

CHAPTER 2**Financial Management****SECTIONS**

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Editor's note: PL 4-77 made substantive amendments to sections 202, 209, 210, and 212 of this chapter primarily to ensure compliance with the Compact of Free Association. PL 4-77 § 14 provides that these amendments shall take effect upon the effective date of the Compact of Free Association. The Compact took effect on November 3, 1986.

Cross-reference: Provisions on funds may also be found in chapter 6 of this title.

§ 201. Short title.

This chapter shall be known as the “Financial Management Act of 1979.”

Source: PL 1-45 § 1.

§ 202. Declaration of policy.

It is the declared policy of the Government of the Federated States of Micronesia that:

(1) The accounting of the Federated States of Micronesia Government shall provide full disclosure of the results of financial operations, adequate financial information needed in the management of operations, and the formulation and execution of the national budget and shall ensure effective control over income, expenditures, funds, property, and other assets, whether tangible or intangible.

(2) The accounting of the Federated States of Micronesia shall be performed in a manner consistent with generally accepted accounting principles as established by the United States Governmental Accounting Standards Board.

(3) Full consideration be given to the needs and responsibilities of both the legislative and executive branches of the Government in the establishment of accounting and reporting systems and such other fiscal requirements.

(4) It is the responsibility of the executive branch to maintain accounting systems and to produce financial reports with respect to the operations of the executive departments and staff offices, including central facilities which

gather and disseminate information on the results of the financial operations of the Federated States of Micronesia Government as a whole.

(5) Emphasis shall be placed on effectuating systematic and orderly improvements in financial management of the Federated States of Micronesia Government in order to formulate, adopt, and maintain simplified and more effective accounting systems, financial reporting procedures, budget processes, auditing requirements, and procedures and to safeguard against duplication and to eliminate systems and processes that do not serve a purpose commensurate with the costs involved.

(6) The Secretary of Finance, together with the Budget Officer, shall conduct a continuous review program for the improvement of accounting and financial reporting in the Government of the Federated States of Micronesia.

Source: PL 1-45 § 2; PL 4-77 § 2.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

Case annotations: In general, to the extent that the Financial Management Regulations are consistent with the Financial Management Act, such uniform standards and procedures serve to prevent misappropriation and expenditures in excess of budgetary allowances. *Mackenzie v. Tuuth*, 5 FSM R. 78, 85 (Pon. 1991).

§ 203. Department and Secretary of Finance.

Pursuant to the provisions of subsection (1)(a) of section 203 of title 2 of this code, there is hereby created at the seat of the Government of the Federated States of Micronesia an executive department known as the Department of Finance which shall be headed by the Secretary of Finance.

Source: PL 1-45 § 3.

Cross-reference: Section 203 of title 2 (Executive) of this code is on executive branch departments.

§ 204. Secretary of the Department of Finance and Administration—General duties.

(1) The Secretary of the Department of Finance and Administration shall prepare and review plans for the improvement and management of revenue and for the support of the public credit; supervise the collection of all revenues; prescribe the forms of keeping and rendering all public accounts and returns; grant, subject to statutory provisions, all warrants for moneys to be issued from the National Treasury in pursuance of appropriations by law; prepare and issue reports and fiscal information as may be required by law; and generally perform all such services relative to finances as he shall be directed to perform from time to time.

(2) The Secretary of the Department of Finance and Administration shall ensure that all allottees comply with reporting requirements of section 226 of this title.

(3) The Secretary of the Department of Finance and Administration may delegate the authority for such functions to such extent as he may deem practicable and is permissible by law.

Source: PL 1-45 § 4(1); PL 11-80 § 1.

§ 205. Secretary of Finance—Accounting duties.

(1) The Secretary of Finance of the Federated States of Micronesia shall be the general accountant of the General Fund of the Federated States of Micronesia. He shall record and audit, or cause to be recorded and audited, every receipt and disbursement of money paid to, by, or through the National Treasury of the Federated States of Micronesia. He shall have full and complete supervision of all funds of the Federated States of Micronesia, including the power to withhold his approval when necessary to prevent misappropriation of public funds as well as the disbursement of public moneys in excess of specific appropriations.

(2) The Secretary of Finance shall keep a complete set of double entry books in which he shall open or cause to be opened all Government accounts and for the several amounts as shown by the appropriation bill, or any other appropriation that may at any time be made by the Congress of the Federated States of Micronesia, and he shall record his daily business transactions in detail therein. He shall also keep ledgers in which he shall open, arrange, and keep in a methodical and systematic manner the various accounts so that the status and condition of all funds and appropriations, of all assets and liabilities, and of all income and expenditures of all funds of the Federated States of Micronesia may at any time be ascertained and known; and further, he shall keep such books and all such other auxiliary books and documents as he may deem necessary for the correct and proper administration of his office.

Source: PL 1-45 § 4(2), (3).

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code.

Case annotations: A Financial Management Regulation that bears no reasonable relationship to the fiscal accounting and management objectives of the Financial Management Act is in excess of the statutory authority granted to the Secretary of Finance. *Mackenzie v. Tuuth*, 5 FSM R. 78, 86-87 (Pon. 1991).

The Secretary of Finance lacks the authority to terminate administratively the fiscal year prior to its lawful expiration period where such

termination precludes the judiciary from making obligations during the entire fiscal year for which an appropriation is made. *Mackenzie v. Tuuth*, 5 FSM R. 78, 88 (Pon. 1991).

§ 206. National Treasury—Established.

