

Financial and Compliance Audit on Transshipment Fee Kosrae Port Authority

A Report to the
Governor
and the
Legislature of
the State of Kosrae



Stoney S. Taulung
PUBLIC AUDITOR



**GOVERNMENT OF KOSRAE
OFFICE OF THE PUBLIC AUDITOR
POST OFFICE BOX 847**

**KOSRAE, FEDERATED STATES OF MICRONESIA 96944
TELEPHONE (691) 370-3766, FACSMILE: (691)370-3443**

August 28, 2020

General Manager & Board of Directors
Kosrae Port Authority
Kosrae State Government, Federated States of Micronesia 96944

***Re: FINANCIAL AND COMPLIANCE AUDIT ON TRANSSHIPMENT FEE (KOSRAE
PORT AUTHORITY)***

EXECUTIVE SUMMARY

We have completed a Financial and Compliance audit on Kosrae Port Authority. The purpose of the audit was to determine whether Kosrae Port Authority effectiveness comply on collection of Transshipment Fee in accordance with the Kosrae State Code and other regulations.

The audit was performed in accordance with Auditing Standards Generally Acceptable in the United States of America and the Standards applicable to financial and compliance audits contained in the Government Auditing Standards, issued by the Comptroller General of the United States. The audit was also conducted pursuant to Title 10 Chapter 4 and Title 14 Chapter 1 of the Kosrae State Code. This financial and compliance audit covered the period from Fiscal years 2016 to 2019.

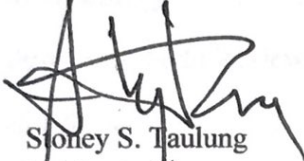
Based on our audit, we concluded that Kosrae Port Authority did not comply with the Kosrae State Law resulting to loss of revenue amounting to \$122,604.88. As a result of non-compliance with the Law, the audit discloses the following:

1. Non-compliance with the Kosrae State Code and Kosrae Financial Management Regulation,
2. \$122,604.88 loss of income for Kosrae State for FY 2016 to 2019.

We recommend that the Management provide a system to ensure that all legal responsibility of the Authority will be complied. In addition, the auditor strongly recommends that review and collection of transshipment fees be made in accordance with the requirement of the law.

The Office of the Public Auditor provided draft copies and discussed the contents of this report with the Kosrae Port Authority. The Management Response Letter was received on July 31, 2020 and included in the final audit report as annex 1.

Respectfully Submitted,



Stoney S. Taulung
Public Auditor

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INTRODUCTION

The Kosrae State Office of the Public Auditor (KOPA) received a request from the Legislature dated December 17, 2019, as to do a specific examination on the Transshipment Fee Collection in which it is connected to the previous Performance Audit released for Kosrae Port Authority as the Legislative Resolution No 11-306.

BACKGROUND

The Law and Regulation

Title 14 Sea and Transportation subsection 104¹ of Kosrae State Code described as Port and Dock Fees mandated Kosrae Port Authority (KPA) or its designee to collect the following fees from masters and agents using the port and docks in the state of Kosrae:

1. Entry Fee
2. Anchorage and Mooring Fees
3. Dockage Fee
4. Wharfage Fee
- 5. Transshipment Fee**
6. Handling Fee
7. Navigational Aids Dues
8. Passenger Fee

Transshipment² is the shipment of goods or containers to an intermediate destination, then to another destination. One possible reason for transshipment is to change the means of transport during the journey, known as transloading. Likewise SL 14.104 (5) stated that transshipment fee of \$1.25 per revenue ton of fish or **other cargoes** off loaded or transferred onto a carrier vessel at the port or in the territorial waters of Kosrae State. Hence, Section 14.107 provides that the KPA shall pay, commencing on the effective date of the act, the fees in subsections 14.104(5) (transshipment) to the Director of the Department of Administration and Finance (DoAF)³ not later than 10 days after the receipt of such fees. In addition, Section 14.108 states that State's share of the fees collected pursuant to Section 14.104 of the State Code shall be deposited in the infrastructure Maintenance Fund within the State's General Fund⁴.

¹ KSC 10.104 as amended by SL no. 5-175 and 7-1.

