

# Pursuing Greater Independence for the Office of Chuuk State Public Auditor



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February 22, 2021

His Honorable Elimo Johnson, Governor  
Honorable Ishiro Choram, President House of Senate  
Honorable Innocente Oneisom, Speaker of the House of Representatives  
Honorable Members of the Chuuk State Legislature — The Senate and the House of Representatives

RE: Independence Strategy for the Office of Chuuk State Public Auditor

We have completed the development of strategies for the greater independence of the Office of Chuuk State Public Auditor (OCPA). The independence of the audit office is the key to delivering effective assurance to the citizens regarding transparency and accountability in the use of public funds, and in integrity in public management.

We have identified in our assessment of independence the following:

1. The legal framework governing OCPA must be enhanced.
2. Changes to some of the OCPA operational practices must be effectuated

The details of the assessment including the corresponding strategies that were formulated were discussed in the subsequent pages.

We are soliciting the support of the Chuuk State leadership particularly the Legislature for the passing of the enhancements to the public auditor's act and for helping in effectuating the changes to some of the OCPA operational practices. We have submitted the proposed amendments to the Legislature last April 2020.

We would like to acknowledge the invaluable support of PASAI for this project especially Tiolilusi Tiueti. PASAI Specialist Advisor and Prof. William E. Kosar, JD, LL.M., MCI Arb, CITP, Legal Adviser, Kenya. Professor Kosar reviewed this document for input and had commented that the document is fine as it is. We would also like to acknowledge the UNDP and the EU for supporting the work of Prof. Kosar for this project.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Manuel L. San Jose Jr.", with a long horizontal line extending to the right.

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## Executive Summary

The function of an Office of Public Auditor (OPA)<sup>1</sup> is always essential to promote good governance. The OPA gives assurance to the citizens regarding transparency and accountability in the use of public funds, and in integrity in public management. The key to delivering this assurance effectively is by being independent.

The basic principles of independence for public auditor's office originated in the Lima Declaration in 1970s, and in the Mexico Independence principles. Yet, the legal framework (constitution and public auditor's act) has yet to capture the full range of the Mexico independence principles (for example, by recognizing the auditor office as an institution, with financial independence and managerial/operational autonomy).

Thus, the overall objective of the Office of Chuuk State Public Auditor (OCPA) in this project is to achieve greater independence both in legal (legal framework- constitutional and law) and in practical terms (day-day-operation). With greater independence coupled with the right resources and right number of qualified & trained manpower, the OCPA would be able to deliver an effective value & benefits and can reasonably make a difference to the lives of Chuuk State citizens thru contributing to improving accountability, transparency, fight against corruption, by staying relevant and by leading by example. Further, with greater independence, the OCPA would be able to realize its objective of being a professional institution, undertaking the professional work of risk-based auditing.

The results of the self-assessment have indicated the lack of appropriate level of independence for the OCPA.

The assessment on independence generally disclosed that:

1. The SAI legal framework must be enhanced.
2. Changes to some of the SAI operational practices must be effected.

To improve the situation, the OCPA will pursue a strategic objective of greater SAI Independence. The following strategies would be pursued:

1. Develop and implement enhancements in the SAI legal framework (especially in the public auditor's act) and in actual operations.
2. Advocate and engage with relevant stakeholders.
3. Prepare and implement an audit strategic plan
4. Implement a communication strategy to enhance the quality and communication of the OCPA reports and activities.
5. Request for approval of budget for the right size of manpower for the office to reasonably deliver its mandate and job duties and responsibilities.
6. Monitor the SAI independence, prepare to be accountable and lead by example.

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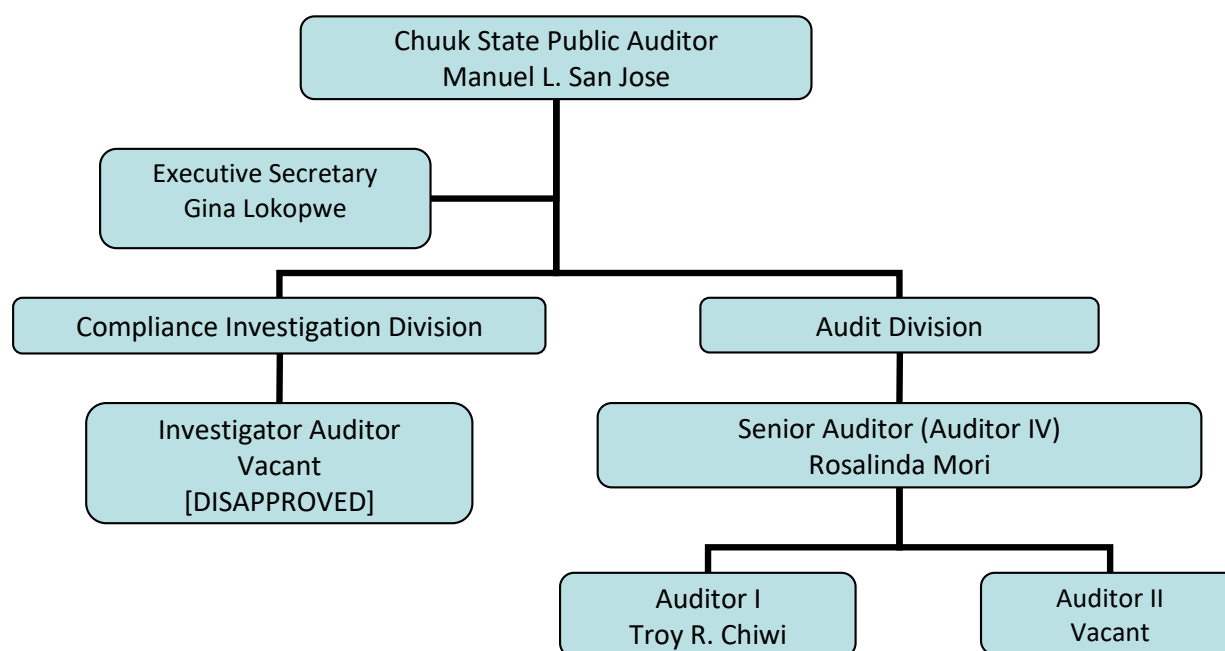
<sup>1</sup> The term Office of Public Auditor (OPA) is used interchangeably with Supreme Audit Institution (SAI), which is the government audit offices in some countries in the Pacific region.

## Background

### *Office of Chuuk State Public Auditor*

The Office of State Chuuk Public Auditor (OCPA) is the supreme audit institution (SAI) in the State of Chuuk, FSM. The OCPA had only one staff when the previous Public Auditor completed his term in December 2016. The current Public Auditor was officially appointed in October 2017 but assumed duties in February 2018. Thus, there was no Public Auditor for the fiscal year 2017. When the current Public Auditor assumed office, there was only one staff. In 2019, the number of staff had increased from one to four (including the Public Auditor and a Secretary) with the recruitment of two more staff. However, two auditors resigned in 2020 and have not been replaced as of the date of this report.

### *Organization Chart (As of CY 2019)*



### *Legal Framework*

The SAI mandate is provided for by both the Constitution of the Chuuk State under Article 8, Section 9, and the Truk (Chuuk) State Law 6-21. The SAI is explicitly mandated to do the following:

1. Conduct audits of all financial transactions of all branches, departments, offices, agencies, and instrumentalities of the government, and of all accounts kept by or for them. The Auditor shall certify the accuracy of all financial statements issued by the State Government.

2. Monitor and investigate all contracts to which the State is a party to ensure compliance with all State bidding laws (Contract Audit)
3. Review the system of accounts proposed to be established by any branch, department, office, agency, or instrumentality of the State, including public corporations.
4. If there is a reasonable suspicion of misuse of government funds or other fiscal improprieties, the State Auditor shall investigate all relevant information and report the findings to the Legislature.
5. Subpoena through the Legislature the production of things if they are not provided.

The detailed functions and responsibilities of the office are shown in *Exhibit A*.

### *Importance of Independent SAI*

An independent SAI would be able to accomplish its tasks objectively and effectively and would be protected against any form of influence or undue political pressure. In addition, an independent SAI, with adequate, competent, and professional manpower compliment, will accrue the following values and benefits to the citizens while doing audit and investigation works:

1. Promoting and boosting accountable governance

An independent OCPA through its audit and investigation works would have significant and positive effect on the quality-of-service delivery and management of resources in public entities in terms of transparency and accountability. Managers can be held accountable for their decisions and actions.

2. Strengthening fiscal transparency

With adequate, competent, and professional manpower compliment, there could be more proactive audits and investigations that could, in turn, strengthen the financial health and stability of public services, thus, offer a more and increased transparency and certainty to the public.

3. Enhancing public sector integrity

*“Integrity is essential for building strong institutions and for assuring citizens that the government is working in their interest, and not just for the select few. Integrity is not just a moral issue, it is also about making economies more productive, public sectors more efficient, societies and economies more inclusive. It is about restoring trust, not just trust in government, but trust in public institutions, regulators, banks, and corporations.” (Public Audit Sheds Light on Public Sector Integrity)*

Thru financial audit, compliance audit, performance audit and other types of audit, the SAI can support the enhancing of public integrity. By extending and focusing audit on

compliance, ethical behavior and conflict of interest, the auditor could report issues on integrity. For example, an auditor can audit organizational culture by auditing the financial management behavior of high officials. These audits are not about materiality but about the tone on the top, as the leadership example reveals parts of institutional culture of an organization.

#### 4. Help fights against corruption.

As part of its audit activity or as part of the annual or strategic plan, the SAI is assessing audit risks. Part of these risks could be fraud, bribery, corruption, and other related criminal acts including the assessment of the related programs and corruption risk strategies implemented by the government to help mitigate the risks. If the results of the assessment indicate that the risks are high, that would justify the SAI to include in its plan an audit focusing on risks. When an audit is initiated, the auditor would be able to disclose and refer cases for further investigation. This way, the SAI could help fight against fraud, bribery, and corruption. However, this also needs competent, certified, and qualified staff to be able to conduct a meaningful investigation.

#### 5. Contributing to the achievement of Sustainable Development Goals<sup>2</sup> (SDGs) or 2030 Agenda.

The SAI has a central role to play in conducting an independent oversight of the implementation of the 2030 Agenda. By doing an audit on implementation of SDGs, the SAI would be able to contribute to value and benefits for citizens. In conducting an independent oversight over the implementation of the SDG, the SAI would seek answers to the following objectives or questions:

- a. To what extent has the government adopted the 2030 Agenda into its national context?
- b. Has the government identified, and secured resources and capacities (means of implementation) needed to implement the 2030 agenda?
- c. Has the government established a mechanism to monitor, follow up and review and report on the progress towards the implementation of 2030 Agenda?

### *Purpose and Importance of Developing Strategy*

The fundamental purpose of developing a strategy is to make explicit choices in each context in the pursuit of a certain outcome. A strategy is important to an organization because it can provide an overall direction to the management of the organization and give a specific direction to specific area/s to achieve success in executing an activity.

