

**Agreement Concerning Procedures for the Implementation of United States
Economic Assistance Provided in the Compact, as amended, of Free Association
Between the Government of the United States of America and
the Government of the Republic of the Marshall Islands**

This Agreement is entered into by the Government of the United States and the Government of the Republic of the Marshall Islands in recognition of their mutual desire to fulfill their obligations and responsibilities in the implementation of United States Economic Assistance, Programs, and Services as Set Forth in Title Two of the Compact, as amended, and section 105(f)(1)(B) of the Compact of Free Association Amendments Act of 2003. The purpose of this Agreement is to record the procedures that are most efficient, economical, and beneficial to the discharge of the obligations and responsibilities of each government and which each party agrees to implement and abide by. Except as otherwise provided, this Agreement shall be construed and implemented in a manner consistent with the Compact, as amended.

**Article I
Definition of Terms**

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

“Agreement” means this Agreement Concerning Procedures for the Implementation of United States Economic Assistance Provided in the Compact, as amended, of Free Association Between the Government of the United States of America and the Government of the Republic of the Marshall Islands.

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

“Allowable Costs” mean those necessary and reasonable costs allocable to a Grant that comply with the limitations of any agreement relating to such Grant as well as to applicable laws and regulations, are allocated to the Grant on a basis consistent with policies that apply to all activities of the Grant, are accounted for consistently and in accordance with generally accepted accounting principles, are adequately documented, and are net of all applicable credits.

“Annual Report” has the meaning assigned to such term in Article V, section 1(d).

“Appeal” means the right of a Grantee to request a hearing from the director of the United States Department of the Interior’s Office of Hearings and Appeals regarding an adverse agency decision (43 C.F.R. Part 4). An ad hoc appeals board of two or more administrative law judges may be appointed by the director to hear the dispute at the Grantee’s written request. Decisions will be in writing and signed by a majority of board

members. Grantees (and their representatives) who appear before the board are governed by specific rules of practice (43 C.F.R. Part 1).

“Audits” mean financial, program and management audits, including the determination as to whether the Government of the Republic of the Marshall Islands has met the requirements set forth in the Compact, as amended, or its related agreements regarding the purposes for which Grants or other assistance are to be used; determinations as to the propriety of the financial transactions of the Government of the Republic of the Marshall Islands with respect to such Grants or assistance; and the substantiation of appropriate follow-up actions by the Government of the United States and the Government of the Republic of the Marshall Islands.

“Committee” has the meaning assigned to such term in Article III.

“HARMI” has the meaning assigned to such term in Article II, section 2.

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

“Compact” means the Compact of Free Association Between the United States and the Federated States of Micronesia and the Marshall Islands, that was approved by the United States Congress in section 201 of Public Law 99-239 (Jan. 14, 1986) and went into effect with respect to the Republic of the Marshall Islands on October 21, 1986.

“Compact, as amended,” means the Compact of Free Association Between the United States and the Federated States of Micronesia and the Marshall Islands, that was approved by the United States Congress in section 201 of Public Law 99-239 (Jan. 14, 1986) and went into effect with respect to the Republic of the Marshall Islands on October 21, 1986, as amended with respect to the Republic of the Marshall Islands, following exchange of instruments of approval confirming the completion of the necessary domestic processes for entry into force by both parties.

“Contract” means a procurement Contract under a Grant or Sub-Grant. It also means a procurement sub-contract under a contract.

“Core Labor Standards” mean those fundamental rights that are guaranteed to all workers in the Republic of the Marshall Islands, including but not limited to freedom of association, non-discrimination in employment, the prohibition of forced labor, and the prohibition of exploitive child labor.

“Cost Accounting” means the method by which incurred costs are allocated to Grants by classification or type of expenditure linked to performance goals or, in lieu of performance budgeting, as line items of a traditional budget. Regardless of format, Cost Accounting structures for performance budgets should be capable of reporting on the cost of operations at three levels: (1) on an entity-wide (or agency basis); (2) by responsibility segment, defined as a component of the reporting entity that is responsible for carrying out a mission, conducting a major line of activity, or producing one or a group of related products or services; and (3) by segment outputs, that is, the cost centers associated with the separate types of outputs produced within each responsibility segment.