There is hereby established within the Department of Finance the National Treasury of the Federated States of Micronesia which shall be comprised of offices, records, supplies, fixtures, materials, and such other facilities as may be necessary and as designated as places of deposit of the public money.

Source: PL 1-45 § 5.

§ 207. Treasurer—Duties.

(1) The Secretary of Finance shall have full responsibility and authority for the National Treasury and shall be legally responsible for the administration, collection, and safekeeping of all moneys due and paid into the Treasury of the Federated States of Micronesia as general realizations of the Government of the Federated States of Micronesia, and for the disbursement and appropriation thereof pursuant to law.

(2) He shall perform his duties in accordance with section 1, article XII of the Constitution and shall undertake such other duties that may be prescribed by law or through administrative directives issued by the President from time to time.

(3) The Secretary may delegate authority conferred upon him by this section.

Source: PL 1-45 § 6.

Cross-reference: Section 1, article XII of the Constitution states as follows:

Section 1.

(a) Public money raised or received by the national government shall be deposited in a General Fund or special funds within the National Treasury. Money may not be withdrawn from the General Fund or special funds except by law.

(b) Foreign financial assistance received by the national government shall be deposited in a Foreign Assistance Fund. Except where a particular distribution is required by the terms or special nature of the assistance, each state shall receive a share equal to the share of the national government and to the share of every other state.

The other provisions of the Constitution are found in Part I of this code.

§ 208. General Fund of the Federated States of Micronesia—Created.

There is hereby created a General Fund of the Federated States of Micronesia to be known as the “General Fund.” This General Fund shall be the successor fund to and replaces the “General Fund of the Congress of the Federated States of Micronesia,” as well as the “General Fund of the Interim Congress of the Federated States of Micronesia” formerly established by Public Law No. 7-150.

Source: PL 1-45 § 7.

Cross-reference: Section 1, article XII of the Constitution states as follows:

Section 1.

(a) Public money raised or received by the national government shall be deposited in a General Fund or special funds within the National Treasury. Money may not be withdrawn from the General Fund or special funds except by law.

(b) Foreign financial assistance received by the national government shall be deposited in a Foreign Assistance Fund. Except where a particular distribution is required by the terms or special nature of the assistance, each state shall receive a share equal to the share of the national government and to the share of every other state.

The other provisions of the Constitution are found in Part I of this code.

§ 209. Deposits to the General Fund.

(1) Unless otherwise provided by this chapter or other law, the following shall be deposited in the General Fund:

(a) all public moneys raised or received by the Federated States of Micronesia National Government pursuant to laws imposing taxes on income or other taxes, duties, or tariffs based on imports, or other revenues collected based on fines, fees, licenses, interests, rents, or other collections of the Federated States of Micronesia made specifically applicable within the jurisdiction of the Federated States of Micronesia;

(b) all funds allotted to the Federated States of Micronesia National Government from the Compact Financial Assistance Fund; and

(c) all other funds received by the Federated States of Micronesia National Government from the United States Government and designated for the Federated States of Micronesia National Government.

(2) Compact of Free Association financial assistance shall be accounted for in accordance with financial accounting and reporting requirements of the Compact.

(3) All balances of the United States Grant Special Fund are hereby transferred to, and deposited in, the General Fund of the Federated States of Micronesia.

Source: PL 1-45 § 8; PL 4-77 § 3.

§ 210. Foreign Assistance Fund.(1) *Definitions.*

(a) “Agreement” shall refer to any arrangement, understanding, covenant, compact, transaction or other agreement, in any form, entered into by and between an official of the National Government, or the National Government’s designee, and a foreign governmental entity, for the receipt or acceptance of financial assistance or aid, on behalf of any National or State governmental entity.

(b) “Foreign financial assistance” shall refer to currency, money, accounts or notes receivable, offered as aid or assistance to the National Government of the Federated States of Micronesia, other than foreign aid or assistance received from the United States of America pursuant to, or authorized by, the provisions of the Compact of Free Association between the Federated States of Micronesia and the United States of America.

(c) “Foreign in-kind assistance” shall refer to any and all foreign assistance in the form of goods, services, or other modes of assistance not covered under subsection (1)(b) hereof.

(2) *Approval by Congress.* The President shall submit any agreement for the acceptance or receipt of foreign financial assistance to the Congress no later than the first regular or special session of Congress convened immediately subsequent to the execution of such agreement, for approval by resolution.

(a) No such agreement shall be valid, and no funds may be received pursuant to such agreement, unless and until Congress approves the agreement by resolution.

(b) Should the Congress not approve such agreement by resolution before the adjournment of the first regular session following the President’s submission of the agreement to Congress, that agreement shall be deemed disapproved.

(3) *Foreign Assistance Fund.* There is hereby established within the National Treasury of the Federated States of Micronesia a Foreign Assistance Fund which shall initially consist of all unobligated balances of foreign assistance funds from the preceding fiscal year, and all foreign assistance funds designated for the National Government and made available beginning October 1, 1996. Thereafter, the Department of Finance shall receive, maintain a complete record of, and where applicable, deposit all foreign financial assistance as defined in subsection (1) of this section into the Fund, pursuant to the Financial Management Act of 1979.

(a) The President or the President’s designee shall notify the Congress of the receipt of foreign financial assistance, the amount thereof in U.S. dollars, and, where applicable, the deposit of such assistance into the Fund, no later than the first session of Congress, be it regular or special, convened subsequent to such receipt.