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<sup>2</sup>The 2030 Agenda for Sustainable Development, adopted by all United Nations Member States in 2015, provides a shared blueprint for peace and prosperity for people and the planet, now and into the future. At its heart are the 17 Sustainable Development Goals (SDGs), which are an urgent call for action by all countries - developed and developing - in a global partnership. They recognize that ending poverty and other deprivations must go hand-in-hand with strategies that improve health and education, reduce inequality, and spur economic growth – all while tackling climate change and working to preserve our oceans and forests.

## *Methodology and Approach in Developing the SAI Independence Strategy*

The methodology and approach used in developing the OCPA independence strategy include the following:

1. Assessing the SAI's current state of independence, with reference to its environment, its constitutional and statutory/legal framework, and the practices that enable it to be independent in a practical sense.
2. Undertaking a SWOT analysis (encompassing strengths, weaknesses, opportunities, and threats), using as a basis the Mexico Declaration principles and any available assessment tools or benchmarks.
3. Formulating and writing a strategy document, including key priorities and objectives (recognizing that a strategy may encompass both constitutional/legal reform and other actions), a blueprint for strengthened independence, an analysis of challenges and threats to independence, and a plan for implementation through resourcing and ongoing stakeholder engagement.
4. Developing the implementation plan including timeline, resources, and budget
5. Monitoring and reporting

## *Understanding the SAI External Environment*

### *The Federated States of Micronesia (FSM) Government*

The FSM government is a federal system of government modelled after the United States system of government. It has four states/governments– National, Pohnpei, Chuuk, Kosrae, and Yap. Each state government including the national government is established with the authority to run their own respective state matters autonomously. The Chuuk State has its own executive, legislative and judiciary branches of government.

### *Executive Branch:*

The Governor and Lieutenant Governor are the leaders of the Executive Branch. They can serve office for no more than two terms. Each term-duration is four years. The executive branch has eight major departments: Administrative Services, Agriculture, Marine Resources, Health Services, Education, Public Safety, Attorney General Office, and Transportation.

### *Legislative Branch:*

The Chuuk State legislature is bicameral and consists of the Senate and the House of Representatives. There are 10 senate members, two members per region - five regions all together. The House of Representatives ('The House') comprised of officials elected within the districts. There are 13 districts and the number of official seats for each district is based on its population size. There are 28 members of the House.

### *Judiciary Branch:*

The judiciary system is the state court system with five seated State Justices including the State Chief Justice. Its appellate and state supreme courts are under same system but not inclusive of the municipal courts, which are sometimes apparent in some municipal governments.



*Municipal governments:*

Chuuk State has 40 municipalities with their own municipal governments. Each municipality has an elected mayor who acts as the executive body. The legislative side is with the municipal council. Some municipalities are earning a little but not sufficient revenue to sustain their day-to-day operations while others are totally dependent from the state government for their operational budget. The judiciary branch is with the municipal court, which usually has one or two presiding judges.

*Traditional Council:*

Each inhabited island in Chuuk has a traditional leader known as “Soupwun” who comes from a clan that ruled the island supposedly from the beginning of its settlement. These Soupwuns are equivalent to a chief. Chuuk State has a council of traditional leaders comprised of 42 active Soupwuns. This council is the strong hold of customs and traditions with great influence in the political process.

*Identification of the SAI’s key stakeholders*

The SAI interacts with stakeholders that can be regarded as partners with whom it has a natural relationship. Examples of partners include audited entities, the legislature or its committees, the Executive, the Judiciary, the Department of Administrative Services (Finance) and other government departments and entities such as investigative agencies, non-government organizations, the development partners or donors and the public/citizens. The identification of stakeholders and evaluation of their ranking are in the subsequent tables.

Table 1 below shows the stakeholders and how they relate with the SAI.

Table 1

Stakeholder	Definition/Description
Legislature	The legislature is that branch of the state which performs the function of lawmaking through deliberations. The legislature is bicameral and consists of the Senate and the House of Representatives. The control and regulation of national finances is done by the legislature. The legislature performs an oversight function.
Executive	The executive is the branch of government charged with the execution and enforcement of laws and policies and the administration of public affairs. The executive is headed by a Governor and is generally charged with the responsibility of implementing the recommendations issued by the Public Auditor. The department of Administrative Services (finance), Health Services, Education, Marine Resources, and the Office of the Attorney General are some of the key departments that the SAI interacts with most.
Audited Entity	These are the departments, commissions, agencies or offices that the SAI is mandated to audit
Judiciary	The judiciary is the branch of the state charged with the responsibility of administering the justice system. The judiciary may deal with cases relating to fraud and corruption that the SAI

Stakeholder	Definition/Description
	may come across during the audit.
Civil Society Organizations (CSOs)	The term civil society refers to the wide array of nongovernmental and not-for-profit organizations that have presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious, or other considerations. The CSOs are an important sector of the demand side of accountability and play a critical role in promoting transparency and holding the government to account. The SAI is recognizing that engaging CSOs and leveraging their capacity can considerably enhance the overall effect, relevance, and legitimacy of audit processes. Therefore, effectiveness of SAIs requires active interaction with all the relevant CSOs for the accountability system to hold the government and public sector entities accountable.
The Media	The media is non-state entity involved in the collection and communication of information to the citizens. Medium is defined as "one of the means or channels of general communication, information, or entertainment in society", such as newspapers, radio, etc.

Stakeholder	N/A	Somewhat Important	Critical	Ranking of top 5
Legislature			√	1
Governor/Executive			√	2
Judiciary			√	
General Public/Citizens/Civil Society			√	4
Media			√	5
Cooperating Partners/Donors			√	3
Audited Entities Management			√	
Governance/Oversight Management			√	
Non-Governmental Organizations			√	7
Regional Organization e.g. PASAI, APIPA			√	6
Professional & Academic Bodies		√		

## Assessment of the OCPA's Current State of Independence

Assessing the current state of independence would enable the SAI to identify barriers to its independence, with the aim of addressing or removing them through a combination of legal or practical changes. The SAI independence was assessed using the following tools:

- a. Against the Eight Principles of the Mexico Declaration
- b. Using the SAI Performance Management Framework (SAI PMF)
- c. Analysis of the conditions which must exist to effectively maintain the independence of the SAI within the existing legal framework.

The performance evaluation of the OCPA has recently been completed by a PASAI Team using the SAI PMF tool. The report is to be released soon. Part of the evaluation is the assessment of the SAI Independence. Thus, this assessment is generally aligned with the results of the SAI PMF Assessment on issues on independence.

- a. Against the Eight Principles of the Mexico Declaration

The assessment involves examining each of the Mexico Declaration principles, and the specific requirements they refer to, with specific reference to the legal framework. This identifies the specific strengths and weaknesses, and where to focus attention on strengthening independence.

The results of this assessment against the eight principles of the Mexico Declaration indicate the following:

1. The legal framework, specifically the auditor's act, and the practical applications of such law need changes. They are no longer "fit for purpose" given the modern role of a SAI.
2. Based on the Public Auditor's employment contract in which the employment maybe cancelled by either party, without cause, there is no security of tenure for the Public Auditor. This is contrary to the existing requirements of the provisions of both the constitution and the law regarding removal from office of the Public Auditor which states that:  
*Constitution - The Public Auditor may be removed for cause by the vote of 2/3 of the members of the Senate.*  
*Law - The State Auditor may, at any time, be removed from office for good cause, shown by a vote of fifteen (15) members of the Legislature.*
3. The auditors are threatened by absence of provision in the law on legal immunity in the normal discharge of their duties
4. The mandate of the office should be broadened to explicitly authorize the office to conduct not only financial audit and contract audit but all types of audits, inspections, and investigations (including performance audit which is an audit of economy, efficiency, and effectiveness of government operations). The office though has been conducting performance audit.
5. Provide an effective follow-up mechanism on actions taken on audit findings and recommendations like providing statutory power to the Public Auditor for follow up and sanctions and the law should require a regular report from the auditees on the status of audit findings and recommendations.

6. Provide sufficient, necessary, and reasonable human, material, and monetary resources for the audit office to adequately fulfill its mandate, perform wider audit scope and coverage, and, consequently, accrue the impact, value, and benefits to the citizens on the results of SAI audits, inspections, and investigations

The detailed results of the assessment are shown in Exhibit B.

b. Using the Performance Management Framework (PMF)

The SAI PMF is an assessment framework developed by the INTOSAI<sup>3</sup> Working Group on the Value and Benefits of SAIs, which was endorsed by the Congress of INTOSAI in 2016. It is intended to be used to establish how well a SAI performs compared to international good practices, as well as to identify its strengths and weaknesses for further performance improvement.

The SAI PMF has a broad coverage and was sectionalized into domains. The domains include internal governance and ethics, audit quality and reporting, financial management, human resources and training, and communication and stakeholder management. The assessment framework includes a domain to be able to assess the *SAI independence* (the subject matter of this paper) under seven dimensions. These dimensions are closely aligned with the Mexico Declaration principles:

*Independence and Legal Framework*

- (1) an appropriate and effective constitutional framework.
- (2) financial independence and autonomy.
- (3) organizational independence and autonomy.
- (4) independence of the Head of the SAI and its officials.

*Mandate of SAI*

- (5) a sufficiently broad mandate.
- (6) access to information; and
- (7) the SAI's right and obligation to report.

The assessment yielded the same results on the assessment of eight principles of the Mexico Declaration because the criteria on the SAI PMF assessment tool were taken from the principles of Mexico Declaration.

The results of the assessment using the SAI PMF are shown in Exhibit C.

c. Analysis of Practical Independence

Practical independence refers to conditions which must exist to effectively maintain the independence of the SAI within the existing legal framework:

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<sup>3</sup> The International Organization of Supreme Audit Institutions (**INTOSAI**) operates as an umbrella organization for the external government audit community. It is a non-governmental organization with special consultative status with the Economic and Social Council (ECOSOC) of the United Nations.

Criteria	Assessment - Satisfied? (Y/N)
1. The ability to be protected when the SAI's independence (or that of its Head) is challenged.	No. There is no related provision in the auditor's act that would protect SAI when its independence is challenged.
2. The ability to have access to resources when needed, and the willingness to be held accountable for their use.	No. There is no adequate budget for manpower, and some necessary expenditures. The SAI is operating based on limited line-item budget and therefore able to conduct limited number of audits, inspections, and investigations. These limitations constraint the impact, value and benefits the audit could provide to citizens.
3. The ability to recruit and be supported by professional and well rewarded staff;	No. There is no adequate budget for manpower needs. Further, there is no enough qualified manpower in Chuuk State. The actual recruitment takes time.
4. Ensuring the SAI is led and staffed by people of impeccable character, leadership, and integrity.	Yes, the SAI is led and staffed by people of impeccable character, leadership, and integrity. In every engagement they must follow the code of ethical standards and must provide written independence statement certification.
5. Effective use of the SAI's powers to select and conduct audits, make, and follow up on its reports, and communicate its work to stakeholder.	No. The ability to perform all necessary functions, mandate, and activities; and conduct an audit /follow-up with wider scope of work. The audit coverage is constraint by the small number of approved manpower that can be utilized to conduct an audit

### Challenges to independence

The SAI independence is a key to successful and valuable audits. Further, it is essential in ensuring that auditing is free from outside influence and can result in objective audit findings. Independence will always be a concern for SAI and therefore, a major challenge is to ensure that it is practiced and protected.