“Economic Assistance, Programs, and Services as Set Forth in Title Two” means the annual assistance provided to the Government of the Republic of the Marshall Islands by the Government of the United States under the Compact, as amended. It does not include annual payments under section 212 of the Compact, as amended. It would include any financial assistance provided pursuant to section 222 of the Compact, as amended.

“Equipment” means tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. The Government of the Republic of the Marshall Islands may use its own definition of Equipment provided it at least includes all Equipment defined above.

“Expenditure Report” means: (1) for non-construction Grants, the financial status or other equivalent report, and (2) for construction Grants, the outlay report and request for reimbursement or other equivalent report.

“Fiscal Year” means each one year period beginning October 1 and ending on the next following September 30. Each Fiscal Year shall be designated by the number of the calendar year in which such Fiscal Year ends. For example, “Fiscal Year 2022” means the Fiscal Year ending in calendar year 2022.

“Government of the United States” means the federal government of the United States of America.

“Government of the Republic of the Marshall Islands” means the Government established and organized by the Constitution of the Republic of the Marshall Islands including all the political subdivisions and entities comprising that Government.

“Grant” means an award of sector-based or other financial assistance, or an award under the Supplemental Education Grant, including cooperative agreements, in the form of money, or property in lieu of money, by the Government of the United States to the Government of the Republic of the Marshall Islands in accordance with section 211 of Title Two of the Compact, as amended, or section 105(f)(1)(B) of the Compact of Free Association Amendments Act of 2003. The term does not include technical assistance instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Acceptance of a Grant from the Government of the United States creates a legal duty on the part of the Government of the Republic of the Marshall Islands to use funds in accordance with the terms and conditions of the Grant.

“Grantee” means the recipient of a Grant under the Compact, as amended, or hereunder.

“Grants Administration” means those matters common to Grants in general, such as financial management, kinds and frequency of reports and records retention. These are distinguished from “programmatically” requirements, which concern matters that can be treated only on a program-by-program or Grant-by-Grant basis, such as activities supported by Grants.

"Gross Domestic Product Implicit Price Deflator" means the "Gross Domestic Product Implicit Price Deflator" as published from time to time in the *Survey of Current Business* by the Bureau of Economic Analysis of the United States Department of Commerce, or any successor thereto. It is a weighted average of the detailed price indices used in the deflation of the United States Gross Domestic Product. In each period, it uses as weights the composition of constant dollar output in that period. Changes in the implicit price deflator reflect both changes in prices and changes in the composition of output.

"IDMP" has the meaning assigned to such term in Article V, section 1(e).

"IMF" has the meaning assigned to such term in Article VII, section 7.

"Implementing Agency" means the United States Federal agency that is authorized by the United States Congress to receive, disburse, and monitor financial assistance pursuant to Title Two of the Compact, as amended.

"Indirect Costs" mean costs incurred for common institution-wide or joint objectives that cannot be identified readily and specifically with a particular program or activity, such as general administration not associated with a Grant or project funded under the Compact, as amended.

"Matching" means the value of the in-kind contributions or the portion of the costs of a project or program of the Government of the United States that is required to be borne by the Government of the Republic of the Marshall Islands.

"MTBIF" has the meaning assigned to such term in Article V, section 1.

"MUORA" means the "Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Marshall Islands Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association," as amended.

"Obligations" means the amounts of orders placed, Contracts and subcontracts awarded, goods and services received and similar transactions during a given period that will require payment by the Government of the Republic of the Marshall Islands during the same or future period.

"Operational Costs" means the customary and usual direct costs associated with the operations of a Grant program that continue from a given period to a subsequent period.

"Operational Grants" means the grants associated with a Grant program that continue from a given period to a subsequent period.

"Payment Bond" has the meaning assigned to such term in Article VI, section 1(j)(13)(iii).