(b) Where the foreign financial assistance received is denominated in the form of goods or services, the President or the President’s designee shall notify the Congress of the value thereof in U.S. dollars, and the destination where such goods have been delivered, or location where such services have been rendered, no later than the first session of the Congress convened subsequent to such receipt.

(4) *Development of Fund—Duties of the Department of Finance.* The Division of Investment Management of the Department of Finance shall, upon approval of the President and in cooperation with the Department of External Affairs, actively seek foreign assistance funding, foster productive use of foreign assistance, and produce reports on the acquisition, use, expenditure of, and fiscal obligations attendant upon, foreign assistance available to or received by the National Government of the Federated States of Micronesia.

(5) *Reports.* No later than April 1 of each year, the President shall submit to the Congress a report on the status of the Foreign Assistance Fund, which report shall include:

- (a) a complete and accurate accounting of all foreign financial assistance received;
- (b) a complete and accurate record of the manner in which the foreign financial assistance was distributed as among and between the States and the National Government; and
- (c) whether such distribution comports with the provisions of article XII, section 1(b) of the Constitution.

Source: PL 9-74 §1.

Cross-reference: Section 1, article XII of the Constitution states as follows:

Section 1.

- (a) Public money raised or received by the national government shall be deposited in a General Fund or special funds within the National Treasury. Money may not be withdrawn from the General Fund or special funds except by law.
- (b) Foreign financial assistance received by the national government shall be deposited in a Foreign Assistance Fund. Except where a particular distribution is required by the terms or special nature of the assistance, each state shall receive a share equal to the share of the national government and to the share of every other state.

The other provisions of the Constitution are found in Part I of this code.

§ 211. Program Fund.

(1) *Definitions.* The term “programs” shall include all funds made available to the Federated States of Micronesia pursuant to sections 221(a), 221(c), and 224 (program funds) of the Compact of Free Association and United States statute through categorical, block, consolidated project, or discretionary grants. It shall also include grants received from any international or United Nations organization. It shall not include other funds received pursuant to the Compact of Free Association, or funds received from the United States Department of Interior derived from its annual departmental budget, or those funds known as transition funds, nor indirect costs received for the administration of Federal programs.

(2) *Program review.* Prior to the submittal of any first year or first time application, proposal, or preexpenditure report or any application, proposal, or preexpenditure report that requests funding for \$50,000 or more to any United States Federal agency, the President or his designee shall submit such application, proposal, or preexpenditure report to the Congress of the Federated States of Micronesia for its review and approval by resolution. If Congress is not in session, the appropriate committee shall review and approve the application, proposal, or preexpenditure report. The scope of such review shall be complete, with the ability to approve any aspect of any application, proposal, or preexpenditure. The approval of any application, proposal, or preexpenditure report by the appropriate committee shall not obligate funds from the National Treasury where they were not otherwise appropriated pursuant to law. The Congress or the appropriate committee shall complete its review within 40 days of submission.

(3) *Program Fund.* There is hereby created within the National Treasury of the Federated States of Micronesia a Program Fund into which all funds received by the Federated States of Micronesia from program sources, as defined in subsection (1) of this section, shall be deposited. The President or his designee shall notify Congress of grant awards and deposits to the Fund. Funds shall be administered and withdrawn by the President or his designee.

Funds derived from United States program sources shall be accounted for and shall be in accordance with reporting requirements of the United States Government. Initially, the Program Fund shall consist of all prior year unobligated balances of program funds and all program funds designated for the National Government of the Federated States of Micronesia and made available beginning October 1, 1982.

(4) *Program reports.* Prior to the submittal of any application, proposal, or preexpenditure report to any United States Federal agency, the President or his designee shall submit such application, proposal, or preexpenditure report to the Congress of the Federated States of Micronesia, whether or not its review and approval by the Congress of the Federated States of Micronesia is required by subsection (2) of this section.

Source: PL 2-68 § 1; PL 4-77 § 5; PL 6-22 § 1; renumbered by PL 9-74 § 2.

Editor's note: PL 4-77 § 4 repealed former section 210 of this chapter pertaining to the United States Grant Special Fund.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code.

§ 212. Enhanced Operations and Maintenance Fund.

(1) There is created within the National Treasury of the Federated States of Micronesia an Enhanced Operations and Maintenance Fund.

(2) All United States grant funds allotted to the President of the Federated States of Micronesia by the Trust Territory Government or United States Government specifically for enhanced operations and maintenance activities in the States shall be deposited in the Enhanced Operations and Maintenance Fund.

(3) United States grant funds for enhanced operations and maintenance include funding for:

- (a) the purchase of necessary spare parts, equipment, and various utility maintenance supplies;
- (b) the employment of skilled personnel;
- (c) the initiation or enhancement of training programs to upgrade technical skills in the public works area; and
- (d) such other activities as may be authorized by appropriation laws of the United States Government and agreed to by the Federated States of Micronesia Government and the Trust Territory Government for enhanced operations and maintenance.

(4) The President or his designee shall notify Congress of all grant awards and deposits to the Enhanced Operations and Maintenance Fund.

(5) Any portion of enhanced operations and maintenance funding made available to and accepted by the National Government to cover its costs for the administration of the enhanced operations and maintenance program shall be deposited in the United States Grant Special Fund and may be withdrawn by appropriation laws enacted by the Congress of the Federated States of Micronesia in accordance with section 211 of this chapter.