A “challenge” arises from weaknesses or an absence of opportunities inside the SAI, or within its power to address, that can affect the SAI's ability to act independently. A “threat” is an external factor or reality which lies outside the SAI or is beyond its control but affecting the SAI independence legally and in practice.

## a. Challenges related to the appointing authority and the tenure of the Head of SAI

Principle 2 of the Mexico Declaration concerns with the independence of the Head of SAI. It specifically requires that the Head of SAI should be "appointed, re-appointed or removed by a process that ensures independence from anybody". Both the Chuuk State constitution and the law provide that the Public Auditor (PA) shall be nominated by the Governor and appointed or confirmed by the Legislature. Also, both the constitution and the law provide that the PA can be removed only for cause and with the vote of two-thirds of members of the Senate. However, there was inconsistency in the provisions for the term of office of the Head of SAI between the Constitution and the related law. Section 9, Article VIII, of the Constitution, provides a six-year term for the PA's term while the Chuuk State Law 6-21 Section 2(d) provides for a four-year term. Thus, amendment in the statutory law is necessary to align the provision on PA's term of office.

While the current PA's term of six years is fixed and sufficiently long in the constitution, allowing the PA to carry out his mandate without fear of retaliation, certain provisions however in the employment contract provide a threat to the Public Auditor's security of tenure because of the following provisions in the contract:

1. The services of the PA may be terminated anytime without cause (at will employment). According to the PA contract, the employment contract maybe cancelled by either party, without cause, on the giving in writing to the other party of 60 calendar day of notice of cancellation.
2. The PA salary per annum, all funds for educational cost, reimbursement for travel, and per diem to maintain the Continuing Professional Education (CPE) shall be subject to available funds appropriated by the Chuuk State Legislature.

These serve as a challenge to the SAI's independence arising from the type of tenure the Head of SAI because it provides a significant opportunity to exercise influence over the SAI Head. Despite the security of the PA's tenure provided both in the Constitution and in the Truk State law, the terms and conditions of the PA's employment contract were not aligned with these laws. This influence can then extend into direct threats to independence.

## b. Challenges related to budget and funding.

SAI has no adequate resources to fulfil its mandate.

The SAI should get sufficient financial resources to fulfill its mandate. Though the budget is approved by the Legislature, the current budgeting process and funding is one of the major challenges to its independence.

The OCPA does not submit its budget proposal directly to the legislature. The SAI budget is first submitted to the Budget Review Committee (BRC) for review on the same basis as government departments or entities. This means that the SAI must engage in the very subtle process of budget negotiation with the BRC and with the Compact Program Manager. This weakens the SAI and puts it in uncomfortable position of bargaining with its principal audit client.

The resourcing affects the OCPA’s ability to fulfil its mandated responsibilities to a wider extent. With only three approved auditors and with difficulty in recruiting qualified staff at Chuuk State, there is very limited impact that can be achieved on audit.

The Public Auditor does not have the authority to make decisions on most human resource matters nor the financial independence to submit budget proposal directly to the legislature to avoid any undue influence by the Executive or reduce or limit the financial budget requested by the SAI. The limited resources made available to the OCPA is exacerbated by the limited economic activities of the State to generate local revenue. It is worthwhile to note however, that the Kosrae and Yap states with lower local revenue had provided funding for a greater number of auditors compared to Chuuk State.

The table below provided a comparison of the number of staff and local revenue for the different FSM governments. Except as noted, all positions are funded by local revenue.

	National	Pohnpei	Chuuk	Yap	Kosrae
Local Revenue (source- 2019 audited FS)	\$ 166,955,977	\$ 14,188,501	\$ 10,366,245	\$ 9,183,313	\$ 2,216,095
Audit Manpower (source- OPA website)	<p><b>21 staff –</b></p> <p>1 Public Auditor (PA), 1 Audit Manager, 2 Audit Supervisors, 1 Senior Auditor, 3 Auditor III, 3 Auditor II, 3 Auditor I,</p> <p>1 Chief Investigator, 2 Investigators,</p> <p>1 IT Specialist, 1 Administrative Officer, 1 Administrative Specialist, and 1 Single Audit Specialist.</p>	<p><b>13 staff</b></p> <p>1 PA, 1 Audit Manager, 1 Senior Auditor, 2 Auditor III, 2 Auditor II, 2 Auditor I (Investigator), 1 Chief Investigator (Vacant), 1 Investigative Advisor, 1 Maintenance/Janitor/Driver, 1 Administrative Officer.</p>	<p><b>5 staff</b></p> <p>1 PA (expat employee funded under Compact Capacity Building), 1 Senior Auditor, 2 Auditor 1 (vacant since September 2020), 1 Secretary.</p> <p>Note: the constitutional qualification for PA position is a Certified Public Auditor.</p>	<p><b>10 staff</b></p> <p>1 PA, 1 Audit Manager (expat employee funded under Compact Capacity Building), 2 Senior Staff Auditor, 1 Staff Auditor II, 1 Staff Auditor I, 1 Junior Auditor,</p> <p>1 Administrative Assistant, and 2 Investigator</p>	<p><b>7 staff</b></p> <p>1 PA, 1 Audit Manager (expat employee funded under Compact Capacity Building), 1 Auditor III, 1 Auditor II, 1 Auditor I and 1 Investigator.</p> <p>1 Admin Officer.</p>

The lack of manpower and qualified staff are the underlying causes of the weakness in OCPA’s performance. The OCPA can perform better if it is given the budget to recruit a fully resourced SAI. Funding and the ability to recruit qualified staff are beyond the control of the Public Auditor.

The lack of sufficient funding can be a direct control over the SAI’s audit coverage, including in terms of the scope it can audit and the effectiveness it can carry out its audits. Inadequate levels of funding also imply that the SAI will not have sufficient mechanisms to report its

findings or to monitor, follow up or enforce its findings, recommendations, judgments, or sanctions. This limits its operational independence, a key feature of a truly independent SAI.

### c. Challenges related to managerial and administrative autonomy.

The term managerial and administrative autonomy refers to the ability of the SAI to manage its staff in terms of recruiting, rewarding, promoting, and dismissing in accordance with the employment law and prevailing remuneration rates for the types of staff involved, including professional auditors.

The PA does not have the full authority to make decisions on most human resource matters like hiring, offering competitive salary rates, and promoting employees. Everything must go through the process directed by the Public Service Commission and by the Budget Review Committee. As a result, there were delays in hiring and in promoting employees and hindrances in motivating employees.

## Threats to Independence

SAI faces threats to independence that arise from external factors. The common threats to independence can be categorized into two broad groups: those affecting the legal framework and mandate; and those affecting independence in practical terms.

### a. Threats affecting the SAI's legal framework and mandate

We have assessed the threats to The SAI's constitutional, or legal independence are only potential and not yet a reality. But these threats to legal framework and mandate could be:

- Amendments to the law that introduce (or facilitate) political dependence of the Head of SAI or the SAI's senior managers and open the way for political interference in the SAI's work.
- Politically driven governmental initiatives that will have the effect of limiting the SAI's legal mandate, without consultation with the SAI, appropriate policy analysis, or obtaining the opinions of independent experts.

This group of threats arises in relation to principles 1 and 2 of the Mexico Declaration. Governments and politicians are entitled to propose amendments to laws, and no SAI is above the law. But legal changes should be undertaken in a principled way, after due consideration, and should not violate international audit principles.

### b. Threats affecting the SAI's independence in practical terms

In a more practical sense, the SAI's independence can be threatened by actions and omissions that have the effect of undermining the SAI's ability to function independently. They can be grouped as follows:

#### *1. Interference in the appointment of Head of SAI and staff*

The actual threats experienced by Chuuk State arising from the appointment process for the Head of SAI and staff include:



- Delays in the recruitment of the SAI staff.

The OCPA have been experiencing delays in the recruitment of new staff. This was due to various factors beyond the control of the Public Auditor such as lack of qualified staff in Chuuk State and non-competitive salary. Long vacancies in the office have negative effect since the Head of SAI will not be able to plan and start an adequate audit engagement. The independence and hence, the effectiveness of the SAI is constraint as an institution when it can only undertake a limited number of audit initiatives. A good strategy then would be to allow recruitment of staff from other states and other countries and to obtain possible donor assistance for funding the staff requirement.

- Interference in the selection and conduct of audits.

Threats to the SAI's independence in relation to auditing activities take many forms (or have been manifesting in different ways). Although, there are existing mechanisms for a SAI accountable for its work, these threats nevertheless, undermine SAI independence. For example:

- The Legislature were making frequent requests to SAI to carry out specific audits. This can have the effect of diminishing the SAI's right to say "no" and, with limited manpower, further diminishing its capacity to undertake audits in other areas. The existing mechanism for SAI would be to prepare and follow strategic and annual audit plans that identify areas to be audited. Further, the strategic plans be discussed with the concerned stakeholders, i.e., legislators, for input.
- In their management response to the audit report, auditee is attacking the SAI capability and questioning working methods to undermine or destroy its work, reputation, and credibility. The OCPA had experienced these kinds of attacks in previous audits after publishing the audit report. The existing mechanism to counter this kind of attacks is for SAI audit team to ensure quality of the audits, strict compliance with audit standards, obtain on file sufficient and appropriate evidence on findings, continuously improve the audit skills and capacity of the staff, and conduct an exit conference with the auditee to discuss the findings and conclusion in the report prior to issuance and publishing, and adequately record and file such record of exit conference in working paper.

## 2. Threats arising from Denial of Adequate Funding Resources

Limiting the access to resources can be the most significant threat to independence in practical terms. As previously noted, the independence in relation to funding is the most independence challenge for SAI. The said challenge can develop into distinct threats. For example, cuts being made to the SAI's budget without any prior dialogue with the SAI, generally to retain low funding levels or staffing level and constraint the audit office in fulfilling its mandate obligations. Thus, there should be means of dealing with these threats in a manner that they do not undermine independence. The SAI should be able to directly appeal to the Legislature about the inadequacy of budget allocation.

## Analysis of Strengths, Weaknesses, Opportunities and Threats (SWOT Analysis)

Assessing the current state of independence enables the SAI to identify current barriers to its independence, with the aim of addressing them through a combination of legal or practical changes. The SWOT analysis is performed using the following framework on Figure 1 below. This helps to identify specific strengths and weaknesses, and where to focus attention on strengthening independence.

The results of the SWOT analysis were presented in the following Figure 1 and the results of SWOT analysis applying the eight pillars of Independence under the Mexico Declaration were presented in Figure 2:

Figure 1: SWOT Analysis



Figure 2: Example of a SWOT Analysis applied using the eight pillars of independence under the Mexico Declaration.

