

**AGREEMENT
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE REPUBLIC OF PALAU
RESULTING FROM THE 2023 COMPACT OF FREE ASSOCIATION
SECTION 432 REVIEW**

The Government of the United States of America (the “Government of the United States”) and the Government of the Republic of Palau (the “Government of Palau”) (collectively, the “Signatory Governments”);

In furtherance of their close ties under the *Compact of Free Association Between the Government of the United States of America and the Government of the Republic of Palau*, done at Koror on January 10, 1986 (the “Compact”), and historic relationship following World War Two and U.S. administration of the Trust Territory of the Pacific Islands;

Recalling Section 432 of the Compact, which provides that, “Upon the fifteenth and thirtieth and fortieth anniversaries of the effective date of this Compact, the Government of the United States and the Government of Palau shall formally review the terms of this Compact and its related agreements and shall consider the overall nature and development of their relationship. In these formal reviews, the governments shall consider the operating requirements of the Government of Palau and its progress in meeting the development objectives set forth in the plan referred to in Section 231(a). The governments commit themselves to take specific measures in relation to the findings of conclusions resulting from the review. Any alteration to the terms of this Compact or its related agreements shall be made by mutual agreement and the terms of this Compact and its related agreements shall remain in force until otherwise amended or terminated pursuant to Title Four of this Compact.”;

Recalling the *Agreement Between the Government of the United States of America and the Government of the Republic of Palau following the Compact of Free Association Section 432 Review*, done at Honolulu on September 3, 2010, as amended by the *Agreement Between the Government of the United States of America and the Government of the Republic of Palau to Amend the Agreement Between the Government of the United States of America and the Government of the Republic of Palau following the Compact of Free Association Section 432 Review*, done at Koror on September 19, 2018 (the “2010 Compact Review Agreement, as amended”);

Recognizing the Government of Palau’s adoption of significant fiscal management policies, including but not limited to Palau’s Fiscal Responsibility and Debt Management Act of 2021, following the fifteenth anniversary Compact of Free Association Section 432 Review;

Having conducted the thirtieth anniversary review (the “Review”);

Sharing a vision of a strengthened partnership that will be lasting and continue to benefit both nations and the entire Pacific region;

Recognizing Palau’s economic challenges due to COVID-19 and geopolitics, resulting in a decline in tourism, which had been its largest industry, as well as challenges from climate impacts, such as rising sea levels and increased natural disasters;

Acknowledging the Government of Palau's commitment to responsible public financial management and its plans to continue with reforms to strengthen the same;

Noting the Government of Palau's commitment to national development planning;

Desiring to support Palau's economic health and development, and to provide a framework for the monitoring of U.S. economic assistance towards Palau's achievement of long-term economic stability and increased self-reliance; and

Having committed to take specific measures in relation to the findings and conclusions of the Review;

Hereby agree as follows:

Article 1. Annual Economic Assistance

(a) Annual Grant Assistance. The Government of the United States shall make available to the Government of Palau the amounts set forth in the table below for grants to support the operations of the Government of Palau. These funds shall be made available subject to the provisions of this Agreement and Appendix B to this Agreement.

<i>Fiscal Year</i>	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033
<i>Thousands of USD</i>	20,000	20,400	20,808	21,224	21,648	22,081	22,523	22,973	23,432	23,901
<i>Fiscal Year</i>	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043
<i>Thousands of USD</i>	24,379	24,867	25,364	25,871	26,388	26,916	27,454	28,003	28,563	29,134

(b) Assistance to support the operations of the Government of Palau provided under subparagraph (a) above shall be used exclusively for purposes related to education, health, climate adaptation and the environment, the administration of justice, and public safety, or for expenses related to the audits required under Section 1 of Appendix D to this Agreement, and shall be expended in accordance with Appendix B to this Agreement.

(c) Infrastructure Projects. The Government of the United States shall make available to the Government of Palau the amounts set forth in the table below for grants for infrastructure projects. These funds shall be made available on a project-by-project basis subject to the provisions of this Agreement and Appendix B to this Agreement.

Fiscal Year	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033
<i>Thousands of USD</i>	5,000	5,100	5,202	5,306	5,412	5,520	5,630	5,743	5,858	5,975
Fiscal Year	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043
<i>Thousands of USD</i>	6,095	6,217	6,341	6,468	6,597	6,729	6,864	7,001	7,141	7,284

(d) Assistance for infrastructure projects provided under subparagraph (c) above shall be used exclusively for projects identified in Palau’s “National Infrastructure Investment Plan 2021-2030” as that plan is in effect on the day prior to entry into force of this Agreement, or, subject to mutual written decision by the Signatory Governments, a successor plan or plans, and shall be expended in accordance with Appendix B to this Agreement.

(e) Infrastructure Maintenance Fund. The Government of Palau shall provide an amount of not less than \$1 million a year to the Infrastructure Maintenance Fund established by the 2010 Compact Review Agreement, as amended, beginning in fiscal year 2024 and through fiscal year 2043. The Government of the United States shall make available to the Government of Palau the amounts set forth in the table below for grants to deposit into the Infrastructure Maintenance Fund. These funds shall be made available subject to the provisions of this Agreement and Appendices A and B to this Agreement. Such funds are in addition to the funds provided by the Government of the United States to the Infrastructure Maintenance Fund pursuant to section 2(a) of the 2010 Compact Review Agreement, as amended.

