant to article IX, section 5,
7 of the Constitution of the Federated States of Micronesia, and all
8 grants, subsidies, or contributions in the form of money, goods, or
9 services from any source which are received from the National Govern-
10 ment by appropriation law, or otherwise.

11 Section 3. Public Auditor-Appointment, tenure, removal, and
12 salary. The appointment, tenure, removal, and salary of the Public
13 Auditor for the National Government of the Federated States of Micro-
14 nesia shall be as follows:

15 (1) Appointment. The Public Auditor shall be appointed by
16 the President with the advice and consent of Congress.

17 (2) Tenure. The Public Auditor shall serve for a term of
18 4 years and until a successor is confirmed. An individual may be
19 reappointed for an additional term or terms with the advice and con-
20 sent of Congress.

21 (3) Removal. The Congress may remove the Public Auditor
22 from office for cause by a two-thirds vote. In the event of such

1 removal, the Chief Justice shall appoint an Acting Public Auditor
2 until a successor is confirmed.

3 (4) Salary. The first Public Auditor shall receive an annual
4 salary of \$42,000. Any subsequent Public Auditor shall receive an
5 annual salary of \$35,000. Such salary shall not be reduced during
6 his term of office. In the event of removal or of a vacancy in the
7 office, the successor shall be entitled to the salary attendant to the
8 office as of the date of succession.

9 Section 4. Benefits. At the time he is confirmed the Public
10 Auditor shall be entitled to all benefits, other than those covered
11 by Public Law No. 3-16, as are available to all regular Government
12 prime contract employees under the same terms and conditions which
13 apply to members of the National Public Service System.

14 Section 5. Duties of the Public Auditor. The duties of the
15 Public Auditor shall be as follows:

16 (1) The Public Auditor shall inspect and audit transactions,
17 accounts, books, and other financial records of every branch, depart-
18 ment, office, agency, board, commission, bureau, and statutory author-
19 ity of the National Government and of other public legal entities,
20 including, but not limited to, States, subdivisions thereof, and non-
21 profit organizations receiving public funds from the National Govern-
22 ment.

23 (2) The Public Auditor shall inspect and audit transactions,
24 accounts, books, and other financial records associated with any
25 project, program, and activity receiving funding in whole or in part

1 from public funds of the National Government.

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

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

7 (5) The Public Auditor shall have the exclusive audit juris-
8 diction over public funds of the National Government of the Federated
9 States of Micronesia, but he shall have the authority to contract for
10 independent auditing services to be performed under his supervision in
11 instances where specialized expertise is required, or where auditing
12 requirements are beyond the capacity of the Public Auditor's staff and
13 separate funding is available.

14 (6) The Public Auditor shall file a report at least once a
15 year with the Congress. The Public Auditor may file other reports at
16 such other times as he may determine. All reports of the Public Auditor
17 shall be made available to the public.

18 (7) The Public Auditor may submit recommendations with his
19 audit reports which shall be confined to matters within the juris-
20 diction of the Public Auditor, including compliance or noncompliance
21 with laws governing the expenditure of public monies, and the need for
22 amendments or new laws to secure the efficient expenditure of public
23 funds.

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

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

3 Section 6. Powers. The powers of the Public Auditor shall be
4 as follows:

5 (1) The Public Auditor may examine and inspect all books,
6 records, files, papers, documents, and all financial affairs of every
7 branch, department, office, agency, board, commission, bureau, and
8 statutory authority of the National Government, as well as other public
9 legal entities, including States and nonprofit organizations receiving
10 funds from the National Government.

11 (2) The Public Auditor may audit the records of any contrac-
12 tor performing public work on a cost-reimbursement-type contract for
13 the National Government of the Federated States of Micronesia to verify
14 the cost charged to the public contract. Any contractor performing
15 public work pursuant to a contract with the National Government of the
16 Federated States of Micronesia shall keep and maintain records adequate
17 to establish the validity of costs charged to the National Government.

18 (3) The Public Auditor may by subpoena summon persons to
19 appear at a reasonable time before him and administer oaths to such
20 persons. He may question such persons, under oath, regarding receipts
21 and expenditures of money and any other reasonable and relevant matters
22 necessary for the due execution of the duties vested in the Public
23 Auditor by this act.

24 (4) The Public Auditor may issue subpoena duces tecum within
25 a reasonable time requiring the production of books, records, documents,

1 or other relevant financial papers or objects necessary for the
2 performance of his duties.

3 (5) Any subpoena or subpoena duces tecum issued under
4 the authority of the Public Auditor shall run in the name of the
5 Federated States of Micronesia and shall be addressed to the chief or
6 other officer of the Division of Security and Investigation of the
7 Office of the Attorney General of the National Government of the
8 Federated States of Micronesia. The subpoena or subpoena duces tecum
9 shall be signed by the Public Auditor and shall identify the witness
10 to be served or the books, records, documents, or other relevant
11 financial papers or objects to be produced together with a reference
12 to the account subject to inspection and audit.

13 (6) Any officer to whom such subpoena or subpoena duces
14 tecum is directed shall forthwith serve or execute the same upon
15 delivery thereof to him.

16 (7) Any person who willfully fails or refuses to appear
17 upon receiving service of a subpoena, or who willfully fails or refuses
18 to produce any books, records, documents, or other relevant financial
19 papers or objects designated in a subpoena duces tecum properly issued
20 by the Public Auditor, upon conviction thereof, shall be fined not more
21 than \$1,000, or imprisoned for not more than 1 year, or both. Failure
22 by the Public Auditor to comply in any material respect with the re-
23 quirements of this act shall relieve any person of the obligation to
24 appear or the obligation to produce designated materials, and such
25 failure shall be a defense in any proceeding against such person for

1 punishment.

2 (8) Any person subject to a subpoena duces tecum shall have
3 only those privileges against producing books, records, documents, or
4 other relevant financial papers or objects which are authorized under
5 the rules of evidence of the Supreme Court of the Federated States of
6 Micronesia, the Constitution of the Federated States of Micronesia,
7 the Trust Territory Bill of Rights, or other applicable law.

8 Section 7. Types of audits and audit standards. The types of
9 audits and applicable audit standards shall be as follows:

10 (1) Three types of audits may be performed:

11 (a) Financial and compliance. This type of audit deter-
12 mines whether the financial statements of an audited entity present
13 fairly the financial position and results of financial operations in
14 accordance with generally accepted accounting principles and whether
15 the entity has complied with laws and regulations that may have a
16 material effect upon the financial statements.

17 (b) Economy and efficiency. This type of audit deter-
18 mines whether an entity is managing and utilizing its resources economi-
19 cally and efficiently, the causes of inefficiencies or uneconomical
20 practices, and whether the entity has complied with laws and regula-
21 tions concerning economy and efficiency.

22 (c) Program results. This type of audit determines
23 whether the desired results or benefits established by the Congress
24 or other authorizing body are being achieved and whether the program
25 administrators have considered alternatives that might yield desired

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1 results at a lower cost.

2 (2) Any given audit or review may include one or more of
3 the objectives in subsection (1) in the reasonable exercise of the
4 Public Auditor's discretion.

5 (3) The Public Auditor shall perform audits in conformity
6 with generally accepted audit standards as established by the American
7 Institute of Certified Public Accountants.

8 Section 8. Effective date. This act shall become law upon
9 approval by the President of the Federated States of Micronesia or
10 upon its becoming law without such approval.

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July 20, 1984

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Tosiwo Nakayama
President
Federated States of Micronesia

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