Eight pillars of Independence	Strength	Weakness	Opportunity	Threat
1. The existence appropriate and effective constitutional and statutory legal framework			<p style="text-align: center;">√</p> <ul style="list-style-type: none"> <li>• With strong constitutional and statutory legal framework though subject to enhancements needed to reform and amend certain statutory provisions</li> </ul>	
2. The independence of SAI Head and members (of collegial institutions), including security of tenure and legal immunity in the normal discharge of their duties			<p style="text-align: center;">√</p> <p>The legal framework provides for the creation of independent SAI and impliedly independent SAI office</p>	<p style="text-align: center;">√</p> <ul style="list-style-type: none"> <li>• No legal immunity of SAI members in the normal discharge of their functions</li> <li>• SAI Head has no security of tenure per its employment contract.</li> </ul>
3. A sufficiently broad mandate and full discretion, in the discharge of SAI functions				<p style="text-align: center;">√</p> <p>Other types of audit that SAI is mandated to do (e.g., performance audit) is not explicitly provided in the</p>

Eight pillars of Independence	Strength	Weakness	Opportunity	Threat
				statute.
4. Unrestricted access to information			√	
5. The right and obligation to report on their work			√	
6. The freedom to decide the content and timing of audit reports and to publish and disseminate them			√	
7. The existence of effective follow-up mechanisms on SAI recommendations				√ • Constraint by lack of manpower resources
8. Financial and managerial/administrative autonomy and the availability of appropriate human, material, and monetary resources		√ • Lack of sufficient funding to fulfill the mandate. For example, lack of manpower to initiate a good number of audits according to strategic & operational plans that would bring impact, value, and benefits to citizens.		

## Strategy for Achieving SAI Independence

### Strategizing for greater SAI Independence

Strategizing for greater Independence			
What are the standards for Independence?	What are the challenges and threats in achieving these standards?	What <u>strategies</u> can help overcome or address challenges and threats?	What are the value and benefits of independent SAI?
Constitutional & Legal Framework			
1. Mandate, powers, and standard setting ability	<p>Threats affecting SAI legal framework and mandate</p> <ul style="list-style-type: none"> <li>The mandate to be able to perform performance audit and other types of audit are not explicit in the statute.</li> <li>There is no specific provision in the statute that would protect SAI when its independence is challenged</li> </ul>	<ul style="list-style-type: none"> <li>Understand the environment and assess the current independence.</li> <li>Benchmark, prioritize and formulate a SAI Independence Strategy</li> <li>Identify and implement legal changes</li> </ul>	<ul style="list-style-type: none"> <li>Promoting accountable governance</li> <li>Strengthening fiscal transparency</li> <li>Enhancing Public Sector Integrity</li> <li>Contributing to the fight against corruption</li> <li>Contributing to the achievement of Sustainable Development Goals (SDGs)</li> </ul>
2. Reporting powers to institutions and to citizens	<ul style="list-style-type: none"> <li>Lack of understanding on audit reports by the public</li> </ul>	<ul style="list-style-type: none"> <li>Enhance the quality and communication of SAI products</li> </ul>	
3. Independence of the SAI Head	<p>Challenges/Threats related to the appointment, tenure, and immunity of SAI Head</p> <ul style="list-style-type: none"> <li>There is no legal immunity for SAI members. All members can be sued in the normal discharge of their duties</li> </ul>		
4. Funding Independence, Operational Autonomy and Accountability	<p>Challenges related to budget and funding of SAI</p> <ul style="list-style-type: none"> <li>Like other departments, the SAI budget is first reviewed by the Budget Review Committee (BRC), creation of the Executive Office, before it is presented to the Legislature for appropriation. During the review, the SAI budget is cut without discussing it with the SAI Head. Once the budget is approved by the Legislature and the budget is not enough, the SAI Head can request for supplemental budget,</li> </ul>	<p>Request for fix budget approval. OCPA to prepare a yearly financial statement subject to external audit.</p>	

Strategizing for greater Independence			
What are the standards for Independence?	What are the challenges and threats in achieving these standards?	What <u>strategies</u> can help overcome or address challenges and threats?	What are the value and benefits of independent SAI?
	<p>but this is again coursed thru the BRC and not approved.</p> <ul style="list-style-type: none"> <li>• The SAI has been experiencing insufficient budget to fulfill its mandate and serve the citizens. Specifically, it has limited manpower to perform a greater number of audit coverage with impact.</li> <li>• Budget for employee promotion and merits not being approved.</li> <li>• It has experiencing no approved budget for other operational necessities. For example, no budget for membership to audit organizations that has been the source of continuing staff training and education. No budget for maintaining the server and its internet operations.</li> </ul>		
	<p>Challenges related to managerial and administrative autonomy</p> <ul style="list-style-type: none"> <li>• The Public Auditor does not have the full authority to make decisions on most human resource matters like hiring, offering competitive salary rates, and promoting employees. Everything must go through the process directed by the Public Service Commission. As a result, there were delays in hiring and in promoting employees. Like the processing for other departments, these must pass through the Public Service Commission (PRC) or Personnel</li> </ul>		

Strategizing for greater Independence			
What are the standards for Independence?	What are the challenges and threats in achieving these standards?	What <u>strategies</u> can help overcome or address challenges and threats?	What are the value and benefits of independent SAI?
	and the Budget Review Committee. Based on experience, the promotion is being held without providing reason to the SAI Head. Thereby, affecting the morale of the staff for promotion.		
5. Ability to engage with stakeholders and follow up powers	Challenges preventing SAI to engage with stakeholders and achieve greater audit impact <ul style="list-style-type: none"> <li>Lack of manpower to develop and implement a plan for engaging with stakeholders.</li> </ul>	Advocate and engage with stakeholders to strengthen SAI Independence.	
<b>Being Independent in Practice<sup>4</sup></b>			
1. To be protected as institution when independence is challenged?	Threats affecting the practical independence of SAI <ul style="list-style-type: none"> <li>Based on employment contract, the Public Auditor can be removed anytime for any cause, which is against the provision on constitution and the statute regarding the removal of the PA from office. The constitution provided that the Public Auditor has a fix term of six years and can only be removed for a cause by 2/3 members of the Senate. This is exacerbated by the fact that the salary of the PA is funded by a donor, and such funding can be pulled out anytime without regard to the legal framework.</li> <li>With only three approved auditors (two had resigned in 2020 due to salary issue), the office has very limited approved manpower to implement a strategic plan that it will</li> </ul>	<ul style="list-style-type: none"> <li>Understand the environment and assess the current independence in practical terms.</li> <li>Benchmark, prioritize and formulate a SAI Independence Strategy</li> <li>Identify and implement practical changes</li> </ul>	
2. To have access to resources needed and being accountable for its use.			
3. To be supported by professional and well rewarded staff.			
4. To be led by people of impeccable character, leadership and integrity			

<sup>4</sup> the SAI's independence can be threatened by actions and omissions that have the effect of undermining the SAI's ability to function independently.

Strategizing for greater Independence			
What are the standards for Independence?	What are the challenges and threats in achieving these standards?	What <u>strategies</u> can help overcome or address challenges and threats?	What are the value and benefits of independent SAI?
	<p>develop. The SAI is constraint by limited resources (both for manpower and funding) to fulfill its mandate and perform all the required activities for an effective SAI operation and provide value and benefits to the citizens thru effective and timely audit reporting. The lack of manpower, likewise, constraint the opportunity to fully sustain and develop the audit capacity for the office.</p> <ul style="list-style-type: none"> <li>• The SAI has been experiencing delays in the recruitment of staff. It is difficult to hire auditors at Chuuk due to lack of applicants' qualification even on basic education requirement like college graduate.</li> </ul>		
		Monitor independence, prepare to be accountable and lead by example.	



## Implementation Plan

Objective: To provide for greater SAI independence both in the legal framework and in SAI actual practices

Strategy/Activity	Output	Responsible	FY2021					
			FY2021			FY2022		
			Mo	Resources Needed	Budget	Mo	Resources Needed	Budget
1. Amend the existing legal framework or the Public Auditor's Act								
a. Assess the current state of legal framework on SAI independence.	SAI Independence Assessment Report, SWOT Analysis, Identification of Challenges and Threats to Independence	Public Auditor (PA)	Done	PA	None			
b. Propose some changes in the existing practices to align with the requirements of the law on SAI Independence. The proposed changes in the statute include the following: <ol style="list-style-type: none"> <li>Immunity from legal prosecution for the SAI Head and staff.</li> <li>Protection by the Supreme Court when the SAI legal independence is challenged.</li> <li>Explicit mandate in the statute to authorize the SAI to perform not only financial audit but other types of audit like compliance audit, performance audit, and other types of audits.</li> <li>Creation of separate section within the SAI that would be responsible for investigation function.</li> <li>Explicit provisions on audit standards that could be used by the SAI in conducting an audit.</li> <li>Greater autonomy in financial funding and in hiring &amp; maintaining manpower resources.</li> <li>Amend the provision of the statute on the term of office of the Public</li> </ol>	Amendment Proposal	Public Auditor (PA)	Done	Expert from SAI. Reviewed by PA	None			

Strategy/Activity	Output	Responsible	FY2021						
			FY2021			FY2022			
			Mo	Resources Needed	Budget	Mo	Resources Needed	Budget	
	Auditor (four years) to make it consistent with the related provision in the constitution (six years)								
	b. Propose amendments or changes in the existing legal framework	Proposed Amendment to Public Auditor's Act.		Done	Expert from SAI. Reviewed by PA	None			
	c. Request for the PASAI support to provide for an expert who would advocate, explain the importance of SAI independence, and engage with stakeholders who can influence for the enactment of the amendments in the statute to provide for greater SAI independence. Such stakeholders are as follows: <ul style="list-style-type: none"> <li>• Governor</li> <li>• Attorney General</li> <li>• Concerned members of the Legislature.</li> <li>• Civil Society</li> <li>• Donor Country Officials</li> <li>• Citizen/s</li> </ul>			To be scheduled	Expert from SAI	Support from SAI			
	f. Enact the proposed amendments in the statute.		Legislature	Dec, 2021	None	None			
2. Implement some changes in operational practices.									
	a. Assess the current SAI practices that constraint the full implementation of the legal framework on SAI Independence			Done	PA	None			
	c. Propose changes in the existing practices to make them consistent with the requirements of the existing and proposed legal framework. The changes identified include the following: <ol style="list-style-type: none"> <li>1. OCPA Budget to be reviewed directly by the Legislature.</li> <li>2. The SAI has to prepare its own financial statement subject to</li> </ol>			Done	PA	None			

Strategy/Activity	Output	Responsible	FY2021					
			FY2021			FY2022		
			Mo	Resources Needed	Budget	Mo	Resources Needed	Budget
	<p>yearly external audit.</p> <p>3. Greater managerial autonomy in recruitment, deciding hiring rate and giving merit and promotion increase.</p> <p>4. Recruit staff from other states when no qualified staff is currently available in Chuuk.</p> <p>5. Amend the contract of the Public Auditor to remove provision specifying that his services can be terminated anytime for any cause. Let the constitution provision on removal from office of the Public Auditor prevail (can be removed for cause and by 2/3 votes of the Senate).</p>							
c.	<p>Request for the PASAI support to provide for an expert who would advocate, explain the importance of SAI independence, and engage with stakeholders who can influence for the enactment of the amendments in the statute to provide for greater SAI independence. Such stakeholders are as follows:</p> <ul style="list-style-type: none"> <li>• Governor</li> <li>• Attorney General</li> <li>• Concerned members of the Legislature.</li> <li>• Civil Society</li> <li>• Donor Country Officials</li> <li>• Citizen/s</li> </ul>	Public Auditor PASAI	To be scheduled	Expert from SAI PA	Support from SAI			
d.	<p>Obtain the approval of the Legislature to implement the proposed changes in SAI practices.</p>		Dec 2021	PA	None			
3.	Monitor SAI independence							