"Performance Bond" has the meaning assigned to such term in Article VI, section 1(j)(13)(ii).

"Prior Approval" means documentation evidencing consent of the awarding agency of the Government of the United States prior to incurring specific cost.

"Program Income" has the meaning assigned to such term in Article VI, section 1(i).

"Real Property" means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and Equipment.

"Sector Grant" means a Grant described in Article II, section 1 for education, health care, public infrastructure, the environment, public sector capacity building, or private sector development, but does not include the Supplemental Education Grant.

"Standard Form SF-269" has the meaning assigned to such term in Article VI, section 1(b)(1)(iii).

"Standard Form SF-272" has the meaning assigned to such term in Article VI, section 1(b)(1)(iii).

"Sub-Grant" means an award of financial assistance in the form of money, or property in lieu of money, made by the Government of the Republic of the Marshall Islands to an eligible Grantee, including but not limited to local governments. The Government of the Republic of the Marshall Islands, as the legal entity to which United States financial assistance is awarded, is accountable for the use of all such funds by its Sub-Grantees.

"Sub-Grantee" means the recipient of a Sub-Grant under the Compact, as amended, or hereunder.

"Supplemental Education Grant" means the Grant described in section 105(f)(1)(B)(iii) of the Compact of Free Association Amendments Act of 2003 supplementing the Sector Grant for education.

"Supplies" mean all tangible personal property other than "Equipment" as defined in this Article.

"Suspension" means, depending on the context, either (1) temporary withdrawal of the authority to obligate Grant funds pending corrective action by the Government of the Republic of the Marshall Islands or its Sub-Grantee; (2) a decision to terminate the Grant; or (3) an action taken to immediately exclude a person from participating in Grant transactions for a period, pending completion of an investigation and such legal or debarment proceedings as may ensue.

"Termination" means permanent withdrawal of the authority to obligate previously awarded Grant funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the Government of the Republic of the Marshall Islands or its Sub-Grantee. It does not include: (1) withdrawal of funds awarded on the basis of an underestimation of the unobligated balance in a prior period; (2) withdrawal of the unobligated balance as of the expiration of a Grant; (3) refusal to extend a Grant or award additional funds; or (4) voiding of a Grant upon determination

that the award was obtained fraudulently, or was otherwise illegal or invalid from inception.

“United States” means the United States of America.

“Withholding” means the retention of payments including reimbursements, by the Government of the United States, with respect to any Grant if the Government of the Republic of the Marshall Islands is in breach of the terms and conditions of Title Two of the Compact, as amended, or this Agreement with respect to such Grant, fails to comply with any award condition with respect to such Grant, or is indebted to the Government of the United States. Further description of Withholding is in Article IV, section 5(c)(1).

Article II Economic Assistance Implementation

1. Subject to the terms and conditions of this Agreement, and except as otherwise provided, the Government of the United States shall provide financial assistance on an annual grant basis for a period of 20 years (or longer in the case of assistance provided under section 211(b) of the Compact, as amended) in the amounts set forth in section 217 of Title Two of the Compact, as amended. Such Grants shall be used for assistance in education, health care, public infrastructure, the environment, public sector capacity building and private sector development, or for other areas as mutually agreed, with priorities in the education and health care sectors. To the extent appropriated for that purpose, the Government of the United States shall also provide the Supplemental Education Grant in the amount of \$6,100,000 for fiscal year 2005, and an equivalent amount, as adjusted for inflation under section 218 of the Compact, as amended, for each of fiscal years 2006 through 2023.

(a) 1. The education Sector Grant shall support and improve the educational system of the Republic of the Marshall Islands, and develop the human and material resources necessary for the Republic of the Marshall Islands to perform these services. Emphasis should be on advancing a quality basic education system by increasing the achievement levels of students in the primary and secondary education system based on performance standards and assessments appropriate for the Republic of the Marshall Islands; providing secondary education or vocational training to qualified students; improving management and accountability within the educational system; raising the level of staff quality, including teacher training, with the ultimate aspiration of increasing the number of highly qualified teachers in the classroom; and improving the relevance of education to the needs of the economy.