Fiscal Year	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033
<i>Thousands of USD</i>	5,000	5,100	5,202	5,306	5,412	5,520	5,630	5,743	5,858	5,975
Fiscal Year	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043
<i>Thousands of USD</i>	6,095	6,217	6,341	6,468	6,597	6,729	6,864	7,001	7,141	7,284

(f) The Infrastructure Maintenance Fund shall be used exclusively for the routine and periodic maintenance of capital improvement projects financed by funds provided by the Government of the United States, or as otherwise mutually decided by the Signatory Governments. Routine and periodic maintenance includes

upgrading, refurbishing, and renovating facilities but does not include extensions, expansions, or repurposing of facilities. Such funds shall be expended in accordance with Appendices A and B to this Agreement.

(g) Assistance provided under this Article may not be used to fund the Office of the President of Palau, Olbiil Era Kelulau (Palau National Congress), the Judiciary, or block grants to Palau's state governments.

(h) The Government of the United States shall consider the continuation of annual assistance after fiscal year 2043 on the basis provided for in subparagraphs (a) and (b) of this Article and subject to an agreement between the Signatory Governments.

Article 2. Fiscal Consolidation Assistance

Beginning in fiscal year 2024, the Government of the United States shall make available to the Government of Palau grants, in the amount of \$10 million a year for six years, to deposit into a fund (the "Fiscal Consolidation Fund") to assist the Government of Palau in paying debts that it incurred prior to April 1, 2023. The Fiscal Consolidation Fund shall be governed by this Agreement and Appendix C to this Agreement.

Article 3. Section 211(f) Fund

(a) Beginning in fiscal year 2024, the Government of the United States shall make available to the Government of Palau grants, in the amount of \$50 million a year for two years, to deposit into the fund referred to in Section 211(f) of the Compact ("Section 211(f) Fund").

(b) The funds distributed from the Section 211(f) Fund shall be used exclusively for purposes related to education, health, climate adaptation and the environment, the administration of justice, and public safety, or for expenses related to the audits required under Section 1 of Appendix D to this Agreement. The funds distributed from the Section 211(f) Fund may not be used to fund the Office of the President of Palau, Olbiil Era Kelulau (Palau National Congress), the Judiciary, or block grants to Palau's state governments. Reporting on and use of the funds distributed from the Section 211(f) Fund shall be governed by the Agreement Between the Government of the United States and the Government of Palau Regarding Economic Assistance Concluded Pursuant to Section 211(f) of the Compact of Free Association, done at Koror on January 10, 1986 (the "Section 211(f) Agreement"), this Agreement, and Appendix B to this Agreement.

(c) The Government of Palau may make withdrawals from the Section 211(f) Fund of up to \$15 million annually beginning in fiscal year 2024 through fiscal year 2026. Notwithstanding the provisions of Section 211(f) of the Compact and the Section 211(f) Agreement, beginning in fiscal year 2027, the Government of Palau may make annual withdrawals of up to 4 percent of the three-year moving average of the value of the Section 211(f) Fund at the end of each of the most recently available completed three fiscal years, or \$15 million, whichever is greater.

(d) Notwithstanding the provisions of Section 211(f) of the Compact and the Section 211(f) Agreement, the Signatory Governments may mutually decide in writing on additional withdrawals as described below, which shall be used exclusively in extraordinary circumstances to meet emergency needs relating to education, health, climate adaptation and the environment, the administration of justice, and public safety following an official declaration of an emergency by the President of Palau in accordance with the laws of Palau.

- i. The Government of Palau may withdraw up to \$5 million annually beginning in fiscal year 2024 through fiscal year 2026.
- ii. Beginning in fiscal year 2027, the Government of Palau may make annual withdrawals of up to 1.5 percent of the three-year moving average of the value of the Section 211(f) Fund at the end of each of the most recently available completed three fiscal years, or \$5 million, whichever is greater.

Article 4. Fiscal Management

In order to increase the long-term economic stability of Palau and to maximize the benefits of the economic assistance provided by the Government of the United States, the Government of Palau shall continue to undertake economic, legislative, financial, and management improvements, and shall give due consideration to recommendations from the International Monetary Fund (IMF), the Asian Development Bank (ADB), the Pacific Financial Technical Assistance Centre (PFTAC), and the Government of the United States. The Government of Palau shall adhere to sound fiscal principles as outlined in its Fiscal Responsibility and Debt Management Act (FRDMA) of 2021 and shall notify the IMF and ADB, and consult with the Government of the United States, including the Department of the Treasury, regarding any amendments to the FRDMA or successor legislation. To the extent that anticipated fiscal and economic reforms recommended by the aforementioned entities require substantial financial resources to design, implement, or mitigate negative impacts, the Government of Palau may request further consultations with the Government of the United States to discuss assistance.

Article 5. Reporting and Auditing

(a) The Government of Palau shall report by the first day of the fourth quarter of each fiscal year, in the annual report it submits under Section 231(b) of the Compact, on the status and use of all funds provided under this Agreement during the previous fiscal year.

(b) All funds provided under this Agreement shall be subject to a financial and compliance audit and other requirements in accordance with the provisions of Appendix D to this Agreement. The financial information relating to this funding shall conform to the standards of the Government Accounting Standards Board.

Article 6. Programs and Services

(a) The Government of the United States shall continue to make available to the Government of Palau through fiscal year 2043, in accordance with and to the extent provided by mutual agreement, the services and programs provided under the Federal Programs and Services Agreement Concluded Pursuant to Article II of Title Two and Section 232 of the Compact of Free Association, done at Koror on January 10, 1986, as amended.

