June 20, 2018
Serial No. 18-639

The Honorable Hokkons Baules
President of the Senate
10th Olbiil Era Kelulau
Ngerulmud, Palau National Capitol
Republic of Palau 96939

Re: Signing Statement for SB 10-124, SD2, HD2

Dear President Baules:

Today I am proud to sign into law Senate Bill No. 10-124, SD2, HD2, which amends Chapter 6 of Title 40 of the Palau National Code; provides for the waiver of the procurement process for funding for travel to the 2018 Micronesian Games; extends the time limit on increasing PPUC’s utilities tariffs; and deals with other related purposes.

The main substance of this bill deals with amending Chapter 6 of Title 40 of the Palau National Code, specifically the section that lays out the procurement process. As you note, it is important that our Republic update our procurement laws, which are there to encourage transparency and government accountability. The amendments in this bill establish higher thresholds for small purchases, ensure efficiency and clarity to the Procurement Officer’s role, and also clarify the procedures that make up the process in general.

First, I thank you for raising our thresholds for small purchases. Now, procurements for small purchases are defined easily as those governmental expenditures below $20,000. The procedures are divided based on the amount procured: between $5,000 but less than $20,000; under $5,000 but over $2,500; and under $2,500. This increase is necessary, in large part, due to inflation. While not all prices increase at the same speed or at the same rate, with annual inflation, the numbers do increase significantly. For example, what cost $10,000 in 1991, when this Bill was first put into law, today costs roughly $18,045. Because of this significant increase, it makes sense to increase the small purchase threshold in order to ensure an appropriate range of financial flexibility in the procurement process. These amendments not only ensure just that, but they do so while simultaneously avoiding lengthy and costly bidding process requirements. In other words, they will prevent the need for future one-time exemptions, such as the one appropriately included in this bill regarding the Micronesian Games.
Furthermore, I thank you for allowing for more modern and effective ways of issuing public notice. Now, all public postings will be done via a centralized website, at least two other Palau governmental or agency websites, including the procuring agency’s website, and will be announced on two radio, and one television, station within the Republic.

It is also commendable that you have clarified the role of the Procurement Officer. For instance, the Procurement Officer for the purchase of goods is the Chief of Property and Supply. In this situation, the term “goods” includes medical supplies. Your amendment declaring the Minister of Health as the Procurement Officer for the purchase of medical supplies resolves this issue. Further, you ensure consistency across all branches of government by requiring contractual services to be included as a responsibility of the Oek’s Procurement Officers.

As noted above, the Micronesia Games provide a perfect example for the need to amend our procurement laws. Given that the Micronesia Games begin on July 12, and Palau fully intends to send a competitive delegation to participate, it is essential for us to waive the procurement process for our talented athletes so that funding can be made immediately available for travel purposes. Under the old law, the time limit would not have allowed for us to compete. However, thanks to your amendments, we can now compete against our island neighbors. By signing this bill into law, you have ensured that we will be able to attend the Games, while also making it easier in the future to avoid the one-time exemptions noted above.

Finally, this bill also amends Section 412 of Title 37 of the Palau National Code. In so doing, it grants an extension for the PPUC to amend its utilities tariffs to meet its cost recovery requirements, which is a condition of its ADB loan. The new date of October 1, 2019, will provide sufficient time for the PPUC to ensure that a proper cost-analysis is done, which will benefit our Republic in the long run. That said, we must understand that our goal as leaders is not only to offer affordable utilities such as electricity, water, and wastewater services, but to also improve the quality and sustainability of such services. With that, I ask for your support in providing the necessary subsidies required for the PPUC to continue to meet its operational requirements and to make any necessary improvements. Thank you for understanding the needs of our people and of our utility companies.

Please allow me to thank you once again for your diligent attention to the important details of financing our national government. I am proud to sign this bill into law, and look forward to continuing our work together to advance the Republic of Palau. My office stands ready and willing to answer any question and provide any support you may need.