Strategy/Activity		Output	Responsible	FY2021					
				FY2021			FY2022		
				Mo	Resources Needed	Budget	Mo	Resources Needed	Budget
	a. Design a checklist to monitor compliances and/or barriers to SAI independence	Independence Monitor		Continuous	PA	None			
	b. Include any SAI independence issues or concerns in the annual report to the legislature			Continuous	PA	None			

## Exhibit

### Exhibit A: Legal Framework for the Creation of Office of Fiscal Accountability now known as the Office of Chuuk State Public Auditor (OCPA)

The Constitution of the State of Chuuk Article VIII Section 9 states that:

- (a) There shall be an independent Public Auditor appointed by the Governor and confirmed by the Senate. The Auditor shall serve for a six-year term and until a successor is confirmed. The Auditor shall be a certified public accountant with auditing experience.
- (b) The Auditor shall conduct audits of all financial transactions of all branches, departments, offices, agencies, and instrumentalities of the government, and of all accounts kept by or for them. The Auditor shall certify the accuracy of all financial statements issued by the State Government. The Auditor shall annually report findings and recommendations to the Legislature, the Governor, and the municipalities, and shall provide additional reports and information as may be required by law or as the Auditor deems appropriate.
- (c) If the Auditor discovers that any public monies have been misused or misappropriated, the Auditor shall report such misuse or misappropriation to the appropriate prosecutor's office.
- (d) The Auditor may be removed for cause by the vote of 2/3 of the members of the Senate. Upon the removal, resignation, or incapacity of the Auditor, the Chief Justice of the State Supreme court shall appoint within one month an Acting Public Auditor having the qualifications required for a full term. The Acting Public Auditor shall serve until a successor is confirmed. The Governor shall appoint, and the Senate shall confirm a successor Auditor within 6 months.

In May 1987, the Truk (Chuuk) State Law Title 20 was amended to include Chapter 20A which is read as follows: Truk State Law No. 6-21.

#### *Section 1. Office of Fiscal Accountability*

There is hereby created the Office of Fiscal Accountability for the State of Truk which shall be headed by a person known as the State Auditor. The position of the State Auditor shall be exempt from the provisions of the Executive Branch Organization Act of 1980 (TSL No. 3-25, 3<sup>rd</sup>. Regular Session, 1980); as amended by TSL No 5-46, 1<sup>st</sup> Regular Session, 1982); and exempt from the provisions of the Truk State Public Service System Act (TSL No. 3-34, 3<sup>rd</sup>. Regular Session, 1981), as provided in Section 8(d), of that Act.

#### *Section 2. State Auditor, Selection, Appointment*

- (a) The State Auditor shall be selected based on merit and qualifications.
- (b) No person shall be appointed State Auditor unless that person:
  - (i) Is a certified public accountant, and
  - (ii) Has a minimum of five years' experience in auditing and accounting and government finance.
- (c) The Speaker shall name a committee of three Senators which shall be charged with the responsibility to advertise, recruit and interview applicants for the position of State Auditor. The committee shall make a report and recommendation to the Legislature of the top three

candidates for the position and their qualifications. The Legislature shall select the State Auditor by majority vote and confirm by Resolution.

- (d) The State Auditor shall serve for a term of four years. No person may serve as the State Auditor for more than two consecutive full four-year terms or the balance of an unexpired term plus two full four-year terms.

### *Section 3. State Auditor – Removal*

- (a) The State Auditor may, at any time, be removed from office for good cause, shown by a vote of fifteen (15) members of the Legislature. In that event the Committee appointed by the Speaker pursuant to 2(s) shall select an acting State Public Auditor for ninety (90) days. If necessary, this appointment may be extended once for an additional ninety (90) days.
- (b) The State Auditor shall be independent of administrative control except that he shall report at least once a year to the Legislature on the full activities of his office. His salary shall not be reduced during his term of office.

### *Section 4. State Auditor-Staff*

The State Auditor may hire such employees as are required to assist in performing the duties of the Office of Fiscal Accountability and shall be able to expend money for necessary expenses of the Office, subject to budgetary appropriation and applicable salary acts, including the State Financial Management Act. The State Auditor may remove employees in the Office subject to the provisions of the State Public Service System which shall apply to employees and staff of the Office.

### *Section 5. Powers and Duties of State Auditor*

- (a) The State Auditor shall be responsible for an annual inspection and audit of:
  - (i) Each department and office in the Executive Branch of the State Government.
  - (ii) The Truk State Legislature.
  - (iii) The Truk State Judiciary.
  - (iv) Each authority, commissions, bureau, municipality, or other agency created by Truk State Law.
  - (v) Any other recipient of funds otherwise appropriated by the State including, but not limited to, other public legal entities or non-profit organizations receiving public funds from the State
- (b) If there is a reasonable suspicion of misuse of government funds or other fiscal improprieties, the State Auditor shall investigate all relevant information and report the findings to the Legislature.
- (c) Any public or private entity receiving State funds shall submit to an audit of those funds by the State Auditor, at the State Auditor's discretion. Failure to comply with reasonable requests for information from the State Auditor shall be cause for the cancellation of any contracts or agreements with the State and for the withholding of State funds already allocated or appropriated.
- (d) The State Auditor shall review the system of accounts proposed to be established by any branch, department, office, agency, or instrumentality of the State, including public corporations.

- (e) The State Auditor shall have access to all books, accounts, financial records, reports, files and property belonging to or in use by the entities listed in section 5(a) so long as they are within the scope of the financial audit. The State Auditor shall have the right to subpoena through the Legislature the production of things if they are not provided by the entities listed above.
- (f) The State Auditor shall monitor and investigate all contracts to which the State is a party to ensure compliance with all State bidding laws.
- (g) The State Auditor shall inform the Attorney General and any other legal entity of all cases of suspected misuses of government funds, including but not limited to bidding violations, violations of Budget Law, and violations of the State Financial Management Act. The State Auditor shall, if requested, cooperate in further investigation and prosecution of such cases.
- (h) The State Auditor shall submit to the Legislature at least thirty (30) days prior to its budget setting session, the annual budgetary requirements of the Office of Fiscal Accountability.
- (i) The State Auditor shall inform the Truk State Legislature of such legislation as is necessary to ensure the proper accountability of government funds.

*Section 6. State Auditor: Government Contract*

The audit duties and responsibilities of the State Auditor shall extend to persons, partnerships, corporations, associations, or other entities having contracts with Truk State with respect to all books, accounts and other relevant materials arising from or related to such contracts. If a Contractor fails to make available to the State Auditor, or to his representative, such information as requested, such contract with the State, shall cancelled immediately by the contracting authority or by the Attorney General. No contract may be executed on behalf of the State unless it contains a provision, acceptable to the Attorney General as to form and the State Auditor as to substance authorizing the audit of books and accounts of the contractor by the State Auditor or his representative.

*Section 7. Job Protection for Public Servants who Disclose Misuse of Government Funds to State Auditor.*

Any disciplinary, negative, or punitive personnel action against a state employee who:

- (a) Has in good faith disclosed to the State Auditor an actual or attempted misuse of government funds or violation of State Budget, contracting, bidding or financial laws; or
- (b) Has refused to participate in an actual or attempted violation but was unable to report such activity prior to the imposition of disciplinary, negative, or punitive job action, shall be presumptively in retaliation against such employee.
- (c) In any appeal for relief from retaliation, the burden shall be upon the government to show that the job action was in response to a genuine failure of performance of lawful duties; such showing must be made by clear and convincing evidence.
- (d) Any employee who prevails in an appeal for relief from a retaliatory personnel action shall be entitled to reinstatement with back pay and restoration of full benefits, all costs and reasonable attorney fees.

*Section 8. Office of Fiscal Accountability: Rules and Regulations*

The Office of Fiscal Accountability may adopt rules and regulations not inconsistent with law regarding those matters within its jurisdictions.

**Exhibit B: Assessment of SAI Independence Against the Eight Principles of the Mexico Declaration**

Mexico Declaration Principle	Criteria	Assessment Satisfied? (Y/N)
<p><b>1.</b> The existence of an appropriate and effective constitutional/ statutory/ legal framework and of de facto application provisions of this framework</p>	<p>(a) Legislation that spells out, in detail, the extent of SAI independence is required.</p>	<p>Yes. The operation of SAI is governed by the constitution and the law.</p>
<p><b>2.</b> The independence of SAI Head and members (of collegial institutions), including security of tenure and legal immunity in the normal discharge of their duties</p>	<p>The applicable legislation specifies the conditions for appointments, re-appointments, employment, removal and retirement of the head of SAI and members of collegial institutions, who are</p> <p>a) appointed, re-appointed, or removed by a process that ensures their independence from the Executive.</p> <p>b) given appointments with sufficiently long and fixed terms, to allow them to carry out their mandates without fear of retaliation; and</p>	<p>Yes. However, there is no legal immunity from prosecution for the Public Auditor and his staff with respect to the normal discharge of their duties</p> <p>No. the term of office for Public Auditor between the constitution (six-year term) and the law (four-year term) is not consistent. So, there was conflict in the provision of the law for the term of office that needs to be reconciled. In addition, both the constitution and the statutory provisions protect and secure the Public Auditor from security of tenure. The Public Auditor, according to the constitution, shall serve for a six-year term until a successor is confirmed and can only be removed for cause by the vote of 2/3 members (7 members) of the Senate. However, The Public Auditor's independence is threatened by these provisions inserted in the employment contract of the Public Auditor:</p> <p>1. The employment contract of Public Auditor maybe cancelled by either party, without cause, on the giving in writing to the other party of 60 calendar</p>



Mexico Declaration Principle	Criteria	Assessment Satisfied? (Y/N)
	<p>c) immune to any prosecution for any act, past or present, that results from the normal discharge of their duties as the case may be.</p>	<p>day of notice of cancellation</p> <p>2. The Public Auditor salary per annum, all funds for educational cost, reimbursement for travel, and per diem to maintain the Continuing Professional Education (CPE) shall be subject to available of funds appropriated by the Chuuk State Legislature.</p> <p>No. There is no immunity provided neither in the constitution nor in the law. The Public Auditor and his staff are not immune to any prosecution resulting from the normal discharge of their duties.</p>
<p><b>3.</b> A sufficiently broad mandate and full discretion, in the discharge of SAI functions</p>	<p>SAIs should be empowered to audit the</p> <p>a) use of public monies, resources, or assets, by a recipient or beneficiary regardless of its legal nature;</p> <p>b) collection of revenues owed to the government or public entities;</p> <p>c) legality and regularity of government or public entities accounts;</p> <p>d) quality of financial management and reporting; and</p> <p>e) economy, efficiency, and effectiveness of government or public entities operations.</p> <p>Except when specifically required to do so by legislation, SAIs do not audit government or public entities policy but restrict themselves to the audit of policy implementation.</p> <p>While respecting the laws enacted by the Legislature that apply to them, SAIs are free from direction or interference from the Legislature or the Executive in the</p>	<p>Yes. Section 5 of the TRUK STATE LAW No. 6-21</p> <p>Yes. Section 5 of the TRUK STATE LAW No. 6-21</p> <p>Yes. Section 5 of the TRUK STATE LAW No. 6-21</p> <p>Yes, though the financial audit is outsourced from Deloitte thru the oversight of the Office of the National Public Auditor</p> <p>No, this mandate is not explicit both in the constitution and the law. Although, the SAI has been conducting this type of audit as well as compliance audit.</p> <p>Yes, this is complied with as a matter of practice</p>