(b) With the exception of the services and programs covered by paragraph (a) above, the Government of the United States shall make available to the Government of Palau the services and programs that were available to the Government of Palau on the date of entry into force of this Agreement to the extent that such services and programs continue to be available to State and local governments of the United States, unless the Congress of the United States provides otherwise.

Article 7. Economic Advisory Group

(a) The Advisory Group on Economic Reform established by the 2010 Compact Review Agreement, as amended, shall continue to exist until otherwise agreed by the Signatory Governments but shall be renamed “The Economic Advisory Group for Palau” (the “Advisory Group”). Its purpose shall continue to be to contribute to the economic growth and sustainability of Palau by recommending economic, financial, and fiscal management measures.

(b) Upon entry into force of this Agreement, the members of the Advisory Group as of April 1, 2023, shall be redesignated for a three-year term, after which the Signatory Governments shall designate members in accordance with this paragraph and giving favorable consideration to current members. The Advisory Group shall be comprised of five (5) members, two (2) of whom shall be designated by the President of Palau, two (2) of whom shall be designated by the Secretary of the Interior of the United States or their designee, and the fifth of whom shall be chosen by the Secretary of the Interior of the United States or their designee from a list of not fewer than three (3) persons not residents of Palau submitted by the President of Palau. In the event that the Secretary of the Interior of the United States or their designee rejects the persons enumerated in the list submitted by the President of Palau, then the fifth member shall be chosen by the President of Palau from a list of not fewer than three (3) persons submitted by the Secretary of the Interior of the United States or their designee. In making these designations, due consideration shall be given to the mix of expertise that would be most beneficial to the work of the Advisory Group. The Advisory Group shall continue to be chaired by a member chosen by its members from among their number.

(c) The Advisory Group shall meet at least twice a year. Each Signatory Government shall provide the necessary support for its designated members on the Advisory Group. Support for the fifth member shall be borne equally by the Signatory Governments.

(d) The Advisory Group shall report and make recommendations to the Signatory Governments on these matters and otherwise as it deems advisable by May 1 of each year.

(e) Subject to the availability of appropriated funds, the Government of the United States shall provide for technical and administrative assistance for the Advisory Group and support necessary for it to accomplish its purpose.

Article 8. Annual Economic Consultations

(a) The Signatory Governments shall conduct annual economic consultations no later than August 30 of each year that assistance is provided under Article 1 of this Agreement. The consultations shall consider:

- i. The overall bilateral economic relationship;
- ii. Palau’s economic situation;
- iii. The status of and the Government of Palau’s use of all funds provided under this Agreement;
- iv. The audits required under Section 1 of Appendix D to this Agreement and responses to audit findings;

- v. The Government of Palau's implementation of and updates to the official national development plan described in Section 461 of the Compact and referenced in Section 231(a) of the Compact, and any other relevant plans;
 - vi. The report described in Section 231(b) of the Compact, including the information described in Article 5(a) of this Agreement;
 - vii. The economic, financial, and management measures and recommendations referenced in Article 7 of this Agreement;
 - viii. The Government of Palau's achievements in economic and financial management, including as reflected in assessments and reports by the Advisory Group, the International Monetary Fund, the Asian Development Bank, and the Public Expenditure and Financial Accountability program, as available; and
 - ix. Other pertinent issues or measures taken by the Signatory Governments.
- (b) The Signatory Governments are committed to the consultations being constructive, meaningful, substantive, and comprehensive.

Article 9. Passports

- (a) Section 141 of Article IV of Title One of the Compact shall continue to be construed and applied as if it reads as follows:

“Section 141

(a) Any person in the following categories may be admitted to, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions without regard to paragraphs (5) or (7)(B)(i)(II) of section 212(a) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(5) or (a)(7)(B)(i)II, provided that the passport presented to satisfy section 212(a)(7)(B)(i)(I) of such Act is a valid unexpired machine-readable passport that satisfies the internationally accepted standard for machine readability:

- (1) a person who, on September 30, 1994, was a citizen of the Trust Territory of the Pacific Islands, as defined in Title 53 of the Trust Territory Code in force on January 1, 1979, and has become and remains a citizen of Palau;
- (2) a person who acquires the citizenship of Palau, at birth, on or after the effective date of the Constitution of Palau; or
- (3) a naturalized citizen of Palau, who has been an actual resident of Palau for not less than five years after attaining such naturalization and who holds a certificate of actual residence.

Such persons shall be considered to have the permission of the Secretary of Homeland Security of the United States to accept employment in the United States.

(b) The right of such persons to establish habitual residence in a territory or possession of the United States may, however, be subjected to non-discriminatory limitations provided for:

(1) in statutes or regulations of the United States; or

(2) in those statutes or regulations of the territory or possession concerned which are authorized by the laws of the United States.

(c) Section 141(a) does not confer on a citizen of Palau the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. Section 141(a), however, shall not prevent a citizen of Palau from otherwise acquiring such rights or lawful permanent resident alien status in the United States.”

Article 10. Effective Date, Amendment, and Duration

(a) This Agreement shall enter into force on the date of the last note in an exchange of diplomatic notes by which the Signatory Governments inform each other that all of their respective internal procedures necessary for entry into force have been fulfilled.

(b) This Agreement shall supersede sections 4(d)-(g) and Appendices A and B of the 2010 Compact Review Agreement, as amended. To the extent there is a conflict between this Agreement and the 2010 Compact Review Agreement, as amended, this Agreement shall govern.