2. Funds awarded under the Supplemental Education Grant shall be used to support the goals and objectives of the education portion of the Medium-Term Budget and Investment Framework and shall be used to support additional direct educational services at the local school level focused on school readiness, early childhood education, primary and secondary education, vocational training, adult and family literacy, and the smooth transition of students from high school

to postsecondary educational pursuits or rewarding career endeavors. Direct educational services include but are not limited to: activities designed to prepare and enable students to participate in early childhood educational activities, including nutritional health, transportation, and social services; activities designed to improve student achievement or the quality of education; instructional services for students that enhance the services supported by the education Sector Grant, e.g., technology labs or specialized reading programs; teacher training and professional development; curriculum development; and instructional materials; workforce and manpower development training programs and assistance; alternate secondary programs for out of school and pushed out youth; and activities to improve parental and community involvement at all levels of education. Funds may also be used to provide aid to students at post-secondary institutions based on financial need, and to design and develop innovative and strategic programs or activities that enable the education system to provide improved direct educational services and meet performance accountability requirements. Funds awarded under the Supplemental Education Grant shall not be used for school construction or remodeling; general operational costs (other than general operational costs of programs and activities funded by the Supplemental Educational Grant); or teacher salaries, except for the salaries of teachers, teaching assistants, paraprofessionals, or instructors who are needed to carry out programs or activities supported by the Supplemental Education Grant. Funds awarded under the Supplemental Education Grant are not to be taken into account when satisfying the priority to be given to education and health when awarding Sector Grants under paragraphs (a)(1) above and (b) below.

(b) The health Sector Grant shall support and improve the delivery of preventive, curative and environmental care, and develop the human and material resources necessary for the Republic of the Marshall Islands to perform these services. Priority should be given to establishing sustainable funding mechanisms for operating a community-based system with emphasis on prevention, primary care, mental health, substance abuse prevention, and the operation of hospitals to provide secondary care at appropriate levels and reduce reliance on medical referrals abroad.

(c) The Sector Grant for private sector development shall support the efforts of the Government of the Republic of the Marshall Islands to attract new foreign investment and increase indigenous business activity by vitalizing the commercial environment, ensuring fair and equitable application of the law, promoting adherence to Core Labor Standards, maintaining progress toward the privatization of state-owned and partially state-owned enterprises, and engaging in other reforms. Priorities should be given to advancing the private development of fisheries, tourism and agriculture; employing new telecommunications technologies; and analyzing and developing new systems, laws, regulations and policies to foster private sector development, to facilitate investment by potential private investors, and to develop business and entrepreneurial skills.

(d) The Sector Grant for capacity building shall support the efforts of the Republic of the Marshall Islands to build effective, accountable, and transparent

national and local government and other public sector institutions and systems. Priority should be given to improving economic planning, financial management, auditing, law enforcement, immigration controls, the judiciary, and the compilation and analysis of appropriate statistical indicators with the goal of ensuring that essential functions can be carried out and that essential positions are filled with qualified personnel.

(e) The environment Sector Grant shall increase environmental protection; establish and manage conservation (sustainable use) areas; engage in environmental infrastructure planning, design construction, and operation; and involve the citizens of the Republic of the Marshall Islands in the process of conserving their country's natural resources.

(f) In accordance with section 211(d) of the Compact, as amended, unless otherwise agreed, not less than 30 percent or more than 50 percent of United States annual Grant assistance shall be made available for public infrastructure assistance. With respect to the public infrastructure Sector Grant, the highest priority shall be given to primary and secondary education capital projects and projects that directly affect health and safety, including water and wastewater projects, solid waste disposal projects, and health care facilities. Second priority shall be given to economic development-related projects, including airport and seaport improvements, roads, sea walls, and electrical power expansion that cannot be funded through the rate structure.