Sincerely,

Tommy E. Remengesau, Jr.
President of the Republic of Palau
June 20, 2018
Serial No. 18-639

The Honorable Sabino Anastacio
Speaker of the House of Delegates
10th Olbiil Era Kelulau
Ngerulmud, Palau National Capitol
Republic of Palau 96939

Re: Signing Statement for SB 10-124, SD2, HD2

Dear Speaker Anastacio:

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The Senate
TENTH OLBII ERA KELULAU
P.O. Box 8, Ngerulmud
Republic of Palau 96939

SEVENTH SPECIAL Session

June 2018

INTRODUCED AS SENATE BILL NO. 10-124, SB2, HB2

AN ACT

( See Title Inside )


DATE INTRODUCED June 07, 2018

SENATE ACTION

FIRST READING: June 07, 2018
REFERRED TO: Ways & Means & Financial Matters
STANDING COMMITTEE REPORT NO.: 10-123
DATE ADOPTED: June 08, 2018
SECOND READING: June 08, 2018
LEGAL FORMAT: Proper
REVIEW: June 08, 2018
THIRD READING: June 09, 2018
FINAL READING: June 12, 2018

HOUSE ACTION

FIRST READING: June 09, 2018
REFERRED TO: Ways & Means
STANDING COMMITTEE REPORT NO.: 10-57
DATE ADOPTED: June 10, 2018
SECOND READING: June 10, 2018
LEGAL FORMAT: Proper
REVIEW: June 11, 2018
THIRD READING: June 11, 2018
FINAL READING:

CONFERENCE COMMITTEE ACTION

DATE: NONE
COMMITTEE REPORT NO.: NONE
DATE PASSED: NONE
FINAL READING: NONE

Ann L. Pedro
CLERK OF THE SENATE

Marcello Myrikelau
CLERK, HOUSE OF DELEGATES
Furthermore, I thank you for allowing for more modern and effective ways of issuing public notice. Now, all public postings will be done via a centralized website, at least two other Palau governmental or agency websites, including the procuring agency’s website, and will be announced on two radio, and one television, station within the Republic.

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Finally, this bill also amends Section 412 of Title 37 of the Palau National Code. In so doing, it grants an extension for the PPUCC to amend its utilities tariffs to meet its cost recovery requirements, which is a condition of its ADB loan. The new date of October 1, 2019, will provide sufficient time for the PPUCC to ensure that a proper cost-analysis is done, which will benefit our Republic in the long run. That said, we must understand that our goal as leaders is not only to offer affordable utilities such as electricity, water, and wastewater services, but to also improve the quality and sustainability of such services. With that, I ask for your support in providing the necessary subsidies required for the PPUCC to continue to meet its operational requirements and to make any necessary improvements. Thank you for understanding the needs of our people and of our utility companies.

Please allow me to thank you once again for your diligent attention to the important details of financing our national government. I am proud to sign this bill into law, and look forward to continuing our work together to advance the Republic of Palau. My office stands ready and willing to answer any question and provide any support you may need.

Sincerely,

[Signature]

Tommy E. Remengesau, Jr.
President of the Republic of Palau
AN ACT

To amend RPPL 10-25 to provide for the waiver of procurement process for the funding for travel for the 2018 Micronesian Games; to extend the time limit on increasing PPUC utilities tariffs; to amend Chapter 6 of Title 40 of the Palau National Code; and for other related purposes.

THE PEOPLE OF PALAU REPRESENTED IN THE OLBIIl ERA KELULAU DO ENACT AS FOLLOWS:

Section 1. Legislative Findings. The Olbiil Era Kelulau finds that the upcoming 2018 Micronesian Games, to be held in Yap, FSM from July 12-28, 2018, is an important event that the Republic of Palau is eagerly anticipating and is fully prepared to attend.

However, one remaining issue regarding Palau’s participation in the 2018 Micronesian Games is travel expenses to Yap, Federated States of Micronesia. The Olbiil Era Kelulau finds that, due to the limited time between now and July 2018 for the 2018 Micronesian Games, it is necessary to waive the procurement process specifically related to travel to and from said Games. Time is of the essence. Therefore, the Olbiil Era Kelulau finds it is appropriate to waive the procurement process for expenditures related to travel for the 2018 Micronesian Games.

In addition, the Olbiil Era Kelulau finds that an extension of time is needed for the increase on Palau Public Utilities Corporation’s utilities tariffs, until October 1, 2019. Therefore, the Olbiil Era Kelulau finds that it is appropriate to extend the deadline until October 1, 2019.