(6) Deposits in the Enhanced Operations and Maintenance Fund shall be made available to and administered

by the President of the Federated States of Micronesia or his designee in accordance with a written plan prepared by the National and four State Governments and approved by the High Commissioner of the Trust Territory Government. The plan shall set forth all proposed expenditures of such funds as may be available to each State by the terms of the appropriation laws of the United States Government or by the actions of the High Commissioner pursuant to authority set forth in the appropriation laws of the United States. The extent that the terms of the appropriation laws of the United States do not allocate such funds specifically to the States, and such laws do not so empower the High Commissioner to act in this regard, or the High Commissioner chooses not to act, such funds shall be allocated by the President in an equitable manner which reflects the needs of each State based on a plan prepared by the National and four State Governments, subject to the approval of Congress by resolution. If Congress is not in session, the appropriate committee shall review and approve the manner of distribution of the funds. The Congress or the committee shall complete its review within 30 days of submission. If the Congress or the appropriate committee fails to act within 30 days of submission, the proposed distribution of funds shall be deemed approved. The President shall be the allottee of the funds and shall have the authority to make suballotments to the Governors at such times and in such manner as may be required by sound financial management techniques. All funds which have been allotted to the President or suballotted to the Governors of the States shall be administered, managed, and accounted for in accordance with applicable law, including, but not limited to, the provisions of this chapter, and regulations pursuant thereto.

Source: PL 3-23 § 1; PL 3-28 § 1; PL 4-77 § 7 (part); renumbered by PL 9-74 § 2.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code.

§ 213. Capital Improvement Program Fund.

(1) There is hereby created within the National Treasury of the Federated States of Micronesia a Capital Improvement Program Fund.

(2) All United States grant funds, including United States federal program funds, but excluding funds made available pursuant to the Compact of Free Association, allotted to the President of the Federated States of Micronesia by the Trust Territory Government or other agency of the United States Government specifically for capital improvement projects in the States shall be deposited in the Capital Improvement Program Fund.

(3) United States grant funds and federal program funds for the Capital Improvement Program shall include funding for the development of the basic infrastructure of the Federated States of Micronesia in conformance with the intent of the original Capital Improvement Program and other funding transferred under any agreement between the National Government of the Federated States of Micronesia and the Government of the Trust Territory of the Pacific Islands, or other agency of the United States Government, regarding the transfer of capital improvement project funding and administration.

(4) The President or his designee shall notify Congress of all grant awards and deposits to the Capital Improvement Program Fund.

(5) Any portion of capital improvement funding made available to and accepted by the National Government to cover its costs for the administration of the Capital Improvement Program shall be deposited in the General Fund and may be withdrawn by appropriation laws enacted by the Congress of the Federated States of Micronesia.

(6) Deposits in the Capital Improvement Program Fund shall be made available to and administered by the President or his designee in accordance with written agreements between the National Government of the Federated States of Micronesia and the Trust Territory Government or other agency of the United States Government for the

transfer of capital improvement project funding and administration. The funds shall be allocated among the States in accordance with the terms of the appropriation laws of the United States, or by the actions of the High Commissioner or other authorized official of the United States Government pursuant to authority set forth in the appropriation laws of the United States. To the extent that the terms of the appropriation laws of the United States do not allocate such funds specifically to the States, and such laws do not so empower the High Commissioner or an official of the United States Government to act in this regard, or the High Commissioner or official chooses not to act, such funds shall be allocated by the President in an equitable manner which reflects the needs of each State, subject to the approval of Congress by resolution. If Congress is not in session, the appropriate committee shall review and approve the manner of distribution of the funds. Congress or the appropriate committee shall complete its review within 30 days of submission. If the Congress or the appropriate committee fails to act within 30 days of submission, the proposed distribution of funds shall be deemed approved. The President shall be the allottee of the funds and shall have the authority to make suballotments to the Governors at such times and in such manner as may be required by sound financial management techniques. All funds which have been allotted to the President or suballotted to the Governors of the States shall be administered, managed and accounted for in accordance with applicable law, including, but not limited to, the provisions of this chapter, and regulations pursuant thereto.

Source: PL 3-28 § 2; PL 3-81 § 1; PL 4-77 § 6; renumbered by PL 9-74 § 2.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code.

§ 214. Transition.

The President of the Federated States of Micronesia is hereby authorized to negotiate and enter into such an agreement or agreements with the High Commissioner as may be deemed necessary and appropriate by the President for the purpose of providing for an early, smooth, and orderly transition and implementation of this chapter.

Source: PL 1-45 § 10; PL 2-68 § 2 (part), PL 3-23 § 2 (part), PL 3-28 § 3 (part); PL 4-77 § 7 (part); renumbered by PL 9-74 § 2.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code.

§ 215. Allotment of funds—Definitions.

(1) For purposes of this chapter, “allotment” means the delegation of authority to a person to create legally enforceable financial obligations in accordance with applicable law on behalf of the Federated States of Micronesia, within specified limits set forth in an appropriation act of the Congress of the Federated States of Micronesia or as may be required by the terms of funding available from other sources.

(2) For purposes of this chapter, “allot” means to make an allotment.

(3) For purposes of this chapter, “allottee” means a person to whom an allotment is made.

Source: PL 1-115 § 1 (part); PL 2-68 § 2 (part); PL 3-23 § 2 (part); PL 3-28 § 3 (part); PL 4-77 § 7 (part); renumbered by PL 9-74 § 2.

Cross-reference: The statutory provisions on the FSM Congress are found in title 3 of this code.

§ 216. Allotment of funds—Authority.