(g) For each sector mentioned in this Article, annual financial assistance to support the special needs of the community at Ebeye, Kwajalein Atoll and other Marshallese communities within Kwajalein Atoll as specified in section 211(b)(1) of Title Two of the Compact, as amended, shall be included in the medium-term strategic budget and investment framework referenced in section 211(e) of the Compact, as amended, submitted by the Government of the Republic of the Marshall Islands, and distributed among the Grants annually awarded to and managed by that Government. Such assistance shall cover the period as set forth in the MUORA.

(h) In conjunction with section 321(a) of the Compact, as amended, the Government of the United States shall provide to the Government of the Republic of the Marshall Islands annual Grants of \$1.9 million adjusted for inflation under section 218 of the Compact, as amended, in accordance with section 211(b)(2) thereof which shall be included in the medium-term budget and investment framework referenced in section 211(e) of the Compact, as amended, to address the special needs of the community at Ebeye, Kwajalein Atoll and other Marshallese communities within the Kwajalein Atoll with the emphasis on the Kwajalein landowners most impacted by the United States presence on Kwajalein Atoll. This assistance shall be used for purposes of affordable housing, educational and general health improvements, and other general living condition improvements for that community.

2. In recognition of the special development needs of the Republic of the Marshall Islands, the Government of the United States shall make available a Humanitarian Assistance – Republic of the Marshall Islands (“HARMI”) Program upon request. Emphasis shall be on health, education, and infrastructure projects, including transportation, and such other projects as mutually agreed. The specific terms and conditions for requesting HARMI assistance and for deducting costs from a Sector Grant(s) awarded to the Government of the Republic of the Marshall Islands, are set forth in a separate agreement which shall enter into force simultaneously with the Compact, as amended.
3. The Government of the United States shall make annual contributions on or about the beginning of the Fiscal Year, into a trust fund established in accordance with sections 216 and 217 of Title Two of the Compact, as amended. Specific terms regarding fund investment, management, and use of proceeds are set forth in a separate agreement which shall enter into force simultaneously with the Compact, as amended.
4. In addition to amounts provided under Section 211(a)(4) of Title Two of the Compact, as amended, the Government of the United States shall provide funding adjusted for inflation in accordance with section 218 of the Compact, as amended, and section 104(j) of the Compact of Free Association Amendments Act of 2003, for each fiscal year from 2004 through 2023 for the training of judges and officials of the judiciary of the Republic of the Marshall Islands, in cooperation with the Pacific Islands Committee of the Ninth Circuit Judicial Council. The Implementing Agency shall provide an annual grant for this purpose based on a scope of work, including specific performance indicators, as the Implementing Agency may agree with the Government of the Republic of the Marshall Islands and the Pacific Islands Committee of the Ninth Circuit Judicial Council. The annual grant shall be subject to Article VI of this Agreement or to other grant regulations appropriate to the grantee.
5. Except as otherwise provided in the Compact, as amended, and in this Agreement, the amounts stated in Title Two of the Compact, as amended, shall be adjusted for each Fiscal Year by the percent that equals two-thirds of the percent change in the United States Gross Domestic Product Implicit Price Deflator, or five percent, whichever is less in the applicable Fiscal Year, using the beginning of Fiscal Year 2004 as a base. Notwithstanding section 218 of the Compact, as amended, as of Fiscal Year 2015, if the United States Gross Domestic Product Implicit Price Deflator average for Fiscal Years 2009 through 2013 is greater than the United States Gross Domestic Product Implicit Price Deflator average for Fiscal Years 2004 through 2008, then the amounts stated in Title Two of the Compact, as amended, and amounts awarded under the Supplemental Education Grant shall be adjusted for each Fiscal Year by the percent that equals the full percent change in the United States Gross Domestic Product Implicit Price Deflator, using the beginning of Fiscal Year 2014 as a base. The inflation adjustment shall be done prior to depositing the amounts set forth in section 217 of Title Two of the Compact, as amended, into the trust fund. After year one, the annual change will use an additive percentage change formula. The percent change shall be calculated to two decimal points (xx.xx%) by subtracting the previous calendar year third quarter GDP index from the GDP index of the current calendar year’s third quarter, dividing the result by the base

year's index (normalized base year equals 100). Funds arising from inflation adjustments shall be available in accordance with the Compact, as amended.