Mexico Declaration Principle	Criteria	Assessment Satisfied? (Y/N)
	<p>a) selection of audit issues;</p> <p>b) planning, programming, conduct, reporting, and follow-up of their audits;</p> <p>c) organization and management of their office; and</p> <p>d) enforcement of their decisions where the application of sanctions is part of their mandate.</p>	<p>Yes, the audit office decides the subject to be audited although it may entertain audit requests</p> <p>Yes, the audit office is doing its own planning and conducting audits without interference from anybody</p> <p>Yes, the SAI is independently organizing and managing its office. Although there are issues in human resource management.</p> <p>Yes, the office can adopt its own regulations.</p>
	SAIs should not be involved or be seen to be involved, in any manner, whatsoever, in the management of the organizations that they audit.	Yes. As matter of practice, the office staff is governed by written code of ethical standard and is required to sign an independence statement on every audit to disclose any conflict of interest.
	SAIs should ensure that their personnel do not develop too close a relationship with the entities they audit, so they remain objective and appear objective	Yes. As matter of practice, the office staff is required to sign an independence statement on every audit to disclose any conflict of interest.
	SAI should have full discretion in the discharge of their responsibilities, they should cooperate with governments or public entities that strive to improve the use and management of public funds.	Yes. As a matter of practice, the SAI has been exercising full discretion in the discharge of their responsibilities.
	SAI should use appropriate work and audit standards, and a code of ethics, based on official documents of INTOSAI, International Federation of Accountants, or other recognized standard- setting bodies.	Yes. The SAI in performing audits is guided by the US Government Auditing Standard (GAS/GAGAS/ Yellow Book), and US American Institute of Certified Public Accountant (AICPA) Standard
	SAIs should submit an annual activity report to the Legislature and to other state bodies— as required by the constitution, statutes, or legislation—which they should make available to the public.	Yes. The SAI is submitting an “OCA Annual Report” to the Legislature, to the Governor and this is made available to the public thru Facebook social media.

Mexico Declaration Principle	Criteria	Assessment Satisfied? (Y/N)
4. Unrestricted access to information	SAIs should have adequate powers to obtain timely, unfettered, direct, and free access to all the necessary documents and information, for the proper discharge of their statutory responsibilities.	Yes. Section 5(_e) of the TRUK STATE LAW No. 6-21
5. The right and obligation to report on their work	SAIs should not be restricted from reporting the results of their audit work. They should be required by law to report at least once a year on the results of their audit work.	Yes. The SAI is not restricted from reporting the results of its audit work. The SAI has been submitting an “OCA Annual Report” to the Legislature,
6. The freedom to decide the content and timing of audit reports and to publish and disseminate them	SAIs are free to decide the content of their audit reports.	Yes. In practice, the SAI is free to decide the content of their audit report without any interference or dictation.
	SAIs are free to make observations and recommendations in their audit reports, taking into consideration, as appropriate, the views of the audited entity.	Yes. In practice, the SAI is free to develop any findings and conclusions in its report without interference.
	Legislation specifies minimum audit reporting requirements of SAIs and, where appropriate, specific matters that should be subject to a formal audit opinion or certificate.	No. The legislation did not explicitly specify the reporting requirements of SAI and where appropriate the specific matters that should be subject to a formal audit opinion or certificate.
	SAIs are free to decide on the timing of their audit reports except where specific reporting requirements are prescribed by law.	Yes. In practice, the SAI is free to decide on the timing of its audit reports.
	SAIs may accommodate specific requests for investigations or audits by the Legislature, as a whole, or one of its commissions, or the government.	Yes. In practice, the SAI is accommodating requests for audits or investigations by the Legislature.
	SAIs are free to publish and disseminate their reports, once they have been formally tabled or delivered to the appropriate authority—as required by law.	Yes. In practice, the SAI is free to publish and disseminate its reports without restriction. However, there is no public accounts committee in the legislature that is in charge of the reviewing the audit reports.
7. The existence of effective follow-up mechanisms on SAI recommendations	SAIs submit their reports to the Legislature, one of its commissions, or an auditee’s governing board, as appropriate, for review and follow-up on specific recommendations for corrective action.	No. In practice, the SAI is submitting its audit report to the legislature but only for their information and not for follow up on specific recommendations for corrective action. There is no public accounts committee in the legislature that is in

Mexico Declaration Principle	Criteria	Assessment Satisfied? (Y/N)
		charge of the reviewing the audit reports.
	SAIs have their own internal follow-up system to ensure that the audited entities properly address their observations and recommendations as well as those made by the Legislature, one of its commissions, or the auditee’s governing board, as appropriate.	No. The SAI has their own follow-up system but due to lack of manpower, follow up audit of recommendations has not been done.
	SAIs submit their follow-up reports to the Legislature, one of its commissions, or the auditee’s governing board, as appropriate, for consideration and action, even when SAIs have their own statutory power for follow-up and sanctions.	Yes, follow up reports if done is submitted to the legislature and to concerned auditee. <u>SAI has no statutory power for follow-up and sanctions.</u>
8. Financial and managerial/ administrative autonomy and the availability of appropriate human, material, and monetary resources	SAIs should have available necessary and reasonable human, material, and monetary resources—the Executive should not control or direct the access to these resources. SAIs manage their own budget and allocate it appropriately.	No. The SAI is experiencing lack of financial budget and limited manpower to be able to satisfactorily perform its mandate.
	The Legislature or one of its commissions is responsible for ensuring that SAIs have the proper resources to fulfill their mandate.	Yes. The Legislature is supposed to be responsible for ensuring that SAI has the proper resources to fulfill its mandate. In practice however, this responsibility has not been properly considered.
	SAIs have the right of direct appeal to the Legislature if the resources provided are insufficient to allow them to fulfill their mandate.	No, although the SAI can request for supplemental budget, the request is coursed thru the Budget Review Committee (BRC) where sometimes a budget cut is reflected without giving the chance to SAI Head to justify the expenditures. In addition, the supplemental budget is rarely approved.

Exhibit C: Assessment of the SAI Independence and Legal Framework Using Performance Management Framework (PMF) Tool

Independence and Legal Framework of SAI - Dimension & Minimum Criteria for Dimension Score	Key References
(i) Appropriate and effective constitutional framework	
<p>a) “The establishment of Supreme Audit Institutions (...) shall be laid down in the <u>Constitution</u>; details [including the role, powers and duties of the SAI] may be set out in legislation.” ISSAI 1:5. See also ISSAI 1:18 and ISSAI 10.</p> <p><i>OCPA: Yes, The Constitution specified that there shall be <b>independent</b> Public Auditor (logically including the office) appointed by the Governor and confirmed by the Senate (Article VIII, Constitution Section 9(a). On the other hand, the law specified that the State Auditor shall be <b>independent</b> of administrative control except that he shall report at least once a year to the Legislature on the full activities of his office. His salary shall not be reduced during his term of office (TSL 6-21 Section 3.b).</i></p> <p><i>It should be noted that in the proposed amendment to the Public Auditor’s Act (TSL 6-21), it is proposed that “... there is hereby continued the Office of the Public Auditor (formerly the Office of Fiscal Accountability) for the State of Chuuk which shall be headed by the Public Auditor appointed under Article VIII, section 9 of the Constitution. The Office of the Public Auditor exists <b>independently</b> of the Government.” (Proposed Amendment TSL6-21 Section 2(1)).</i></p>	<p>Chuuk State Constitution Article VIII Section 9(a) and TSL 6-21 Chapter 20A Section 1</p>
<p>b) The SAI’s “(...) independence shall be laid down in the <u>Constitution</u> (...)” ISSAI 1:5</p> <p><i>OCPA: Yes. The Constitution specified that there shall be <b>independent</b> Public Auditor (logically including the office) appointed by the Governor and confirmed by the Senate (Article VIII, Constitution Section 9(a).</i></p>	<p>Chuuk State Constitution Article VIII Section 9(a)</p>
<p>c) “The independence of Supreme Audit Institutions provided under the <u>Constitution and the law</u> also guarantees a very high degree of initiative and autonomy (...)” ISSAI 1:8</p> <p><i>OCPA: No; the constitution and the law are liberal on management autonomy but not on financial and human resource</i></p>	<p>Chuuk State Constitution Article VIII Section 9(a) and TSL No- 6-21 Section 3(b)</p>

Independence and Legal Framework of SAI - Dimension & Minimum Criteria for Dimension Score	Key References
<p><i>independence. Budgeting (including provision for SAI personnel) is subject to control by the Budget Review Committee (BRC) under the Executive and the Committee that can reduce SAI budget without discussing and indicating the reason for the changes. Human resource hiring and remuneration is done thru Personnel Service Commission (Personnel), an independent Commission from Chuuk Government. The Public Auditor has the final approval on the applicant to be selected and hired.</i></p> <p><i>In addition, both the Constitution and the law did not explicitly protect Public Auditor nor any employee of the Office of Public Auditor acting under the Public Auditor’s authority from personal civil or criminal liability for any act or omission in carrying out his or her duties in good faith</i></p> <p><i>It should be noted that a proposed amendment in the current law include that following proposal: TSL 6-21 Section 3(1)</i></p> <p><i>(a) The Public Auditor may hire such employees as the Public Auditor considers are required to assist in performing the duties of the Office of the Public Auditor. The Public Auditor may remove employees in the Office subject to the provisions of the State Public Service System which shall apply to employees and staff of the Office. In employing staff, and determining their conditions of service and levels of remuneration, the Public Auditor <b>may</b>: (a) consult with the Public Service Commission; <u>or</u> (b) enter an administrative arrangement with the Commission for human resources management including the administration of recruitment processes</i></p> <p><i>Further, the amendment in the law also includes the following matter to protect the Public Auditor and the staff from legal suit.</i></p> <p><i>“...Neither the Public Auditor nor any employee of the Office Public Auditor acting under the Public Auditor’s authority shall be subject to personal civil or criminal liability for any act or omission in carrying out his or her duties in good faith...” TSL 6-21 Section 1(5)</i></p>	
<p>d) The appointment, term, cessation of functions of the <u>Head of the SAI</u> (and members, in the case of collegiate bodies) and the independence of their decision-making powers are guaranteed in the Constitution. <i>ISSAI 1:6, ISSAI 10:2.</i></p> <p><i>OCPA :Yes.</i></p>	<p>Chuuk State Constitution Article VIII Section 9 (a) &amp;(d)</p>