The authority to make allotments shall be vested in the President of the Federated States of Micronesia or his designee. The President or his designee shall make an allotment not later than ten days before the beginning of the fiscal year for which the appropriation is available, or not more than 30 days after the act under which an appropriation is made available takes effect, whichever is later, unless otherwise provided by regulations issued pursuant to the authority of section 228 of this chapter. An allottee shall be notified immediately after the making of an allotment. If sound financial management practices and techniques so require, allotments may be made monthly, quarterly, or at other intervals, provided that the allottee of such funds is made aware of the periodic nature of his allotment(s).

Source: PL 1-115 § 1 (part); PL 2-68 § 2 (part); PL 2-69 § 1; PL 3-23 § 2 (part); PL 3-28 § 3 (part); PL 4-77 § 7 (part); renumbered by PL 9-74 § 2.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code.

§ 217. Allotment of funds—Allottees.

(A) Unless otherwise specifically required by law, funds shall be allotted as follows:

(1) The President of the Federated States of Micronesia, or his designee(s), shall be the allottee of all funds appropriated for the operations or activities of the executive branch of the Federated States of Micronesia Government.

(2) The Speaker of the Congress of the Federated States of Micronesia, or his designee(s), shall be the allottee of all funds appropriated for the operations or activities of the Congress.

(3) The Chief Justice of the Supreme Court of the Federated States of Micronesia, or his designee(s), shall be the allottee of all funds appropriated for the operations or activities of the judicial branch of the Federated States of Micronesia Government.

(4) The Public Auditor shall be the allottee of all funds appropriated to the Public Auditor.

(5) The Governor of a State, or his designee(s), shall be the allottee of all funds appropriated to the State.

(6) The President of the Federated States of Micronesia, or his designee(s), shall be the allottee of any funds appropriated for any activity, entity, or person not included within the provisions of paragraphs (1) through (5) of this subsection.

(B) Unless specifically prohibited by law, whenever the President of the Federated States of Micronesia, the Speaker of the Congress of the Federated States of Micronesia, the Chief Justice of the Supreme Court of the Federated States of Micronesia or the Governor of a State is named as the allottee, such official may designate as the allottee

another officer who is subject to his supervision and control.

Source: PL 1-115 § 1 (part); PL 2-68 § 2 (part); PL 3-23 § 2 (part); PL 3-28 § 3 (part); PL 4-77 § 7 (part); PL 4-114 § 14; PL 6-79 § 1; renumbered by PL 9-74 § 2.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

Case annotation: Because Congress has the statutory authority to name allottees other than the President or his designee, the court will deny a request for an order prohibiting defendants from ever again being allottees of FSM money. *Udot Municipality v. FSM*, 10 FSM R. 354, 359 (Chk. 2001).

When the trial court ordered an injunction to prevent further dissipation of existing appropriated funds because it found that 1) the broad language in the appropriations contained little guidance as to what specific projects were to be funded; 2) there were no fair and transparent procedures to apply for such funds; 3) an unlawful implementation procedure was being used; and 4) that there was a lack of oversight and compliance with the Financial Management Act and related regulations, the trial court acted entirely within its discretion. There was no abuse of discretion in issuing the injunction enjoining the allottees from obligating funds and the FSM from disbursing funds until such time as new procedures were put in place. *FSM v. Udot Municipality*, 12 FSM R. 29, 52-53 (App. 2003).

§ 218. Obligation of funds—Definition of “obligation.”

For purposes of this chapter, “obligation” means legal liability for salaries and wages, contractual services, contracts entered into for the purchase of supplies and equipment, construction, and land; and loans or other commitments requiring the payment of money.

Source: PL 1-115 § 2 (part); PL 2-68 § 2 (part); PL 3-23 § 2 (part); PL 3-28 § 3 (part); PL 4-77 § 7 (part); renumbered by PL 9-74 § 2.

Case annotation: Earmarking \$50,000 of a prior appropriation to be spent in the plaintiff municipality does not take away the municipality’s standing by making its claim moot when the appropriation still has an undifferentiated category called “other needs,” and when the municipality’s past inability to apply for funds already spent, and the likelihood that the situation would arise again, but be incapable of review, all favor a finding of continuing standing. *Udot Municipality v. FSM*, 10 FSM R. 354, 358 (Chk. 2001).

§ 219. Documentary evidence required to support obligations.

No amount shall be recorded as an obligation of the Government of the Federated States of Micronesia unless it is supported by documentary evidence of:

(1) a binding agreement in writing, between the parties thereto, including Government agencies, in a manner and form and for a purpose authorized by United States or Federated States of Micronesia law, executed before the

expiration of the period of availability for obligation of the appropriation or fund concerned for specific goods to be delivered, real property to be purchased or leased, or work or services to be performed; or

(2) a valid loan agreement, showing the amount of the loan to be made and the terms or schedule of repayment thereof; or

(3) an order required by United States or Federated States of Micronesia law to be placed with an agency; or

(4) an order issued pursuant to United States or Federated States of Micronesia law authorizing purchases without advertising when necessitated by public exigency or for perishable subsistence supplies or within specific monetary limitations; or

(5) a grant or subsidy payable:

(a) from appropriations made for payment of or contributions toward sums required to be paid in specific amounts fixed by United States or Federated States of Micronesia law, or in accordance with formulae prescribed by United States or Federated States of Micronesia law, or

(b) pursuant to an agreement authorized by, or plans approved in accordance with and authorized by United States or Federated States of Micronesia law; or

(6) a liability which may result from pending litigation brought under authority of United States or Federated States of Micronesia law; or

(7) employment or services of persons or expenses of travel in accordance with United States or Federated States of Micronesia law, or services performed by public utilities; or

(8) any other legal liability of the Federated States of Micronesia against an appropriation or funds legally available therefor; or

(9) in the case of representation expenses and official expense allowance expenses, an affidavit of the allottee or sub-allottee describing the amount and nature of the expenditure, or a written contract or written receipt, submitted in a timely manner in accordance with the provisions of section 224A of this title, shall be deemed to be sufficient documentary evidence to support a legal obligation.