² Transshipment definition Wikipedia

³ DoFA as defined in KSC title 5 chapter 2.201

⁴ State General Fund KSC 10.205

Transshipment Collecting Authority

Kosrae Port Authority⁵, a component unit of the Kosrae State Government was established by Kosrae Public Law 7-91. The primary purpose of the Authority is to oversee the use and maintenance of Kosrae State's sea and air ports.

The Authority is vested with the following powers and duties:

- (1) To operate, manage, equip, and maintain all ports of entry into the State including, the Okat and Lelu harbors and docks and the Okat airfield.
- (2) To expand and improve upon the services offered at the ports of entry, and where practicable, construct and operate new facilities to meet the foreseeable demand for Authority services.
- (3) To adopt, enforce regulations as inspections or examinations as provided by law and etc.

AUDIT OBJECTIVE AND SCOPE

Objectives

The purpose of this audit is to assess Kosrae Port Authority's compliance on collection of Transshipment Fee. Specific objective includes the following:

1. To determine Kosrae Port Authority's effectiveness comply on collection of Transshipment Fee in accordance with the Kosrae State Code and other regulations.

Scope

We conducted this audit in accordance with the Generally Acceptable Government Auditing Standards issued by the Comptroller General of the United States of America. Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusion based on our objective. We believe that the evidence obtain provided a reasonable basis for our findings and conclusion based on our objective. The scope of our audit covered all state policies, regulation, laws and activities toward collection and remittance of Transshipment Fee since FY 2016 to 2019.

⁵ Kosrae Port Authority defined in SL 7-91

AUDIT METHODOLOGY

The Compliance Audit on Transshipment Fees transaction covers the period of fiscal years 2016 to 2019. However, the gathering, reviewing and testing of relevant information and documentations included previous and subsequent period for analytical purposes. We conducted the inspections pursuant to Kosrae State Code Title 10, section 4 which stated in part:

- (a) The Public Auditor shall inspect and audit personally, or by his duly authorized assistants, all account, books, and other financial records of the State Government, to include but not be limited to, every branch, department, office, political subdivision, board, commission, agency, other public legal entity (owned, or partially owned by the state), whether they receive public funds or not, and nonprofit organizations that received public funds from the State Government;
- (b) Inspect and audit personally, or by his duly authorized assistants, the fiscal books, records and accounts of all allottees and other custodians of public funds, making independent verification of all assets, liabilities, revenues, expenditures and obligations of the State Government, entities owned in whole or part by the State Government, and agencies of the State Government;
- (c) Inspect and audit personally, or by his duly authorized assistant, the fiscal books, records, and other financial records associated with any project, program and activity receiving funding in whole or in part from public funds of the State Government, including the records of any contractor performing public work on a cost-reimbursement-type contract in order to verify the cost charged to the public contractor;
- (d) Inspect and audit personally, or by his duly authorized assistants, the books, records, accounts, and other financial records associated with business sales that may be used for sales assessment for tax collection purposes.

PRIOR YEAR AUDITS/REVIEWS

This is the first time that a separate audit / examination was conducted on the collection of Transshipment Fee.

CONCLUSION

Based on our audit, we concluded that Kosrae Port Authority (KPA) did not effectively collect the Transshipment Fee in accordance with the Kosrae State Code due to failure of proper communication between KPA and previous Administration. This resulted to loss of revenue amounting to US\$122,604.88 that could have use for delivery of public service.

The findings and recommendations are discussed in detail below:

FINDINGS AND RECOMMENDATIONS

Finding No. 1: KPA did not comply with Kosrae State Law resulting to loss of revenue amounting to \$ 122,604.88 for the fiscal year 2016-2019.

Condition: 1.1 Non-compliance with Kosrae Code and Kosrae Financial Management Regulation.

Interview with the management and staff of Kosrae Port Authority disclosed that the authority did not collect Transshipment Fee from 2016-2019 as required by Kosrae State Code 14.104. During the discussion the management of KPA mentions that the Kosrae State Executive instructed them to discontinue collection of the said fee. However, KPA was not able to provide the auditors any executive memorandum on this matter.

Based on the statement by KPA management, we conducted further interview with the State Governor and Lt. Governor to confirm the claim of KPA. The executives confirm the non-remittance of Transshipment Fees to DoAF as required by the KSC. However, they denied that the office issued any advice on the discontinuance of collection. They further mention that they continuously advice KPA to start collecting and to pay the DoAF the Transshipment Fee align with the State Law since the start of their term on February, 2019.