Independence and Legal Framework of SAI - Dimension & Minimum Criteria for Dimension Score	Key References
<p>However, the term of office for Public Auditor between the constitution (six-year term) and the law (four-year term) is <u>not consistent</u>. In addition, there was <u>no security of office</u> based on the employment contract that was prepared for by the Attorney General Office and signed by the current Public Auditor because of certain provisions in the employment contract as follows:</p> <p>a) The employment contract of the Public Auditor maybe cancelled by either party, <u>without cause</u>, on the giving in writing to the other party of 60 calendar day of notice of cancellation</p> <p>b) The Public Auditor salary per annum, all funds for educational cost, reimbursement for travel, and per diem to maintain the Continuing Professional Education (CPE) shall be subject to available of funds appropriated by the Chuuk State Legislature</p>	
<p>e) There is “adequate <u>legal protection</u> by a supreme court against any interference with a SAI’s independence”. <i>ISSAI 1:5</i>.</p> <p><i>OCPA: No. There is no related provision in the constitution nor in the law</i></p>	
<p>f) “SAIs should <u>report</u> on any matters that may affect their <u>ability to perform</u> their work in accordance with their mandates and/or the legislative framework.” <i>ISSAI 12:1</i></p> <p><i>OCPA: Yes. SAI is free to report any matters that may affect its ability to perform their work. In its quarterly report on performance, the SAI is providing the reasons why it cannot achieve a desired level of performance.</i></p>	
<p>g) “SAIs should <u>strive to promote, secure and maintain</u> an appropriate and effective constitutional, statutory or legal framework.” <i>ISSAI 12:1</i></p> <p><i>OCPA: Yes. Thru assessment of the framework (like independence assessment) and monitoring of the practices, the SAI has been striving to promote, secure and maintain an appropriate and effective constitution, statutory or legal framework.</i></p>	
<p><b>Score = 4:</b> All the criteria above are in place.  <b>Score = 3:</b> Criteria (a), (b) and at least three of the other criteria above are in place.  <b>Score = 2:</b> Criteria (a), (b) and at least one of the other criteria above are in place.</p>	

Independence and Legal Framework of SAI - Dimension & Minimum Criteria for Dimension Score	Key References
<p><b>Score = 1:</b> At least one of the criteria above is in place.  <b>Score = 0:</b> None of the criteria above are in place.</p>	
<p><b>OCPA Score: 3.</b> Criteria (a), (b) and at least three of the other criteria above are in place</p>	
<p><b>(ii) Financial Independence / Autonomy</b></p>	
<p>a) The legal framework <u>explicitly or implicitly</u> provides for the SAI’s financial Autonomy, ISSAI 1</p> <p>OCPA- No. The legal framework did not provide for SAI financial autonomy in terms of a fix amount budget allocation.</p>	<p>TSL 6-21 Chapter 20A Section 5.i</p>
<p>b) The legal framework <u>explicitly or implicitly</u> provides for the SAI’s financial independence from the executive, ISSAI 1:7, ISSAI 10,</p> <p><i>OCPA- No. The SAI budget is reviewed by a Budget Review Committee (formed by the Executive Office) before forwarding it to the Legislature for appropriation. The BRC can reduce the SAI budget without discussing the changes with the Public Auditor.</i></p>	
<p>c) The SAI’s budget is approved by “the public body deciding on the national budget ISSAI1:7,</p> <p><i>OCPA- Yes. Once reviewed by the BRC, the SAI budget is reviewed again and later appropriated by the Legislature.</i></p>	<p>Legislature</p>
<p>d) The SAI is free to <u>propose its budget</u> to the public body deciding on the national budget without interference from the executive. ISSAI 10: 8,</p> <p><i>OCPA- Yes. The budget is proposed to the Legislature. However, the SAI Budget Proposal and later amendment is coursed thru the Budget Review Committee formed by the Executive (Governor) that is doing the initial budget review. Once reviewed, the budget goes to the Legislature, is appropriated, and is expended by the OCPA</i></p>	
<p>e) The SAI “shall be entitled to <u>use the funds</u> allotted to them under a separate budget heading as they see fit”. ISSAI 1:7,</p> <p><i>OCPA: No. Appropriation is made to specific items (line-item).</i></p>	
<p>f) After the SAI’s budget has been approved by the Legislature, the Executive (e.g. the Department of Administrative Service) should not control the SAI’s access to these resources ISSAI 10:8,</p>	



Independence and Legal Framework of SAI - Dimension & Minimum Criteria for Dimension Score	Key References
<p><i>OCPA: Yes, the Budget Department as well as the Payable Section within the Department of Administrative Services have only been controlling the SAI’s access to these resources to ensure the compliance of payment request with the approved budget and financial management regulations</i></p>	
<p>g) The SAI has “the <u>right of direct appeal</u> to the Legislature if the resources provided are insufficient to allow [it] to fulfill [its] mandate.” <i>ISSAI 10:8</i>,</p> <p><i>OCPA: Yes, Once the budget is approved, SAI can request the Legislature for supplemental budget. However, the supplemental budget is coursed thru the Budget Review Committee. In addition, the request for supplemental budget is rarely approved.</i></p>	
<p>h) During the past 3 years there have been <u>no cases of undue interference</u> from the Executive regarding the SAI’s budget proposal or access to financial resources <i>ISSAI 10:8</i>,</p> <p><i>OCPA: Yes. There has been no cases of undue interference from the Executive regarding the SAI budget during the past three years.</i></p>	
<p><b>Score = 4:</b> All of the above criteria are in place  <b>Score = 3:</b> Criteria (a), (f), (g) and at least two of the other criteria above are in place  <b>Score = 2:</b> Criterion (a) and at least two of the other criteria above are in place  <b>Score = 1:</b> At least one of the criteria above is in place  <b>Score = 0:</b> None of the criteria above are in place.</p> <p><b>OCPA Score = 2:</b> Criterion (a) and at least two of the other criteria above are in place</p>	
<p><b>(iii) Organizational Independence / Autonomy</b></p>	
<p>a) The legal framework ensures that the SAI has “(...) the functional and organizational independence required to accomplish [its] tasks.” <i>ISSAI 1:5</i></p> <p><i>OCPA: Yes. The SAI framework assures that the SAI has functional and organizational independence required to accomplish its tasks.</i></p>	<p>TSL No- 6-21 Section 1(d)</p>
<p>b) In practice, the SAI is “free from direction or interference from the Legislature or the Executive in the (...) organization and management of [its] office.” <i>ISSAI 10:</i></p> <p><i>OCPA: Yes. Though there has been problem when it comes to hiring by Personnel Service Commission (an independent body), which had been taking time. The qualifications of applicants or the salary hiring rate also contribute to this problem.</i></p>	

Independence and Legal Framework of SAI - Dimension & Minimum Criteria for Dimension Score	Key References
<p>c) The SAI has the power to determine its own rules and procedures for managing business and for fulfilling its mandate, consistent with relevant rules affecting other public bodies. <i>ISSAI 10:8, ISSAI 20:6.</i></p> <p><i>OCPA: Yes. The SAI can develop and promulgate its own regulations.</i></p>	<p>Section 8 of TSL No. 6-21.</p>
<p>d) The Head of SAI is free to independently <u>decide on all human resource matters</u> including appointments of staff and establishment of their terms and conditions, constrained only by staffing and/or budgetary frameworks approved by the Legislature. <i>ISSAI 10:8.</i></p> <p><i>OCPA: No, Hiring and promotion is approved first by the Personnel Service Commission and is dependent if budgeted. Based on experience, the budget request for promotion is not being approved.</i></p>	
<p>e) The relationship between the SAI and the <u>Legislature and also the Executive</u> is clearly defined in the legal framework. <i>ISSAI 1:8,</i></p> <p><i>OCPA: Yes, the relationship between SAI and the Legislature and Executive is clearly defined.</i></p>	<p>Section 3(d) of TSL No. 6-21</p>
<p>f) The legal framework “(...) provides for accountability and transparency [by covering] the <u>oversight of the SAI’s activities</u> (...)” <i>ISSAI 20:1</i></p> <p><i>OCPA: Yes, The Public Auditor shall report on full activities of the office at least once a year to the Legislature.</i></p>	<p>Section 3(d) of TSL No. 6-21</p>
<p>g) The SAI is entitled to call on and pay for an external expertise as necessary <i>ISSAI 1:14</i></p> <p><i>OCPA: No. In practice, there is no budget provision for this nature of expense.</i></p>	
<p><b>Score = 4:</b> All of the above criteria are in place  <b>Score = 3:</b> Criterion (b) and at least four of the other criteria above are in place  <b>Score = 2:</b> At least three of the criteria above are in place  <b>Score = 1:</b> At least one of the criteria above is in place  <b>Score = 0:</b> None of the criteria above are in place.</p> <p>OCPA Score: 3, Criterion (b) and at least four of the other criteria above are in place</p>	
<p><b>(iv) Independence of the Head of the SAI and its members</b></p>	
<p><b>a)</b> ” The applicable legislation specifies the conditions for appointments, reappointments, [and] removal (...) of the Head of the SAI, and [where relevant] Members// of collegial institutions (...) by a process that ensures their independence</p>	<p>Sections 9(a) and (d) Article VIII of Chuuk Constitution</p>

Independence and Legal Framework of SAI - Dimension & Minimum Criteria for Dimension Score	Key References
<p>(...)." ISSAI 10:2 (E.g. with the approval of the Legislature, and where relevant, the Head of State; removal only for just cause / impeachment, similar protections to those that apply to a High Court Judge).</p> <p>OCPA: Yes</p>	
<p>b) "(...) the head of SAI, and [where relevant] members of collegial institutions [are] given appointments [and re-appointments] with <u>sufficiently long and fixed terms</u>, to allow them to carry out their mandates without fear of retaliation." ISSAI 10:2</p> <p>OCPA: Yes. The Head of SAI is nominated by the Governor and confirmed by the Senate for a six-year term (per Constitution).</p> <p>However, the term of office for Public Auditor between the constitution (six- year term) and the law (four-year term) is <u>not consistent</u>.</p> <p>In addition, there was no security of office based on the employment contract of the Public Auditor because of certain provisions in the employment contract as follows:</p> <ul style="list-style-type: none"> <li>a. The employment contract of the Public Auditor maybe cancelled by either party, without cause, on the giving in writing to the other party of 60 calendar day of notice of cancellation</li> <li>b. The Public Auditor salary per annum, all funds for educational cost, reimbursement for travel, and per diem to maintain the Continuing Professional Education (CPE) shall be subject to available of funds appropriated by the Chuuk State Legislature</li> </ul>	<p>Section 9(a) Article VIII of Chuuk Constitution</p>
<p>c) The Head of SAI and [where relevant] members of collegial institutions are (...) <b>immune to any prosecution</b> for any act (...) that results from the normal discharge of their duties." ISSAI 10:2 i.e., the SAI / Head of SAI cannot be sued for expressing audit opinions. This criterion is considered met if the legislation states that the Head of the SAI shall not be subject to the direction or control of any other authority when carrying out their functions as prescribed by law.)</p> <p>OCPA: No. there is no provision in the auditor's act which protects the SAI Head and its staff from prosecution while doing the normal discharge of their duties.</p>	