Source: PL 1-45 § 12(1); PL 1-115 § 2 (part); PL 2-68 § 2 (part); PL 3-23 § 2 (part); PL 3-28 § 3 (part); PL 4-77 § 7 (part); PL 6-52 § 4; renumbered by PL 9-74 § 2; PL 10-50 § 1.

§ 220. Obligations prohibited after time limits.

No appropriation or fund which is limited for obligation purposes to a definite period of time shall be available for expenditure after the expiration of such period except for the liquidation of amounts obligated in accordance with section 219 of this chapter; provided, however, that no appropriation shall remain available for expenditure for any period beyond that authorized by United States or Federated States of Micronesia law.

Source: PL 1-45 § 12(2); PL 1-115 § 2 (part); PL 2-68 § 2 (part); PL 3-23 § 2 (part); PL 3-28 § 3 (part); PL 4-77 § 7 (part); renumbered by PL 9-74 § 2.

Case annotations: The Secretary of Finance lacks the authority to terminate administratively the fiscal year prior to its lawful expiration period where such termination precludes the judiciary from making obligations during the entire fiscal year for which an appropriation is made. *Mackenzie v. Tuuth*, 5 FSM R. 78, 88 (Pon. 1991).

§ 221. Overobligation of funds prohibited.

Unless otherwise specifically authorized by law, no officer or employee of the Federated States of Micronesia, or allottee of funds shall make or authorize an expenditure from, or create or authorize an obligation pursuant to any appropriation, apportionment, reappropriation, or allotment of funds of the United States Government or the Federated States of Micronesia Government:

- (1) in excess of the sum made available by law; or
- (2) in advance of the availability of funds; or
- (3) for purposes other than those for which an allotment has been made.

Source: PL 1-45 § 11(1); PL 1-115 § 3 (part); PL 2-47 § 1 (part); PL 2-68 § 1 (part); PL 3-23 § 2 (part); PL 3-28 § 3 (part); PL 4-77 § 7 (part); renumbered by PL 9-74 § 2.

Case annotation: When the information is sufficiently definite to put the accused on notice that he is charged with, in his capacity as NNDA Executive Director, being a member of a conspiracy to violate 55 F.S.M.C. 221(2), 55 F.S.M.C. 221(3) and 11 F.S.M.C. 529 and when the court has previously stated that nothing before it indicates that the information is not a plain, concise and definite statement of the essential facts constituting the offense, the accused's motion to dismiss on the ground of defective information will be denied. *FSM v. Kansou*, 15 FSM R. 373, 380-81 (Chk. 2007).

In implementing the provisions of the Financial Management Act the Secretary of Finance must disburse funds within 30 days of the submission of a payment request unless the withholding of payment approval is necessary to prevent the misappropriation or over-obligation of a specific appropriation. *Mackenzie v. Tuuth*, 5 FSM R. 78, 88 (Pon. 1991).

§ 222. Overobligations to be reported.

In the case of a violation of section 221 of this chapter, the Director of Finance shall immediately report to the President and to the Congress of the Federated States of Micronesia all pertinent facts together with a statement of the action taken or proposed to be taken with respect thereto.

Source: PL 1-45 § 11(2); PL 1-115 § 3 (part); PL 2-47 § 1 (part); PL 2-68 § 2 (part); PL 3-23 § 2 (part); PL 3-28 § 3 (part); PL 4-77 § 7 (part); renumbered by PL 9-74 § 2.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code.

§ 223. Overobligations—Criminal penalties.

Any officer or employee of the Federated States of Micronesia Government, or an allottee, who knowingly and willfully violates sections 221 or 222 of this chapter shall, upon conviction, be fined not more than \$20,000 or imprisoned for not more than 20 years, or both.

Source: PL 1-45 § 11(3); PL 1-115 § 3 (part); PL 2-47 § 1 (part); PL 2-68 § 2 (part); PL 3-23 § 2 (part); PL 3-28 § 3 (part); PL 4-77 § 7 (part); renumbered by PL 9-74 § 2.

Cross-reference: The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

§ 224. Disbursement procedures.

Unless otherwise specifically provided by law, the following procedures shall control the administration and management of all funds appropriated from the General Fund of the Federated States of Micronesia or made available to the Federated States of Micronesia from other sources:

(1) All such funds shall remain in the custody and control of the Secretary of Finance until they are obligated and disbursed by him in accordance with law.

(2) Such funds shall be deemed to be obligated as of the date the person or entity to whom the funds are allotted enters into a legally binding written agreement supported by the documentary evidence required by section 219 of this chapter or rules and regulations issued pursuant to authority vested by section 228 of this chapter.

(3) The Secretary of Finance shall disburse such funds as may be required to liquidate valid obligations within 30 days of their becoming payable, as indicated by valid documentary evidence of such obligation and a valid claim for payment, if required by the terms of the document evidencing the obligation.

Source: PL 1-115 § 4; PL 2-68 § 2 (part); PL 3-23 § 2 (part); PL 3-28 § 3 (part); PL 4-77 § 7 (part); renumbered by PL 9-74 § 2.