Finally, the Olbiil Era Kelulau finds that it is necessary to amend Chapter 6 of Title 40 of the Palau National Code, which lays out the procurement process. It is important that the Republic of Palau have updated procurement laws which encourage transparency and government accountability. State governments and other entities urgently need to fund development projects, but are bound by the restrictiveness of the current procurement laws. These entities would derive immense benefit from the inclusion of the procurement law amendments in this bill. Furthermore, the inclusion of these procurement law amendments into this bill comprehensively and permanently addresses the needs of the Republic. One-time exemptions such as the Micronesian Games exemption only solve the immediate problem, and do not address the underlying issue of
procurement laws that are too restrictive. In order to avoid further piecemeal legislation, 
the Olbiil Era Kelulau finds it prudent and advisable to amend the procurement law now, 
in order to facilitate responsible and efficient spending going forward.

Section 2. Amendment. RPPL 10-25 is hereby amended to read as follows:

"Section 7. Amendment. Section 24 of RPPL No. 10-12 is hereby amended to read 
as follows:

"Section 24. Micronesian Games.

(a) The sum of $200,000 is hereby authorized to be appropriated and is hereby 
appropriated for expenditure or obligation for Fiscal Year 2018 as funding support for 
Palau’s participation in the Micronesian Games to be held in Yap State, FSM on July 
2018. The Palau National Olympic Committee and the Team Palau Organizing 
Committee shall submit expenditure reports and disclosure of donation sources to the 
Office of the President and the Olbiil Era Kelulau no later than sixty (60) days after the 
closing of the Micronesian Games. The reports shall specify the amounts spent, and 
include an itemized description of the nature of each expense. The entire amount 
authorized to be and appropriated in this section shall come from local revenues.

(b) Funding for Travel for the 2018 Micronesian Games. Any funds authorized 
and appropriated for expenditure or obligation in Fiscal Year 2018 to support Palau’s 
participation in the Micronesian Games to be held in Yap State, FSM in July 2018 shall 
be exempt from the procurement process required under Title 40 of the Palau National 
Code."

Section 3. Amendment. Section 412 of Title 27 as amended by RPPL 10-19 is 
hereby amended as follows:

"§ 412 Rates; rate making process; restriction of tariff raises by Palau Public 
Utilities Corporation.

(a) The rates set by PPUC for the electricity operations of the Republic that are in 
effect on the effective date of this act shall be the rates of PPUC on the effective date of 
this Act, provided, however, that PPUC shall not increase any tariffs on utilities until after 
October 1, 2019; PPUC shall also provide a supplemental report to the President of the
Republic, the Presiding Officers of the Olbiil Era Kelulau, and the office of the Public
Auditor on or before May 31, 2018. Such report shall include but not be limited to the
following:

..."

Section 4. Amendment. 40 PNC § 601 is amended as follows:

"§ 601. Purpose; interpretations.

(a) This chapter shall be construed and applied to promote its underlying purposes
and policies.

(b) The purposes and policies of this chapter are as follows:

(1) to ensure the fair and equitable treatment of all persons who deal with
the procurement system of the Republic or any state government.

..."

(5) to allow for the continued development of procurement policies and
practices;

(6) to provide safeguards for the maintenance of a procurement system of
quality and integrity; and

(7) to ensure that all costs related to the procurement system are necessary
and cost effective."

Section 5. Amendment. 40 PNC § 603 is amended as follows:

"§ 603. Application.

(a) This chapter applies only to procurement actions taken or contracts entered
into after the effective date hereof.

(b) Except as otherwise specified by law, this chapter applies to every expenditure
of public funds by the national government or any government agency, except P.P.U.C.
and P.N.C.C., that receives national government funding or state governments,
irrespective of source, including United States Federal assistance monies. This chapter
shall also apply to contracts between the national and state governments or other
governments, except, however, in cases in which the Procurement Officer concerned
makes a written and substantiated determination that the contract involved is of such a
nature that only governments may perform it."

Section 6. Amendment. 40 PNC §§ 608 and 609 are amended as follows:

"§ 608. Procurement Officer.