Independence and Legal Framework of SAI - Dimension & Minimum Criteria for Dimension Score	Key References
<p>d) Within the past 3 years, there have been <u>no periods longer than 3 months</u> during which there has been no properly appointed Head with tenure. <i>SAI PMF Task Team.</i></p> <p><i>OCPA: No. There was no appointed SAI Head in 2017.</i></p>	
<p>e) The last appointment [or re-appointment] of the Head of the SAI was done through a transparent process that ensured his/her independence. <i>ISSAI 10:2, SAI PMF Task Team.</i></p> <p><i>OCPA: Yes. The Public Auditor is nominated by the Governor and confirmed by the Senate.</i></p>	
<p>f) During the last 3 years there have been <u>no cases</u> where the Head of the SAI (or where relevant) members of collegial institutions were <u>removed</u> through an unlawful act or in a way that compromised the SAI's independence <i>PMF Task Team.</i></p> <p><i>OCPA: Yes. There have been no cases where the Head of SAI was removed through unlawful act during the last three years.</i></p>	
<p>g) The legal framework ensures that “in their professional careers, <u>audit staff</u> of Supreme Audit Institutions must not be influenced by the audited organizations and must not be dependent on such organizations.” <i>ISSAI 1</i></p> <p><i>OCPA: No related provision in the legal framework</i></p>	
<p><b>Score = 4:</b> All of the criteria above are in place  <b>Score = 3:</b> Criteria (a), (e) and at least three of the other criteria above are in place.  <b>Score = 2:</b> Criterion (a) and at least two of the other criteria above are in place.  <b>Score = 1:</b> At least one of the criteria above are in place  <b>Score = 0:</b> None of the criteria above are in place.</p> <p><i>OCPA Score: 3, Criteria (a), (e) and at least three of the other criteria above are in place.</i></p>	

Exhibit D: Assessment of the SAI Mandate Using Performance Management Framework Tool

Mandate of SAI- <b>Dimension</b> & Minimum Criteria for Dimension Score	
<b>Dimensions</b>	<b>Key References</b>
(i) Sufficiently Broad Mandate	
Scope of Audit	
<p>a) “<u>All public financial operations</u>, regardless of whether and how they are reflected in the national budget, <u>shall be subject to audit</u> by Supreme Audit Institutions <i>ISSAI 1:18 (In scoring this criteria,</i></p>	Section 5.c of TSL No 6-21

Mandate of SAI- Dimension & Minimum Criteria for Dimension Score	
Dimensions	Key References
<p><i>assessors may need to define and record their interpretation of 'National Budget' in relation to the structure of Government in the country)</i></p> <p><i>OCPA: Yes, all public financial operations are subject to SAI audit.</i></p>	
<p>b) <i>Where criterion (a) is not in place, the SAI has the right to <u>address the Legislature</u> or the relevant legislative committee regarding concerns it may have over audit arrangements for any public financial operations which are not within the mandate of the SAI. ISSAI 1:18, SAI PMF Task Team.</i></p> <p><i>OCPA: Yes, SAI has jurisdiction on any public financial operations and may audit any entity receiving funds from the state.</i></p>	<p>Section 5.c and Section 6 of TSL No 6-21</p>
<p>c) <i>The SAI's mandate specifically ensures it is responsible for the audit of <u>all central government activities</u>. ISSAI 10:3 (E.g. <i>audit of the consolidated fund, including flows in and out of the fund, and all revenue, expenditure, assets and liabilities</i>).</i></p> <p><i>OCPA: Yes, however, the types of audit that could be conducted by SAI are not explicitly specified in the law. It is only explicit that the Office can conduct financial as well as contract audit.</i></p>	<p>Constitution Article VIII Section 9.B</p> <p>Section 5.a of TSL No 6-21</p>
<p>d) <i>"(...) SAIs are <u>free from direction and interference</u> (...) in the selection of audit issues, planning, (...) conduct, reporting and follow-up of their audits." ISSAI 10:3</i></p> <p><i>OCPA: Yes. The SAI is <u>free from direction and interference</u> in the selection of audit issues, planning, conduct, reporting and follow-up of their audits."</i></p>	<p>Section 3.b of TSL No 6-21</p>
<p>e) <i>During the past 3 years the SAI has <u>not been given and has not taken</u> any tasks which influence the independence of its mandate. ISSAI 10:3, SAI PMF Task Team.</i></p> <p><i>OCPA: Yes. During the past 3 years the SAI has not been given and has not taken any tasks which influence the independence of its mandate.</i></p>	
<p>f) <i>There have been <u>no cases of interference</u> in the SAI's selection of audit clients or subjects within the last three years, in a way that may compromise the SAI's independence. ISSAI 10:3, SAI PMF Task Team</i></p>	

Mandate of SAI- Dimension & Minimum Criteria for Dimension Score	
Dimensions	Key References
<i>OCPA: Yes. There have been <u>no cases of interference</u> in the SAI's selection of audit clients or subjects within the last three years, in a way that may compromise its independence.</i>	
As a minimum, "SAIs should be empowered to audit the (...)" ISSAI 10:3	
g) " <u>legality and regularity</u> of government or public entities' accounts". ISSAI 10:3  <i>OCPA: Yes. The SAI is empowered to audit the legality and regularity of government or public entities' accounts</i>	Section 5€ of TSL No. 6-21
h) " <u>quality of financial management and reporting</u> ". ISSAI 10:3,  <i>OCPA: Yes. The SAI is empowered to audit the quality of financial management and reporting.</i>	Section 5€ of TSL No. 6-21
i) " <u>economy, efficiency and effectiveness</u> of government or public entities' operations". ISSAI 10:3  <i>OCPA: No. This type of audit called performance audit is not explicitly provided both in the constitution and in the law. Although in practice, the OCPA has been conducting this type of audit.</i>	
<p><b>Score = 4:</b> All of the criteria above are in place.  <b>Score = 3:</b> Criterion ( C ) and at least six of the other criteria above are in place  <b>Score = 2:</b> Criterion ( C ) and at least three of the other criteria above are in place  <b>Score = 1:</b> At least two of the criteria above are in place  <b>Score = 0:</b> Less than two of the criteria above are in place</p> <p><i>OCPA Score: 3, Criterion ( C ) and at least six of the other criteria above are in place. Though, the law should be amended to provide explicit provision on the types of audit that could be conducted by SAI as well as the audit standard that it could use in the conduct of the audit.</i></p>	
<b>(ii) Access to Information</b>	
a) The law provides the SAI with unrestricted right of access to records, documents, and information. ISSAI 1:10  <i>OCPA Yes. The law provides the SAI with unrestricted right of access to records, documents, and information. It can subpoena such records and information when not provided on time.</i>	Section 5.e of TSL No. 6-21
b) The SAI has the right to decide which information it needs for its audits. ISSAI 1:10  <i>OCPA Yes, Though OCPA entertains requests for audit. In those cases, independence of the auditor is being evaluated prior to entertaining such requests.</i>	Strategic Plan

Mandate of SAI- Dimension & Minimum Criteria for Dimension Score	
Dimensions	Key References
<p>c) In case the access to information required for the audit is restricted or denied, there is an established and appropriate <u>process for resolving such matters</u>, e.g., the possibility to address the Legislature or one of its committees, to take the matter to court, or direct powers to sanction those preventing access to information. <i>ISSAI 10:4, SAI PMF Task Team.</i></p> <p><i>OCPA Yes. Auditor can subpoena records and information.</i></p>	Section 5.e of TSL No. 6-21
<p>d) For jurisdictional controls, in the event that access to information considered necessary is hindered, the SAI has <u>specific powers to sanction</u> those responsible for such hindrance. (<i>e.g., fines for failing to produce information, fines for hindering access, etc.</i>). <i>SAI PMF Task Team</i></p> <p><i>OCPA Yes Auditor can subpoena records thru the Senate President</i></p>	Section 5.e of TSL No. 6-21
<p>e) SAI staff have right of <u>access to the premises</u> of audited bodies to do the fieldwork the SAI deems necessary. <i>ISSAI 1:10</i></p> <p><i>OCPA Yes</i></p>	Section 5.e of TSL No. 6-21
<p><b>Score = 4: All of the criteria above are in place.</b>  <b>Score = 3:</b> Criterion (a) and at least two of the other criteria above are in place.  <b>Score = 2:</b> At least two of the criteria above are in place.  <b>Score = 1:</b> At least one of the criteria above are in place.  <b>Score = 0:</b> None of the criteria above are in place</p> <p><b>OCPA Score : 4-</b>All of the criteria above are in place</p>	
(iii) Right and Obligation to Report	
<p>a) “The Supreme Audit Institution shall be empowered and required by the Constitution to report its findings annually and independently to Parliament <i>ISSAI 1:1, ISSAI 10 i.e., body of public representatives</i>).</p> <p><i>OCPA: Yes. SAI is submitting “OCPA Annual Report’ to the legislature, governor, and other officials</i></p>	Section 9(b) Article VIII of the Chuuk Constitution.
<p>b) The SAI has the right to <u>publish</u> its annual audit reports. <i>ISSAI 1:16</i></p> <p><i>OCPA Yes. The SAI has the right to <u>publish</u> its annual audit reports</i></p>	Section 9(b) Article VIII of the Chuuk Constitution

Mandate of SAI- Dimension & Minimum Criteria for Dimension Score	
Dimensions	Key References
c) " The SAI shall also be empowered to report on particularly important and significant findings <u>during the year</u> ." ISSAI 1:16 <i>OCPA Yes. The SAI is empowered to report on particularly important and significant findings during the year.</i>	Section 9(b) Article VIII of the Chuuk Constitution
d) "SAIs are free to decide <u>the content</u> of their audit reports." ISSAI 10:6 <i>OCPA Yes. The SAI is free to decide the content of its audit reports</i>	Section 9(b) Article VIII of the Chuuk Constitution
e) "SAIs are free to decide on <u>the timing</u> of their reports except where specific requirements are prescribed in law." ISSAI 10:6  <i>OCPA. Yes. Though the specific requirements and the timing of reports are not prescribed in law but, in practice, the SAI is free to decide on the timing of its reports</i>	
f) During the past 3 years there has been <u>no interference</u> in the SAI's decisions <u>on the content</u> of its audit reports. ISSAI 10:6  <i>OCPA Yes</i>	
g) During the past 3 years there has been <u>no interference</u> in the SAI's efforts to <u>publish</u> its audit reports. ISSAI 10:6  <i>OCPA Yes. During the past 3 years there has been no interference in the SAI's decisions on the content of its audit reports.</i>	
<p><b>Score = 4:</b> All the criteria above are in place.  <b>Score = 3:</b> Criterion (a) and at least four of the other criteria above are in place.  <b>Score = 2:</b> At least three of the criteria above are in place.  <b>Score = 1:</b> At least one of the criteria above are in place.  <b>Score = 0:</b> None of the criteria above are in place.</p> <p><i>OCPA Score : 4-All of the criteria above are in place</i></p>	