Case annotations: In general, to the extent that the Financial Management Regulations are consistent with the Financial Management Act, such uniform standards and procedures serve to prevent misappropriation and expenditures in excess of budgetary allowances. *Mackenzie v. Tuuth*, 5 FSM R. 78, 85 (Pon. 1991).

A Financial Management Regulation that bears no reasonable relationship to the fiscal accounting and management objectives of the Financial Management Act is in excess of the statutory authority granted to the Secretary of Finance. *Mackenzie v. Tuuth*, 5 FSM R. 78, 86-87 (Pon. 1991).

In implementing the provisions of the Financial Management Act the Secretary of Finance must disburse funds within 30 days of the submission of a payment request unless the withholding of payment approval is necessary to prevent the misappropriation or over-

obligation of a specific appropriation. *Mackenzie v. Tuuth*, 5 FSM R. 78, 88 (Pon. 1991).

A municipality may have standing when it has demonstrated a threatened economic injury and a sufficient stake in the controversy's outcome and this threatened economic injury is a direct result of, and can be traced to, the illegality of the subject provision in the appropriation and the manner in which it was being implemented, when the injury would be redressed by a favorable decision, when the injury is not a generalized injury shared by substantially the whole population, but it is asserting its own legal rights and interests, and is not resting its claim to relief on the legal rights or interests of third parties, and when its complaint falls within the zone of interest to be protected by the statutory and constitutional provisions in question. *FSM v. Udot Municipality*, 12 FSM R. 29, 46 (App. 2003).

§ 224A. Representation expenses, delegation expenses and official expense allowances—Accounting and Advances.

Representation expenses and official expense allowance expenses shall be accounted for by affidavit, written contract or written receipt. Delegation expenses shall be accounted for by written contract or written receipt. The Secretary of Finance, upon specific written request containing specific justification satisfactory to the Secretary of Finance, shall make advance payments of representation expenses and advance payments of official expense allowances if the recipient of such advance payment agrees to submit affidavits or receipts for actual expenditures and return to the Secretary of Finance all amounts advanced but not accounted for by affidavit, contract or receipt no later than one month after the end of the fiscal year and, upon leaving office, to return to the Secretary of Finance all amounts advanced but not expended.

Source: PL 6-52 § 1; renumbered by PL 9-74 § 2; PL 10-50 § 2; PL 11-18 § 1.

Cross-reference: The statutory provisions on the FSM Congress are found in title 3 of this code.

Editor's note: PL 10-50 was signed into law on October 22, 1997. PL 10-50 contained a section 3 which read as follows:

Section 3. The amendments in this act which pertain to the timely submission of affidavits or receipts and the use of affidavits as documentary evidence to support a legal obligation shall be deemed effective as of March 12, 1990.

§ 224B. Representation expense, delegation expense and official expense allowance—Definitions.

(1) For purposes of this chapter, “official expense allowance expense” means expenses incurred for goods or services necessary to carry out the official duties of the allottee or sub-allottee.

(2) For purpose of this chapter, “representation expense” means expenses incurred in the course of official public relations, entertainment activities or constituent services necessary to advance the purposes and goals of the National Government.

(3) For purposes of this chapter, “delegation expense” means an expense incurred in the course of delegation operations, including, but not limited to, official public relations, travel, entertainment activities or constituent services necessary to carry out the functions of a State delegation in the Congress of the Federated States of Micronesia.

Source: PL 6-52 § 2; renumbered by PL 9-74 § 2; PL 11-18 § 2.

Cross-reference: The statutory provisions on the FSM Congress are found in title 3 of this code.

§ 224C. Purchases of supplies and personal property involving less than \$1,000.

For any purchase of supplies and personal property involving less than \$1,000, including the cost of shipping, the Secretary of Finance or his designee shall approve such purchase upon certification of the availability of funds for such purchase and upon satisfaction of the requirements under section 218 of this chapter pertaining to documentary evidence; PROVIDED, however, that the head of each branch of the National Government shall have the authority to prescribe a more restrictive rule which shall be binding upon that branch with the full force and effect of the law. For purposes of this section, the Office of the Public Auditor shall be considered a separate branch of the National Government. For purposes of this section, the agencies, boards, authorities, commissions and corporations of the National Government shall be considered part of the executive branch.

Source: PL 6-52 § 3; renumbered by PL 9-74 § 2.

§ 225. Reversion of unexpended funds; Cancellation of obligations.

(1) Unless otherwise provided by law, all sums of money which are appropriated for any fiscal period, and which are not extended during the period, shall lapse and shall not be issued or applied in any future fiscal period to the particular purpose for which the appropriation has been so made, unless a valid obligation has been made before the expiration of the fiscal period by which a liability to issue or apply the same has been incurred, and a certified copy of such valid obligation has been deposited with the Secretary of Finance.

(2) The Secretary of Finance is authorized to cancel an obligation not liquidated within one year of the time it became payable, as indicated by valid documentary evidence of such obligation, if the reason for not liquidating the obligation was the failure of a party to submit a valid claim for payment as required by the terms of the document evidencing the obligation.

Source: PL 1-45 § 13; PL 1-115 § 5; PL 2-68 § 2 (part); PL 3-23 § 2 (part); PL 3-28 § 3 (part); PL 4-77 § 7 (part); renumbered by PL 9-74 § 2.

§ 226. Required reports.