Condition: 1.2 : \$122,604.88 loss of income for Kosrae State for FY 2016-2019.

We conduct examination of 100% of transaction subject to transshipment fee from the documents submitted to the auditor to assess transshipment fee corresponding on revenue

tonnage of cargoes off-loaded or transferred. Based on our test, we found out that the following amount were not billed and collected in FY 2016-2019. (Annex 2)

Transferred	\$53,120.99
Offloaded	69,483.79

Total	<u>\$122,604.88</u>

Record however showed two (2) payments of KPA to the Department of Administration and Finance amounting to \$ 706.39 dated 01/28/2016 and \$1,803.73 dated 02/07/2016. Both payments are only for December transactions of the previous year. Auditor observation on the average monthly transshipment transaction is at 6 or 5 monthly transactions.(Annex 3)

Criteria: KSC 14.104 (5) & 107 Sea and Transportation. (Annex 4)

Cause: Failure of oversight offices and collecting authority to monitor and assessing the implementation of the law.

Effect: Loss of revenue to help sustain the delivery of public services

Recommendation:

We recommend that the Management provide a system to ensure that all legal responsibility of the authority will be complied. In addition, the auditor strongly recommends that review and collection of unpaid transshipment fee be made in accordance with the requirement of the Law.

- a. General Manager claimed that he was not interviewed contrary to what is indicated in the report. Therefore, the audit citation as stated was fabricated information.

Auditor's Response:

Compliance audit performed by our office was in conformity with the Generally Accepted Government Auditing Standard that dictates all audit should be planned and follow an audit program and methodology. This included interview of KPA Executive and staff on June 15, 2020 of which minutes of the meeting were filed as part of audit working papers.

- b. No data to verify the amount.

Auditor's Response:

Finding amounted to \$ 122,604.88 was the result of analysis of documents submitted by the agencies & offices and action of the collecting agent (KPA). State Code clearly provides provision to COLLECT FEE the base of gross revenue tonnage of shipment multiplied the rate (1.25 per tonnage). Any uncollected legal fees shall be at loss for the state.

ANNEX 1: Management Response



KOSRAE PORT AUTHORITY

P.O. Box 960
Tofol, Kosrae FM 96944
Tel.: (691) 370-2154
Fax: (691) 370-3285

07/31/2020

Stoney S. Taulung
Office of the Public Auditor
Tofol, Kosrae, FM 96944

7/31/2020
Received
GMY

Greetings, Mr. Taulung

I am writing in responds to the exit report dated on the July 15 of this year, regarding the Tuna Transshipment Fee. Based on the findings, it made mention of Management being interviewed and the non-compliance of the State Law governs the Transshipment fee, which result to the amount loss of \$ 104,057.19, as stated. I deny being interviewed and would like to assure you of the quoted statement quoted, "During the interview the management of KPA mentions that the Kosrae State Executive instructed them to discontinue collection of the said fee" that this is a self-made assumption, and simply not correct. Therefore, the audit citation as stated herewith is fabricated information.

We are well aware of the Transshipment Law and the requirements mandated to KPA to collect and disburse the fees accordingly. The statement mention of KPA discontinue collecting the Transshipment fee would be the outcome of the attempt to bill the first containerized operation to Luan Thai which they refused to made payment and the legal view from the former Attorney General Jeffery Tilfas. These therefore, result for KPA not to bill Luan Thai and with no data to verify the amount loss.

KULO,

William O. Tosie
General Manager
Kosrae Port Authority

ANNEX 2: Transaction Log

TRANSFERRED FISH AND CARGO TO OTHER DESTINATIONS

A.