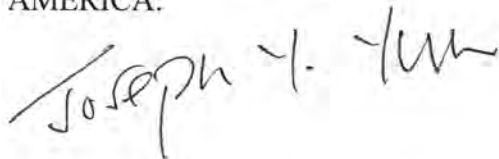
(c) This Agreement may be amended at any time by the mutual written consent of the Signatory Governments.

(d) This Agreement shall remain in full force and effect until terminated by mutual written consent of the Signatory Governments, or until termination of the Compact, whichever occurs first.

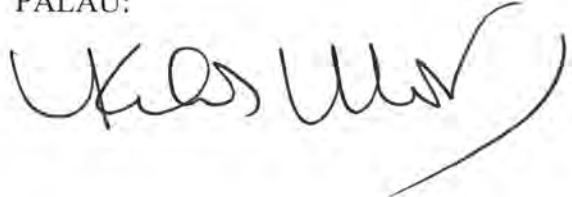
IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective governments, have signed this Agreement.

DONE at Port Moresby on May 22, 2023.

FOR THE GOVERNMENT OF
THE UNITED STATES OF
AMERICA:



FOR THE GOVERNMENT OF
THE REPUBLIC OF
PALAU:



APPENDIX A - INFRASTRUCTURE MAINTENANCE FUND

Section 1. The \$3 million deposited into the Infrastructure Maintenance Fund pursuant to section 2(b) of the 2010 Compact Review Agreement, as amended, shall remain in the Infrastructure Maintenance Fund and not be expended for any purpose. All past and future income generated by the \$3 million shall be used exclusively for the maintenance of the Compact Road provided by the Government of the United States under Section 212 of the Compact.

Section 2. The Government of Palau shall provide a report to the Government of the United States no later than April 1 of each year detailing the use of expenditures from the Infrastructure Maintenance Fund during the most recent fiscal year. The Government of Palau shall maintain accounting procedures for the Infrastructure Maintenance Fund that are sufficient to permit the preparation of such reports and to permit the tracing of funds to a level of expenditure adequate to establish that such funds have been used in compliance with the Agreement.

Section 3. The Government of Palau shall also make available to the Government of the United States no later than April 1 of each year an annual maintenance plan which details expenditures from the Infrastructure Maintenance Fund during a succeeding fiscal year. The annual maintenance plan may be modified by mutual written decision of the Signatory Governments. In the event of exigent circumstances, the Government of Palau may temporarily alter the annual maintenance plan, in which case it shall notify the Government of the United States of the change and the reason for it as soon as practicable.

Section 4. Any monies deposited into the Infrastructure Maintenance Fund during a fiscal year remaining unexpended at the end of a fiscal year shall remain in the Infrastructure Maintenance Fund and may be expended in a subsequent year.

APPENDIX B - FISCAL PROCEDURES

Section 1. Definitions

For purposes of this Appendix, the following terms shall have the following meanings when capitalized:

“Actual Expenditures” means amounts spent directly on a project, program, or activity.

“Accrued Expenditures” means the charges incurred by the Government of Palau during a given period requiring the provision of funds for: (1) goods and other tangible property received; (2) services performed by employees, contractors, subcontractors, and other third party non-contractors or other recipients; and (3) other amounts becoming owed under programs for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.

“Annual Financial Report” means the report required under Section 5 of this Appendix.

“Annual Implementation Plan” means the plan required under Section 2 of this Appendix.

“Closeout” means the normal process by which the awarding agency determines that all applicable administrative actions and all required work on the Grant have been completed.

“Contract” means a Contract funded under a Grant. It also means a sub-contract under a Contract.

“Covered Telecommunication Equipment or Services” means video surveillance and telecommunications equipment or telecommunications or video surveillance services produced or provided by an entity that the United States Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country as defined in the United States Federal Acquisition Regulations 4.2101, or any successors.

“Direct Economic Assistance” means assistance provided by the Government of the United States to the Government of Palau under Article 1 of the Agreement, which includes the funds provided for annual grant assistance, the Infrastructure Maintenance Fund, and infrastructure projects.

“Fiscal Year” means each one-year period beginning October 1 and ending on the next following September 30. Each Fiscal Year shall be designated by the number of the calendar year in which such Fiscal Year ends. For example, “Fiscal Year 2024” means the Fiscal Year ending in calendar year 2024.

“Grant” means an award of Direct Economic Assistance in the form of money, or property in lieu of money, by the Government of the United States to the Government of Palau. The term does not include technical assistance instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. The term does not include funds provided to the Section 211(f) Fund. Acceptance of a Grant from the

Government of the United States creates a legal duty on the part of the Government of Palau to use funds in accordance with the requirements of the Agreement, this Appendix, and the terms and conditions of the Grant.

“Obligations” means orders placed, Contracts and sub-contracts awarded, goods and services received, and similar transactions by the Government of Palau during a given period that will require payment by the Government of Palau in the same or future period. Nothing in the Agreement or this Appendix shall be construed to mean that granted funds are unobligated for purposes of United States domestic law.

“Questioned Cost” means a cost that is questioned by an auditor because of an audit finding: (1) that resulted from a violation or possible violation of a statute, regulation, or the terms and conditions of an award from the Government of the United States, including for funds used to match funds provided by the Government of the United States; (2) where the costs, at the time of the audit, are not supported by adequate documentation; or (3) where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.

“Section 211(f) Fund Distributions” means distributions from the Section 211(f) Fund.

“Suspension” means, depending on the context, either (1) temporary withdrawal of the authority to obligate Grant funds pending corrective action by the Government of Palau or its recipients; or (2) an action taken to immediately exclude a person from participating in Grant transactions for a period, pending completion of an investigation and such legal or debarment proceedings as may ensue.