6. Funds provided under section 211(a) of the Compact, as amended, shall be considered to be local revenues of the Government of the Republic of the Marshall Islands when used as the local share required to obtain federal programs and services that enhance its ability to meet stated performance goals.

7. The Government of the Republic of the Marshall Islands shall not issue negotiable or transferable obligations evidencing indebtedness or encumbrance of funds received under Section 211 of Title Two. On a case-by-case basis, as part of the grant formulation process, the Committee may consider requests by the Republic of the Marshall Islands for commitment of Section 211 funds beyond the current Fiscal Year.

Article III Joint Economic Management

1. A Joint Economic Management and Financial Accountability Committee (the "Committee") shall be established to strengthen management and accountability with regard to assistance provided under the Compact, as amended, and to promote the effective use of funding provided thereunder.

2. The Committee shall be composed of five members, three of which shall be from the Government of the United States and two from the Government of the Republic of the Marshall Islands.

3. The chairperson of the Committee shall be from the Government of the United States. The Government of the United States shall consult with the Government of the Republic of the Marshall Islands when making the appointment, and the Government of the Republic of the Marshall Islands shall have an opportunity to present its views which shall be considered.

4. Appointments by the Government of the United States and the Government of the Republic of the Marshall Islands shall be made not later than 90 days after the entry into force of this Agreement. The chairperson and members of the Committee shall serve a term of two years and may be reappointed.

5. The duties of the Committee shall be to:

(a) Review the medium-term budget and investment framework of the Government of the Republic of the Marshall Islands, and evaluate the progress made by the Government of the Republic of the Marshall Islands to foster economic advancement and budgetary self-reliance in relation to its written goals and performance measures;

(b) Consult with providers of United States Federal Grant programs and services and other bilateral and multilateral partners to coordinate the use of development assistance from all sources-as it relates to the allocation of financial assistance under the Compact, as amended.

- (c) Review Audits called for in the Compact, as amended, or this Agreement and actions taken or being taken to reconcile problems and qualified findings;
- (d) Review performance outcomes and other reported data in relation to the previous year's Grant funding levels, terms, and conditions;
- (e) Review and approve Grant allocations, performance objectives, and, where appropriate, assessment tools for the upcoming year;
- (f) Review and approve any change proposed by the Government of the Republic of the Marshall Islands to the sectors or other areas to receive economic assistance set forth in Title Two of the Compact, as amended.
- (g) Evaluate progress, management problems and any shifts in priorities in each sector or other area, and identify ways to increase the effectiveness of United States assistance;
- (h) Review quarterly trust fund investment reports;
- (i) Comment on the comprehensive report prepared by the Government of the Republic of the Marshall Islands as required by section 215 of Title Two of the Compact, as amended, before it is submitted to the President of the United States; and
- (j) Attach special conditions to any or all annual Grant awards to improve program performance and fiscal accountability, and ensure progress toward macroeconomic goals.

6. The Committee shall meet at least once annually but no later than 30 days before the beginning of each Fiscal Year.

7. Sector or other Grant allocation decisions of the Committee shall be binding. In the event that the Government of the Republic of the Marshall Islands overrides all or part of these decisions, the Government of the United States may withhold Grant payments until the issues in dispute are resolved.

8. Each government shall provide the necessary staff support to its representatives on the Committee, to enable the parties to monitor closely the use of assistance under the Compact, as amended. No United States funding shall be used to support the travel or honoraria of Committee members from the Government of the Republic of the Marshall Islands, or any special salaries paid for serving as members of the Committee.

9. In making decisions concerning the use of funds in the Supplemental Education Grant, the Committee shall take appropriate account of plans for such use initiated by (i) the Government of the Republic of the Marshall Islands; (ii) the agreement between the United States Secretaries of Education, Health and Human Services, Labor, and the Interior; and, (iii) Article II, Paragraph 1(a)(2) of the Agreement.