TRANSSHIPMENT FEE- TRANSFERRED FOR THE PERIOD 2017-2018						
YEAR	MONTH	Weight (kls)	* MT	**LBS (2.20462)	***RT (LBS/2)	****Fee
2017	January	931,281.00	931.28	2,053.12	1,026.56	1,283.20
2018	January	2,148,540.20	2,148.54	4,736.71	2,368.36	2,960.45
	February	1,493,750.00	1,493.75	3,293.15	1,646.58	2,058.22
	March	1,251,980.00	1,251.98	2,760.14	1,380.07	1,725.09
	april	1,666,136.00	1,666.14	3,673.20	1,836.60	2,295.75
	May	1,381,240.00	1,381.24	3,045.11	1,522.55	1,903.19
	June	3,889,229.00	3,889.23	8,574.27	4,287.14	5,358.92
	July	1,976,612.00	1,976.61	4,357.68	2,178.84	2,723.55
	August	749,557.00	749.56	1,652.49	826.24	1,032.81
	September	1,344,218.00	1,344.22	2,963.49	1,481.74	1,852.18
	October	550,349.00	550.35	1,213.31	606.66	758.32
	November	1,378,099.00	1,378.10	3,038.18	1,519.09	1,898.87
	December	209,408.00	209.41	461.67	230.83	288.54
TOTAL		18,039,118.20	18,039.12	39,769.40	19,884.70	24,855.88
* Metric Tons		Weight (kls) divide by 1000				
**Lbs		Metric Ton multiplied by 2.20461				
*** Revenue Ton		Lbs divided by 2				
**** Fee		Revenue Ton multified by \$1.25				

Financial and Compliance Audit on Transshipment Fee
Kosrae Port Authority
Fiscal Years 2016 -2019

B.

TRANSSHIPMENT FEE- TRANSFERRED
FOR THE PERIOD 2019

YEAR	MONTH	Weight (kls)	* MT	**LBS (2.20462)	***RT (LBS/2)	****Fee
2019	January	42,068.00	42.07	92.74	46.37	57.96
	February	765,512.00	765.51	1,687.66	843.83	1,054.79
		190,055.00	190.06	419.00	209.50	261.87
		554,769.00	554.77	1,223.05	611.53	764.41
	March	187,667.00	187.67	413.73	206.87	258.58
		966,218.00	966.22	2,130.14	1,065.07	1,331.34
	May	1,852,817.00	1,852.82	4,084.76	2,042.38	2,552.97
		1,477,093.00	1,477.09	3,256.43	1,628.21	2,035.27
		845,364.00	845.36	1,863.71	931.85	1,164.82
	June	1,913,311.00	1,913.31	4,218.12	2,109.06	2,636.33
		296,210.00	296.21	653.03	326.52	408.14
		1,612,445.00	1,612.45	3,554.83	1,777.41	2,221.77
		296,898.00	296.90	654.55	327.27	409.09
		777,216.00	777.22	1,713.47	856.73	1,070.92
	July	485,519.00	485.52	1,070.38	535.19	668.99
		2,346,326.00	2,346.33	5,172.76	2,586.38	3,232.97
	August	215,645.00	215.65	475.42	237.71	297.13
		681,202.00	681.20	1,501.79	750.90	938.62
	September	242,717.00	242.72	535.10	267.55	334.44
		710,413.00	710.41	1,566.19	783.10	978.87
	October	323,598.00	323.60	713.41	356.71	445.88
		340,343.00	340.34	750.33	375.16	468.95
	November	261,910.00	261.91	577.41	288.71	360.88
		821,066.00	821.07	1,810.14	905.07	1,131.34
	December	1,803,155.00	1,803.16	3,975.27	1,987.64	2,484.54
		323,796.00	323.80	713.85	356.92	446.15
		180,036.00	180.04	396.91	198.46	248.07
TOTAL		20,513,369.00	20,513.37	45,224.18	22,612.09	28,265.11
* Metric Tons		Weight (kls) divide by 1000				
**LBS		Metric Ton multiplied by 2.20461				
*** Revenue Ton		Lbs divided by 2				
**** Fee		Revenue Ton multified by \$1.25				

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ANNEX 3: State Finance Transaction

Receipts From Customer
KSG Finance

Customer Name: KOSRAE PORT AUTHORITY - 11201						
Date	Number	Type	Description	Posted Date	Status	Receipt Amount
01/28/2016	38101	Cash Receipt	TRANSHIPMENT FEE IST PAYMENT	01/28/2016	Deposited	\$706.39
02/07/2017	42441	Cash Receipt	Transshipment Fee	02/07/2017	Deposited	\$1,803.73
08/27/2019	54765	Cash Receipt	Departure Fees June and July 2019	08/27/2019	Deposited	\$7,095.00
12/16/2019	55894	Cash Receipt	Departure Fees - August & September 2019	12/16/2019	Deposited	\$5,500.00
KOSRAE PORT AUTHORITY Subtotal:						\$15,105.12
Report Total:						\$15,105.12
Report Selections:						
Business Date:		2/17/2020	Receipt Date:			
Username:		HMS	Receipt Number Range:		From 01/01/2016 To 02/17/2020	
Include Pending:		True	Receipt Amount Range:		All	
Include Canceled:		False	Customers Selected:		Selected	
Include Posted:		True	Active Customers:		Included	
Include Voided:		False	Inactive Customers:		Included	
Include Deposited:		True	On-Hold Customers:		True	
			Include Cash Receipts:		True	
			Include Invoice Receipts:		True	