Section 2. Annual Implementation Plan

- (a) No later than the second Tuesday of July of each year, the Government of Palau shall develop in conjunction with its budget process and provide to the Government of the United States an annual implementation plan (“Annual Implementation Plan”) as described below.
- (b) The Annual Implementation Plan shall contain:
 - i. Proposed uses of each type of Direct Economic Assistance;
 - ii. Proposed uses of Section 211(f) Fund Distributions;
 - iii. The reports generated by the Government of Palau pursuant to Title 40, Section 323 (b) and (g) and Section 329 (b)(1-2) of the Palau National Code, as these provisions are in effect on the day before the entry into force of the Agreement, or on such date as otherwise mutually decided in writing by the Signatory Governments; and
 - iv. For infrastructure maintenance activities, an annual maintenance plan and related budget for reactive, preventative, repetitive, non-recurrent, and emergency-generated maintenance of U.S.-financed capital improvement projects. The annual maintenance plan shall include descriptions and schedules of planned activities and shall identify the related costs.
- (c) The proposed uses of Direct Economic Assistance must further one of the relevant purposes described in Article 1 of the Agreement and be in accordance with the official national development plan described in Section 461 of the Compact and referenced in Section 231(a) of the Compact, or must be for

expenses related to audits required under Section 1 of Appendix D to the Agreement, or may be for other purposes as mutually decided in writing by the Signatory Governments.

- (d) The proposed uses of Section 211(f) Fund Distributions must further one of the purposes described in Article 3 of the Agreement or otherwise be used for expenses related to the audits required under Section 1 of Appendix D to the Agreement.
- (e) The Government of the United States may provide the Government of Palau with any recommendations for correction of the Annual Implementation Plan. The Government of Palau shall respond to each recommendation within 30 days.
- (f) The Government of the United States may decline to issue all or part of a Grant, pending resolution of the identified issue, if:
 - i. There is any Questioned Cost in an audit described in Section 1 of the Appendix D to the Agreement that the Government of the United States has not accepted as satisfactorily resolved, in which case the amount not granted shall be no more than the amount of the Questioned Cost; or
 - ii. The Government of the United States determines that the Government of Palau has not submitted an Annual Financial Report that meets the requirements of Section 5 of this Appendix, has not submitted an Annual Implementation Plan that meets the requirements of this Section, or has not conducted an audit that meets the requirements of Appendix D to the Agreement; or
 - iii. The Government of the United States determines that the Government of Palau plans to use or has used assistance provided under the Agreement for a purpose not contemplated in the Agreement, or that the Government of Palau is otherwise in breach of the Agreement or any Grant terms and conditions, in which case the amount not granted shall be no more than the amount at issue.
- (g) The Government of the United States shall forward official Grant award notices to the Government of Palau as soon as practicable after October 1 of each year. The Government of Palau shall signify its acceptance of Grants by accepting payments of the Grants.

Section 3. Grant Administration

- (a) The President of Palau, or the President's designee, acting on behalf of the Government of Palau shall be responsible for all certifications to the Government of the United States under this Appendix.
- (b) Grant Terms and Conditions
 - i. After consultation with the Government of Palau, the Government of the United States may impose terms and conditions on Grants that are determined by the Government of the United States to be necessary. The Government of the United States shall notify the Government of Palau in writing of its intent to impose these terms and conditions. The notification shall specify:
 - a. The terms and conditions; and

- b. The method by which the Government of Palau may request reconsideration of the terms and conditions imposed.
- ii. Should the Government of Palau be dissatisfied with the result of any reconsideration, it may avail itself of the remedy for resolving disputes described in subparagraph d(i) of this Section.
- iii. The Government of Palau shall ensure compliance with the Grant terms and conditions by any of its recipients.

(c) Payment Procedures

- i. Establishment of Account. The Government of Palau shall establish an account with a bank or commercial financial institution organized in accordance with the laws of the United States or a state or territory of the United States, or, subject to the approval of the Government of the United States, a bank or commercial financial institution organized in accordance with the laws of Palau, in either case for the purpose of receiving payments of Grant funds. The Government of Palau shall provide the Government of the United States with transfer instructions with respect to such account.
- ii. Periodic Payments. For assistance provided under Articles 1(a) and (1)(c) of the Agreement, payments shall be made as soon as practicable after the first business day of each fiscal quarter to fund the financial requirements of that fiscal quarter. In general, the amounts of payments should match the percentage of the Fiscal Year to be completed during the advance period or may be based on an outlay analysis performed by the Government of Palau and concurred with by the Government of the United States.
- iii. Payments for Accrued Expenditures. Grants for infrastructure projects provided under Article 1(c) of the Agreement shall be paid based on Actual Expenditures or Accrued Expenditures, provided the Government of Palau maintains procedures to minimize the time elapsing between the disbursement of funds to the Government of Palau and the Government of Palau's payment of the Accrued Expenditure. The Government of the United States may request a copy of the set of construction plans and specifications, a revised detailed cost estimate, and a detailed construction schedule prior to disbursing funds.

(d) Breach of the Compact, the Agreement, or Grant Terms and Conditions

- i. Withholding of Payments. The Government of the United States may withhold payments with respect to any Grant if the Government of Palau is in breach of the Compact, the Agreement, or the terms and conditions of the Grant, or is indebted to the Government of the United States with respect to the Grant. The amount of the withholding shall not be more than an amount proportional to the breach. Payments withheld shall be released upon subsequent compliance. If the Government of Palau disputes the withholding of payments with respect to a Grant, it may submit such dispute in writing to the Government of the United States. That dispute must be initiated within 30 days of the receipt of notice of withholding of payment. In such case, the dispute shall be resolved through consultation in good faith between the Signatory Governments. If such dispute cannot be resolved through consultation, the conference

and dispute resolution procedures set forth in Article II of Title Four of the Compact shall apply.