(1) *Required reports from allottees.*

(a) Not later than May 1 of each year, each allottee shall submit a report to the Congress of the Federated States of Micronesia which shall provide for the full accounting of each line item, or subsection apportioning funds, as of the end of the second quarter of the fiscal year, detailing obligations incurred against all sums appropriated by the Congress of the Federated States of Micronesia or made available to an allottee from other sources, to include a detailed explanation and full justification for each major deviation from a line item, or subsection apportioning funds.

(b) Not later than October 31 of each year, each allottee shall submit a report to the Congress of the Federated States of Micronesia which shall provide for the full accounting of each line item, or subsection apportioning funds as of the end of the fiscal year, detailing obligations and expenditures incurred against all sums appropriated by the Congress of the Federated States of Micronesia or made available to an allottee from other sources, to include a detailed explanation and full justification for each major deviation from a line item, or subsection apportioning funds.

(c) The reports required by subparagraphs (a) and (b) above shall include a statement by the allottee of the status of the project, program, or list the achievements of the department or agency for which the funds were allotted. For all allottees, except those receiving allotments for governmental operations, the statement shall detail the percentage of completion of the project or program and shall include an estimation of the completion date for the project or program, where appropriate.

(2) *Required reports from the Secretary of the Department of Finance and Administration.*

(a) Not later than January 31 of each year, the Secretary of the Department of Finance and Administration shall submit unaudited financial statements of the National Government to the Congress of the Federated States of Micronesia, or, he shall provide in writing, an explanation of why he is unable to provide such reports. The explanation shall include a date by which he will provide the required reports.

(b) Ten days prior to each session of Congress, whether a regular or special session, the Secretary of the Department of Finance and Administration shall submit, to the Speaker of the Congress and to the Chairman of the Committee on Ways and Means, an accurate report of current projected revenues for the fiscal year. This report shall detail projected revenues by source and shall reflect appropriations made during the fiscal year. The report should show the balance of funds available for appropriation by the Congress.

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Source: PL 1-115 § 6; PL 2-68 § 2 (part); PL 3-23 § 2 (part); PL 3-28 § 3 (part); PL 4-77 § 7 (part); renumbered by PL 9-74 § 2; PL 11-80 § 2.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code.

Case annotation: When a party has standing, a court may order an accounting of public funds because the Financial Management Act requires that public funds be properly accounted. *Udot Municipality v. FSM*, 10 FSM R. 354, 361 (Chk. 2001).

§ 227. Closing out accounts and transfer of unexpended balance.

In all cases where an appropriation of public money is made and an unexpended balance remains to the credit of the appropriation on the books of the Secretary of Finance after the purposes of the appropriation have been accomplished, or after the time has expired within which those purposes may be accomplished, or after a time when the reasons for the appropriation have ceased to exist, the Secretary, upon the receipt of a certificate from the head of the Department or other public officer who is charged with the duty of expending the appropriation that all obligations have been fully paid and satisfied, may close out the appropriation account and transfer the unexpended balance to the credit of the General Fund of the Federated States of Micronesia.

Source: PL 1-45 § 14; PL 1-115 § 7; PL 2-68 § 2 (part); PL 3-23 § 2 (part); PL 3-28 § 3 (part); PL 4-77 § 7 (part); renumbered by PL 9-74 § 2.

Case annotations: The Secretary of Finance lacks the authority to terminate administratively the fiscal year prior to its lawful expiration period where such termination precludes the judiciary from making obligations during the entire fiscal year for which an appropriation is made. *Mackenzie v. Tuuth*, 5 FSM R. 78, 88 (Pon. 1991).

§ 228. Rules and regulations.

The Secretary of Finance is hereby authorized to issue and promulgate rules and regulations implementing the provisions of this chapter which, upon approval by the President of the Federated States of Micronesia, shall have the force and effect of law.

Source: PL 1-45 § 15; PL 1-115 § 7; PL 2-68 § 2 (part); PL 3-23 § 2 (part); PL 3-28 § 3 (part); PL 4-77 § 7 (part); renumbered by PL 9-74 § 2.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code.

Case annotations: In general, to the extent that the Financial Management Regulations are consistent with the Financial Management Act, such uniform standards and procedures serve to prevent misappropriation and expenditures in excess of budgetary allowances. *Mackenzie v. Tuuth*, 5 FSM R. 78, 85 (Pon. 1991).

A Financial Management Regulation that bears no reasonable relationship to the fiscal accounting and management objectives of the Financial Management Act is in excess of the statutory authority granted to the Secretary of Finance. *Mackenzie v. Tuuth*, 5 FSM R. 78, 86-87 (Pon. 1991).

A party has standing to challenge both the legality of the process and compliance with the Financial Management Act and related regulations to the extent that such compliance impacts upon the relief that it requests when it has more than a general interest in the legality of this process as it contends that, under a fair and transparent application process, it would receive at least the opportunity to apply for and receive some of the funds for its own projects. Thus, the trial court in finding standing properly recognized and focused on the party's threatened economic injury when the process by which the Faichuk appropriations were being administered was alleged to be unlawful. *FSM v. Udot Municipality*, 12 FSM R. 29, 45 (App. 2003).

Although the Financial Management Act does not create a private right of action for parties in general to contest violations of its provisions, a party has standing when it requests the opportunity to seek funding from the challenged public laws without participating in an unlawful process and the FSM's failure to comply with the Act and its related regulations impacts upon the relief that it requests and when, in order for it to seek funding, determination of what portion of funds remained unobligated and might still be available was necessary and an accounting was a necessary and appropriate tool to achieve this. *FSM v. Udot Municipality*, 12 FSM R. 29, 45 (App. 2003).