ANNEX 4: KSC 14.104 (5) & 107 Sea and Transportation

Chapter 13. Misdemeanors

Section 13.1001. Category one misdemeanor. Imprisonment not exceeding twelve months, a fine not exceeding one thousand dollars, or both.

Section 13.1002. Category two misdemeanor. Imprisonment not exceeding eight months, a fine not exceeding seven hundred and fifty dollars, or both.

Section 13.1003. Category three misdemeanor. Imprisonment not exceeding six months, a fine not exceeding five hundred dollars, or both.

Section 13.1004. Category four misdemeanor. Imprisonment not exceeding thirty days, a fine not exceeding two hundred dollars, or both.

Title 14. THE SEA AND TRANSPORTATION

Part I. Provisions of General Applicability

Chapter 1. Ports of Entry

Section 14.101. Ports of entry. A vessel enters State waters at Okat or Lelu harbors. An aircraft lands in the State at the Okat airfield. The person in command of a vessel or aircraft which enters or lands in distress immediately notifies the Governor. If the Governor finds that a vessel or aircraft endangers the public health, safety or welfare he may deny its entry into the State or State waters, order its departure from the State or State waters, or subject its stay in the State or State waters to conditions or requirements. The Attorney General provides by regulation for an order made pursuant to this chapter, for port control, and for use of dock and airport facilities.

Section 14.102. Manifest. The person in command of a vessel entering State waters submits to the Governor a sworn manifest showing:

- (1) The vessel's name, description, build, true measure or tonnage, and the port to which the vessel belongs;
- (2) A detailed account of all merchandise on the vessel;
- (3) An account of the vessel's sea stores and ship's stores;
- (4) The names of all crew members and passengers aboard the vessel, and
- (5) The purpose of entry and approximate duration of stay in State waters.

Section 14.103. Ship pilot. By regulation the Governor provides for the

- (1) State waters in which a vessel may not operate without a State licensed ship pilot;
- (2) The testing and registration of ship pilots; and
- (3) The functioning and compensation of ship pilots.

Section 14.104. Port and Dock Fees. The Kosrae Port Authority or its designee shall collect the following fees from masters and agents of vessels using the ports and docks in the State of Kosrae:

- (1) Entry Fee
 - (a) \$0.20 per gross registered ton for vessels of specified tonnage;
 - (b) \$50.00 is charged as entry fee on all boats authorized entry to any designated port within the territorial waters of Kosrae State and further classified as yachts, sailboats, and pleasure crafts;
- (2) Anchorage and Mooring Fees
 - (a) \$0.10 per gross registered ton per 24 hours or fraction thereof for vessels of specified tonnage;

Financial and Compliance Audit on Transshipment Fee
Kosrae Port Authority
Fiscal Years 2016 -2019

ANNEX 5: Public Auditor's Response to Management Letter

- (b) \$40.00 for yacht, sailboat, pleasure craft and related vessel docked for a period of 120 days or less and with additional \$1 charge per day for extensions of anchor schedule beyond 120 days.
- (3) Dockage Fee
- (a) \$0.14 per gross registered ton per 24 hours or fraction thereof for vessels of specified tonnage.
- (b) Vessels and boats defined as yachts, sailboats and pleasure boats and pleasure crafts shall be charged \$30 as dockage fee for maximum stay of 30 days at any officially designated port of entries in Kosrae State and within additional charge of \$1 per day for stay over 30 days and more.
- (4) Wharfage Fee
- (a) \$1.25 per revenue ton for cargo conveyed over the dock.
- (b) \$0.50 per metric ton of fuel conveyed from tanker to storage fee tank.
- (5) Transshipment Fee. A transshipment fee of \$1.25 per revenue ton of fish or other cargoes off-loaded or transferred onto a carrier vessel at the port or in the territorial waters of Kosrae State.
- (6) Handling Charges.
- (a) \$100 line handling fee per vessel.
- (b) \$50 line boat per service.
- (7) Navigational Aids Dues of \$15 per trip.
- (8) Passenger fee. There shall be a charge of \$3.00 for every person that boards a vessel through any port within the control of Kosrae Port Authority.