- ii. Suspension. The Government of the United States may suspend payment with respect to any or all Grants if the Government of the United States reasonably determines that the Government of Palau has engaged in gross negligence, willful misconduct, or material breach of the Grant terms and conditions or the Agreement. If the Government of Palau disputes the Suspension of a Grant under this subparagraph, it may seek to resolve the matter through the conference and dispute resolution procedures set forth in Article II of Title Four of the Compact. The Suspension of payment shall stand unless otherwise determined through such conference and dispute resolution process. The Government of Palau shall not obligate funds during a Suspension of a Grant unless expressly authorized by the Government of the United States. Expenditures which are necessary and reasonably unavoidable are allowable if the costs result from Obligations that were properly incurred before the effective date of Suspension and are not in anticipation of it.

Section 4. Financial Management

- (a) The Government of Palau shall expend and account for Direct Economic Assistance and Section 211(f) Fund Distributions in accordance with its laws and procedures for expending and accounting for its own funds.
- (b) Fiscal control, accounting procedures, and financial management systems of the Government of Palau and its other recipients shall be sufficient to:
 - i. Permit preparation of reports required by the Agreement and the Section 211(f) Agreement; and
 - ii. Permit the tracing of funds to a level of revenues and expenditures adequate to establish that such funds have been used in compliance with the provisions of the Agreement and any other applicable agreements.

Section 5. Annual Financial Report

- (a) No later than 180 days after the end of each Fiscal Year, the Government of Palau shall, except in exigent circumstances as mutually decided in writing by the Signatory Governments, submit to the Government of the United States an annual financial report ("Annual Financial Report") that includes:
 - i. A report containing: (1) a statement of revenues and expenditures for governmental fund types and (2) a comparison of budget and Actual Expenditures by function for governmental fund types;
 - ii. A report for all Direct Economic Assistance and Section 211(f) Fund Distributions containing a budget execution report for each function and specifying major offices, cost centers, and budget activities;
 - iii. A financial report for each Grant on form Standard Form 425 or any successors thereto, as issued by the Government of the United States from time to time; and

- iv. A report that identifies any income earned from the amounts provided by the Government of the United States to the Section 211(f) Fund pursuant to Article 3(a) of the Agreement.
- (b) The Annual Financial Report shall be used to monitor the general budget and fiscal performance of the Government of Palau and to monitor disbursement or outlay information for Direct Economic Assistance and Section 211(f) Fund Distributions.
- (c) The Government of the United States may extend the due date of the Annual Financial Report upon receiving a justified request from the Government of Palau.
- (d) The Government of Palau shall report on a cash or accrual basis consistent with its own policies.

Section 6. Contracts and Procurement

- (a) Direct Economic Assistance and Section 211(f) Fund Distributions may not be used for an award or Contract to any party which is debarred, suspended, or otherwise excluded from and ineligible for participation in United States assistance programs. A list of those parties that are debarred, suspended, or otherwise excluded from or ineligible for participation may be found in the System for Award Management list maintained by the General Services Administration (“SAM Exclusions List”) or any successor list. The Government of Palau shall ensure that Direct Economic Assistance and Section 211(f) Fund Distributions do not go to those parties identified in the SAM Exclusions List or any successor list.
- (b) Direct Economic Assistance and Section 211(f) Fund Distributions may not be used for an award or Contract to procure or obtain equipment, services, or systems that use Covered Telecommunications Equipment or Services as a substantial or essential component of any system, or as critical technology as part of any system, unless the Government of the United States waives this prohibition.
- (c) Direct Economic Assistance and Section 211(f) Fund Distributions may not be used for any award or Contract to an enterprise that has more than a fifty percent share owned by a State other than the United States or Palau, unless the Signatory Governments mutually decide in writing to waive this prohibition.
- (d) Procurement by the Government of Palau when using Direct Economic Assistance or Section 211(f) Fund Distributions shall be subject to Title 40, Chapter 6 of the Palau National Code, as these provisions are in effect on the day before entry into force of the Agreement, or on such date as otherwise mutually decided in writing by the Signatory Governments.
- (e) The Government of Palau may request, and the Government of the United States shall favorably consider, technical assistance for procurement and financial management improvements.

Section 8. Reconciliation and End-of-Grant Requirements

- (a) The Government of the United States shall reconcile Grants at the end of the Grant’s period of availability and evaluate the Annual Financial Report to determine compliance with the Grant terms and conditions.

(b) For all funds specified in Article 1 of the Agreement:

- i. Any funds that were specified in Article 1(c) of the Agreement, or have otherwise been concurred with in an Annual Implementation Plan to be used for infrastructure, and that have not been granted by the Government of the United States shall remain available through Fiscal Year 2043 to be granted in accordance with the Annual Implementation Plan and shall be governed by the Agreement, except that the Signatory Governments may mutually decide in writing at the end of each Fiscal Year to deposit any such funds, or any portion thereof, into the Section 211(f) Fund. If any such funds have not been granted by the end of Fiscal Year 2043, such funds shall be deposited into the Section 211(f) Fund.
- ii. At the end of each Fiscal Year beginning in Fiscal Year 2025, any funds from the prior Fiscal Year, as set forth in the table in Article 1(a) of the Agreement, that have not been granted by the Government of the United States shall be deposited into the Section 211(f) Fund. This subparagraph shall not apply to amounts not granted pursuant to Section 2(f) of this Appendix.
- iii. Any funds that have been granted by the Government of the United States and remain active on such Grant at the end of each Fiscal Year covered by the Agreement and at the end of Fiscal Year 2044, regardless of whether such funds have been obligated by the Government of Palau, shall remain active on the Grant, consistent with the terms and conditions of the Grant, and such funds shall be governed by the Agreement.
- iv. Any funds that are returned to the Government of the United States following Closeout of a Grant shall be deposited into the Section 211(f) Fund.

