

Memorandum of Understanding

This is a Memorandum of Understanding ("MoU") between the Government of the Federated States of Micronesia (the "FSM"), represented by the Secretary of Transportation, Communications and Infrastructure ("TC&I"), and the College of Micronesia - FSM ("COM-FSM"), in connection with the re-opening and operation of a fisheries and maritime training institution in Yap State, commencing in 1999.

WHEREAS,

The FSM has identified maritime and fisheries training as a national priority;

The leadership of the FSM has decided that such training, to the extent appropriate, shall take place in Yap;

Since the closure of the former Micronesian Maritime Fisheries Academy ("MMFA") in Yap in December 1997, the FSM has been without a training institution in the maritime and fisheries field;

The facilities of the former MMFA on Yap are currently vacant and available;

The FSM has become a party to the STCW95 Convention which mandates internationally-approved minimum standards of training and competence for seafarers;

COM-FSM is willing and able to be the FSM's executing agency for purposes of meeting the FSM's training needs in the maritime and fisheries fields;

Both parties are anxious to get a suitable training program started as expeditiously as possible;

Both parties desire a reciprocal long-term commitment of resources;

The Congress of the Federated States of Micronesia (the "Congress") has appropriated \$370,000 for Fiscal Year 1999 in accordance with a budget from COM-FSM to fund the start-up of this project.

THEREFORE, the FSM and COM-FSM have come to an understanding as follows:

1. The FSM and COM-FSM shall establish facilities for maritime and fisheries training on Yap at the site of the former MMFA. The new training facilities shall provisionally also be known as MMFA.

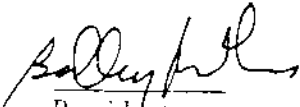
2. The FSM shall work with the State of Yap and the Yapese landowners concerned to enter into a lease for the land where MMFA is situated.
3. The FSM shall, to the extent possible under the Department of TC&I's current and projected needs, make available to COM-FSM on a secondment basis the services of Captain Matthias Ewarmai, currently with the Department of TC&I, to head and coordinate the start-up operations of MMFA. Captain Ewarmai's services shall be sought for a minimum of twelve (12) months. Over this period, he shall be paid out of the MMFA's budget. At the end of his services, Captain Ewarmai shall have the right to return to his position at the Department of TC&I, which shall be kept open for him for the duration, or one of a similar nature. COM-FSM and Captain Ewarmai shall negotiate a separate contract which will provide for compensation and benefits not less than his current compensation and benefits.
4. COM-FSM shall administer the training program, and shall recruit faculty, prepare curriculum, acquire books and teaching materials, recruit students and perform all other tasks as required in order to provide a first-class institution on a sustainable basis.
5. COM-FSM shall pursue appropriate regional accreditation for MMFA.
6. COM-FSM shall be responsible for the upkeep of equipment, buildings and grounds and shall maintain said equipment, buildings and grounds in good order and at standards acceptable to the appropriate accrediting organizations. An official independent inventory of the equipment and building shall be undertaken prior to the College assuming the responsibilities listed in this MoU. Any inventoried property or equipment to be used by MMFA will be provided by the FSM, and if any leases or purchases are required to acquire such property or equipment, the FSM shall enter into these leases or purchases. It is understood that the current budget is based upon the best advice available but a definitive budget cannot be prepared until the inventory.
7. The training provided by MMFA shall meet the criteria set forth in the STCW95 Convention and address the needs and requirements of the FSM fishing and maritime industries.
8. The curriculum and training provided at MMFA shall be subject to review by TC&I for compliance with the STCW95 Convention.
9. COM-FSM shall use its best efforts to ensure that the training program starts no later than Fall 1999; with the understanding that this schedule will not be feasible if Congress fails to appropriate sufficient funds by May 1999.
10. COM-FSM shall start presently the recruitment of the relevant administrators and faculty.

11. Employees of MMFA shall be subject to the personnel system and pay scale of COM-FSM. With the exception of seconded employees from the FSM, such employees shall not be considered part of the FSM Public Service System.
12. COM-FSM and the FSM shall seek actively sources of funding and technical assistance from foreign and domestic donors in order to enhance the financial stability of the training program.
13. COM-FSM shall not be liable for any liabilities incurred prior to the date of this MoU, including liabilities arising from the former MMFA's use of the land and the buildings thereon.
14. The establishment and running of MMFA is the priority of COM-FSM in entering into this MoU. However, if space and resources are available, COM-FSM shall have the right to use the land and facility for any other educational purposes consistent with its charter as a college and the terms of the lease for the land.
15. A budget of \$949,805 shall be submitted to Congress for FY2000. COM-FSM has the option of terminating its role in the delivery of training if it determines that the actual amount appropriated to be insufficient to allow delivery of effective training.
16. All commitments hereunder shall be contingent upon Congress passing the above appropriation bills. If Congress does not appropriate the full requested amount, the parties shall meet and confer to amend the terms of this MoU. If no agreement can be reached for new terms, then the parties shall have the right to terminate this project with no further obligations.
17. Termination. In order to effect an orderly termination of this program in the event of withdrawal of funding in future years, COM-FSM has the right to terminate all programs at MMFA, and to terminate its involvement with MMFA upon a six-month written notice to the President of the FSM. This right will only be invoked if COM-FSM, after consultation with the FSM, determines that it cannot operate the programs at MMFA based upon the current year's appropriation by the Congress in the manner outlined in this MoU, including any requirement to maintain appropriate accreditation. Once this six-month notice is given, if Congress does not appropriate further funds within six months of the receipt of the notice, this MoU shall be terminated by a second written notice to the President of the FSM, and the FSM shall assume full responsibility for the running, maintenance, and continuation or winding down of operations at MMFA, and shall be responsible for the costs of such activities as of the date of receipt of said second notice; provided, however, that COM-FSM shall be responsible for any costs associated with the termination of contracts between COM-FSM and third parties.

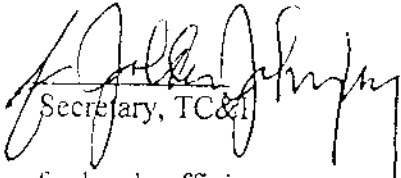
Done at Palikir this 10 th day of August, 1999

for the FSM

for COM-FSM

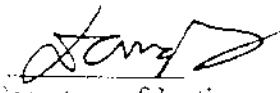
for 
President

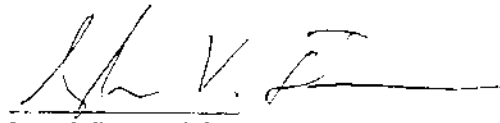

Chair, Board of Regents


Secretary, TC&I


President, COM-FSM

for legal sufficiency:

Acting 
Secretary of Justice


Legal Counsel for COM-FSM