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ANNEX 5: Public Auditor's Response to Management Letter



GOVERNMENT OF KOSRAE
OFFICE OF THE PUBLIC AUDITOR
POST OFFICE BOX 727
KOSRAE, FEDERATED STATES OF MICRONESIA 96944
TELEPHONE: (691) 370-3440, FACSIMILE: (691) 370-3443

August 3, 2020

TO : Mr. William O. Tosie
Manager, KPA

From : Public Auditor, OPA

Subject : KPA Management Letter

In reference to the Kosrae State Code, Title 10.4, the Public Auditor has the following authority and responsibilities:

Inspect and audit personally, or by his duly authorized assistance, all accounts, books, and other financial records of the State Government, to include but not limited to, every branch, department, office, political subdivision, board, commission, agency, other public legal entity (owned, or partially owned, by the State), whether they receive public funds or not, and nonprofit organizations that receive public funds from the State Government.

Based on your management letter to the Public Auditor, Kosrae State Government, you make citation on the following:

1. Last sentence paragraph 1 mentioned **Fabricated Information** meaning to invent (something) in order to deceive.

Compliance audit performed by the our office was in conformity with the Generally Accepted Government Auditing Standard that dictates all audit should be planned and follow an audit program and methodology :

Methodology applied:

- a) Interview: KPA Staff
KPA Executive (June 15, 2020)
Kosrae Governor

b) Data Collection and analization:

Source: Luen Thai shipping documents

State Finance files

FSM Finance schedule of unloading and transfer of shipment

2. Also last sentence paragraph 2 "with no data to verify the amount of loss. Finding amounted to \$ 104,0457.19 was the result of analization of documents presented and action of the collecting agent (KPA). State Code clearly provide provision to COLLECT FEE the base of gross revenue tonnage of shipment multiplied the rate (1.25 per tonnage). Any uncollected legal fees shall be at loss for the state.

Note that the auditor assigned repeatedly asked your good office to provide written documents to substantiate legal basis of not collecting transshipment fee. Hence, no document of that effect was submitted to her.

Furthermore, all documents and result of program was checked and verified. This will be part of the working papers.

3. Legal view from the former Attorney General as mention in the response was not transmitted or showed to the assigned auditor as to effectively and approval of the legislature.

May this letter explains and clears out the misconception between the General Manager of KPA, staff and the Office of the Public Auditor.

With the above mention, I further request that necessary action is taken to ensure collection and deposited of the fee at the State Treasury.

Thank you,


Stoney Taulung

Xc: Lt. Governor
Speaker, KSL

AUDITOR'S COMMENTS

We would like to extend our appreciation to the Kosrae Port Authority for their cooperation and assistance throughout the course of our audit.

In compliance with Generally Accepted Government Auditing Standards, a copy of this draft report was shared with the KPA General Manager and staff to provide response to the findings.

In addition to providing copies to the KPA and Board Members, we also extend copies to the following officials:

1. Governor, Kosrae State
2. Speaker, 12th KSL
3. Members of the 12th KSL
4. Chief Clerk, Kosrae State Court
5. V6AJ Radio
6. Attorney General, Kosrae State

If there is any question and concern regarding this report, please contact the Office of the Public Auditor.



Stoney S. Taulung
Public Auditor

ACKNOWLEDGEMENT AND OPA CONTACT

Report No. FCA 02-2020

OPA Contact	Stoney S. Taulung, Public Auditor ksaduator@mail.fm
Acknowledgement The audit staff that make key contributions to the report	Emma P. Balagot, Audit Manager Alice S. George, Auditor IV Elizabeth Jonah, Auditor III Reed J. Floyd, Auditor I
OPA Mission	Conduct effective and efficient audits and Investigations to ensure that Government resources are properly managed
OFFICE CONTACT	Office of the Public Auditor Post Office Box 847 Tofol, Kosrae FSM 96944 Tel. # (691) 370-3766
Website	www.ksaopa.fm
Fraud Hotline	(691)370-3767