(c) Any funds deposited into the Section 211(f) Fund under paragraph (b) of this Section, and any distributions made therefrom, shall thereafter be governed by the Agreement, the Section 211(f) Agreement, and the Compact.

Section 9. Withdrawal of Contributions

The Government of the United States may withdraw from the Section 211(f) Fund the funds referred to in Article 3(a) of the Agreement, and any undistributed income derived therefrom in the following circumstances:

- (a) The Government of the United States determines, after consultation with the Government of Palau, that the Government of Palau grossly failed to use the Section 211(f) Fund Distributions for the purposes described in Article 3 of the Agreement. Prior to any such action, the Signatory Governments shall seek to resolve any concerns through the mechanisms available in Section 2(f) or Section 3(d) of this Appendix. If no resolution is reached, withdrawals from the Section 21(f) Fund shall be proportional in nature and shall be subject to the conference and dispute resolution procedures set forth in Article II of Title Four of the Compact.

- (b) The Government of the United States determines that the Government of Palau has failed to fulfill its obligations under Section 311 or Section 312 of the Compact. Prior to the Government of the United States taking the action authorized in this Section with respect to the Section 211(f) Fund, the Signatory Governments shall have exhausted the process provided for in Section 351 of the Compact.

APPENDIX C - FISCAL CONSOLIDATION FUND

Section 1. The funds provided by the Government of the United States pursuant to Article 2 of the Agreement shall be deposited into an interest-bearing account in either a bank or commercial financial institution organized in accordance with the laws of the United States or a State or territory of the United States, or, subject to the approval of the Government of the United States, a bank or commercial financial institution organized in accordance with the laws of Palau. The funds deposited into this account and any interest accrued thereon shall constitute the Fiscal Consolidation Fund.

Section 2. All debts to be paid from the Fiscal Consolidation Fund must be properly documented as legitimate debts of the Government of Palau in conformity with generally accepted accounting principles.

Section 3. The Fiscal Consolidation Fund shall be used exclusively for the following purposes:

- (a) To discharge debts owed by the Government of Palau to the Asian Development Bank (ADB) that were incurred prior to April 1, 2023; or
- (b) Subject to the approval of the Government of the United States, to discharge any debts owed by the Government of Palau to Taiwan, including any entity owned or controlled by Taiwan, that were incurred prior to April 1, 2023.

Section 4. Until the Fiscal Consolidation Fund is depleted, the Government of Palau shall provide a report to the Government of the United States no later than March 31 of each year detailing the use of expenditures from the Fiscal Consolidation Fund.

APPENDIX D - AUDIT RESPONSIBILITIES AND STANDARDS

Section 1. The Government of Palau shall perform a financial and compliance audit, within the meaning of the United States Single Audit Act, as amended (31 U.S.C. 7501 et seq.), or any successor law, of the uses of the funding provided pursuant to the Agreement for each fiscal year during which the Agreement is in effect. The results of these audits shall be available no later than the last day of the third quarter of the fiscal year following the end of the fiscal year under review. The costs of these audits shall be paid for from funds provided under Articles 1(a) or 3 of the Agreement.

Section 2. In conducting the audits required under this Appendix, the auditors shall consider relevant laws and regulations of the United States and Palau, including U.S. laws and regulations on the conduct of audits, and Palauan laws and regulations which relate in a material, substantial, or direct way to financial statements and operations of the Government of Palau.

Section 3. Audit officials or agents of the Government of the United States may perform audits on the use of all funding provided pursuant to the Agreement. The Government of the United States is responsible for all costs attendant to the discharge of this authority. Audit officials and agents of the Government of the United States are the officials, employees, and agents of the Government of the United States who are responsible for the discharge of its audit responsibilities, including those of the Comptroller General of the United States (“Comptroller General”) and any Inspector General of an agency of the Government of the United States with programs operating in or otherwise serving Palau. While present in Palau for the purposes of this Appendix, audit officials and agents of the Government of the United States shall be immune from civil and criminal process relating to words spoken or written and all acts performed by them in their official capacity and falling within their functions, except insofar as such immunity may be expressly waived by the Government of the United States. The Comptroller General, the Comptroller General’s duly authorized representatives, and other audit officials and agents of the Government of the United States, shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by a competent judicial authority, and such persons shall enjoy immunity from seizure of personal property, immigration restrictions, and laws relating to alien registration, fingerprinting, and the registration of foreign agents. Such persons shall enjoy the same taxation exemptions as are set forth in Article 34 of the Vienna Convention on Diplomatic Relations. The privileges, exemptions and immunities accorded under this section are not for the personal benefit of the individuals concerned but are to safeguard the independent exercise of their official functions. Without prejudice to those privileges, exemptions, and immunities, it is the duty of all such persons to respect the laws and regulations of the Government of Palau.

Section 4. The authority of the Government of the United States set forth in this Appendix shall continue for at least three (3) years after the last element of assistance by the Government of the United States under the Agreement has been provided or expended.

Section 5. Audit officials and agents of the Government of the United States shall provide the Government of Palau with advance notice of the specific dates and nature of their visits prior to entering Palau and shall show verifiable identification to officials of the Government of Palau when seeking access to records. In the performance of their responsibilities under this Agreement, audit officials and agents of the Government of the United States shall have due regard for the laws of

the Republic of Palau and the duties and responsibilities of the officials of the Government of Palau. Officials of the Government of Palau shall cooperate fully to the extent practicable with the United States audit officials and agents to enable the full discharge of their responsibilities.

Section 6. The Government of Palau shall cooperate fully to the extent practicable with the Comptroller General in the conduct of such audits as the Comptroller General determines necessary in accordance with this Appendix to enable the full discharge of the Comptroller General's responsibilities. Audit officials from the executive branch of the Government of the United States should avoid duplication between their audit programs and those of the United States Government Accountability Office.

Section 7. The Government of Palau shall provide audit officials and agents of the Government of the United States with access, without cost and during normal working hours, to all records, documents, working papers, automated data, and files which are relevant to the uses of funding received pursuant to the Agreement by the Government of Palau. To the extent that such information is contained in confidential official documents, the Government of Palau shall undertake to extract information that is not of a confidential nature and make it available to the audit officials and agents of the Government of the United States in the same manner as other relevant information or to provide such information from other sources.

Section 8. In order to reduce the level of interference in the daily operation of the activities of the Government of Palau, audit officials and agents of the Government of the United States shall, to the extent practicable, inform the Government of Palau of their need for information, including the type of information and its relation to their annual audit schedule. To the extent practicable, the Government of Palau shall make available the information requested by audit officials and agents of the Government of the United States relevant to audits and available in a manner consistent with generally accepted accounting procedures that allows for the distinction of the assistance provided by the Government of the United States pursuant to the Agreement from any other funds of the Government of Palau. Such information shall be used and returned as quickly as accurate audit testing and surveying allow.

Section 9. The Government of Palau shall maintain records, documents, working papers, automated data, files, and other information regarding the funds provided by the Government of the United States pursuant to the Agreement for at least three (3) years after such funds were provided.

Section 10. Audit organizations, officials, and agents of the Government of the United States, including the Comptroller General and the Comptroller General's duly authorized representatives, shall provide the Government of Palau with at least thirty (30) days to review and comment on draft audit reports prior to release of the reports. The comments of the Government of Palau shall be included, in full, in the final audit reports. Should a draft audit report be revised based on the comments of the Government of Palau, the Government of Palau shall have an additional period of fifteen (15) days to review and comment on the report prior to its release and any further comments shall also be included in the report.



Note No. 047/MSUS/2023

The Ministry of State of the Republic of Palau presents its compliments to the Embassy of the United States of America, and with reference to the Agreement Between the Government of the Republic of Palau and the Government of the United States of America Resulting From the 2023 Compact of Free Association Section 432 Review, established at Port Moresby on May 22, 2023 (the "Agreement"), has the honor to convey the following:

- 1) A review of the signed Agreement has revealed that Article 1(h) misidentified the provisions of the Agreement to which this Article refers. The Government of the Republic of Palau proposes a correction of this error by replacing "subparagraphs (a) and (b) of this Article" in Article 1(h) with "subparagraphs (a) through (f) of this Article".
- 2) It is further noted that Appendix B of the Agreement does not include a Section 7, and as a result, Section 6 is followed by Section 8, with no missing text. The Government of the Republic of Palau additionally proposes to add a clarifying note at the bottom of the relevant page (p. 15) of the signed Agreement, which would read: "Note: The Signatory Governments did not include a Section 7 in Appendix B, and as a result Section 6 is followed by Section 8."

The Ministry has further the honor to request the concurrence of the Government of the United States on the proposed correction to and clarification of the Agreement, with this note and a note in reply thereto, expressing the approval of the Government of the United States of America, constituting an official correction of the Agreement in the manner set forth above, effective on the date of the Embassy's note.

The Ministry of State of the Republic of Palau avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

The National Capitol, REPUBLIC OF PALAU
14 June 2023



DIPLOMATIC NOTE



Note No. 120/2023

The Embassy of the United States of America conveys its compliments to the Ministry of State of the Republic of Palau and respectfully acknowledges receipt of note No. 047/MSUS/2023, dated 14 June 2023, from the Ministry concerning correction to and clarification of the Agreement Between the Government of the Republic of Palau and the Government of the United States of America Resulting From the 2023 Compact of Free Association Section 432 Review, done at Port Moresby on May 22, 2023 (the "Agreement"). The Embassy concurs with the proposal for correction and clarification set forth in the Ministry's note. The Embassy confirms that Appendix B of the Agreement does not include a Section 7, and as a result Section 6 is followed by Section 8, with no missing text, and that the Government of the United States of America also intends to add a clarifying note at the bottom of the relevant page (p. 15) of the signed Agreement. It would read: "Note: The Signatory Governments did not include a Section 7 in Appendix B, and as a result Section 6 is followed by Section 8."

The Ministry's note together with this note in reply constitute an official correction of the Agreement. The correction becomes effective on the date of this note.

The Embassy of the United States of America avails itself of this opportunity to once again convey to the Ministry of State of the Republic of Palau its highest esteem.

Embassy of the United States of America,
Koror, June 23, 2023



DIPLOMATIC NOTE