The Procurement Officer for the purchase of goods shall be the Chief of Property and Supply who will report to the Minister of Finance. The Procurement Officer for construction and architectural and engineering contracts shall be the Director of the Bureau of Public Works. The Procurement Officer for the purchase of contractual services shall be the Director of the Bureau of Public Service System. The Procurement Officer for each state government shall be that person designated by each state governor. The Procurement Officers for professional services, purchase of goods, and contractual services for the House of Delegates shall be the Speaker and for the Senate shall be the Senate President.

§ 609. Delegation.

A Procurement Officer may delegate his authority with the prior written approval of the Minister of Finance or, with regards to state governments, with the prior written approval of the Governor, or with regards to the Olbiil Era Kelua, with prior written approval from the Speaker for the House of Delegates or the Senate President for the Senate. A Procurement Officer may suspend, limit or revoke any delegation of authority made under the provision of this section. Delegations must be in writing from the Procurement Officer involved and include the name and title of the individual being delegated the authority."

Section 7. Amendment. 40 PNC § 616 is amended as follows:

"§ 616. Public Notice.

Public notice of the invitation for bids shall be made a reasonable time at least fifteen (15) days before the date of the initial day of the bidding time. The notice shall be furnished to all persons and state governments who have requested to be included in bidders mailing lists within the previous twelve (12) months; be published in a newspaper of general circulation in the Republic or in a foreign newspaper if the Procurement Officer determines that publication would benefit the government; and shall be publicly posted
for at least fifteen (15) days at the Ministry of Finance’s centralized bid website, at least
two (2) other Palau governmental or agency websites including the procuring agency’s
website, and announced on two (2) radio and one (1) of the television stations within the
Republic.”

Section 8. Amendment. 40 PNC § 625 is amended as follows:

“§ 625. Small Purchases.

(a) Any procurement not exceeding twenty thousand dollars ($20,000) may
be made in accordance with the small purchase procedures to be established by
regulations promulgated by the Minister of Finance. However, procurement
requirements shall not be artificially divided so as to constitute a small purchase.
Preference shall be given to locally produced goods and local services.

(b) Formal bidding is not required, but it is encouraged for all items not
exceeding twenty thousand dollars ($20,000). Except that the competitive bidding
procedure shall be required on any items sought by the state governments of ten
thousand dollars ($10,000) or more.

(c) The following procedures shall be applied to the purchase of goods and
services less than $20,000.

(1) For all small purchases over $5,000 but less than $20,000 not put
to bid, the Procurement Officer concerned or his designee shall obtain price
quotations from at least three (3) vendors and base the selection on
competitive price, quality, delivery time, preferential treatment of locally
produced goods and local services, and other relevant factors. A written
documentation of the three quotes, the vendors submitting the quotes, and
the basis for selection shall be maintained in the purchase order file.

(2) Small purchases under $5,000 but over $2,500 may be made after
obtaining two (2) written price quotations, with the exception that for event
hosting services, only one (1) price quotation may be required, provided
that reasonable justification exists. A written documentation of the quote(s),
the vendor(s) submitting the quote(s), and the basis for selection shall be
maintained in the purchase order file.

(3) Small purchases under $2,500 may be made after receiving one
(1) written price quotation. A record of the accepted price quotation shall
be maintained in the purchase order file."

Section 9. Amendment. 40 PNC § 627 is amended as follows:

"§ 627. Sole source procurement.

(a) Contracts that require an expenditure of twenty thousand dollars ($20,000) or
less may be awarded for a supply, service, or construction item without competition when
the Procurement Officer determines in a substantiated writing that there is only one
reliable source of the required supply, service, or construction item.

(b) The written determination shall be included in the contract file and shall
contain the following information:

(1) the unique capabilities of the source that are required, why they are
required, and the degree of consideration given to other sources;

(2) the facilities or equipment of the source that are required and why they
are required; and

(3) whether the work experience of the source on similar efforts will
eliminate unnecessary expense for time or duplication of effort required to bring
another source up to that level of experience.

(c) Other potential suppliers of the supply, service or construction item may protest
the determination of the Procurement Officer. Upon showing that such potential suppliers
can qualify as responsible offerors and bidders any future procurement of such items shall
be conducted using a method other than sole source procurement."

Section 10. Amendment. 40 PNC § 628 is amended as follows:

"§ 628. Emergency procurement.

(a) Notwithstanding any other provision of this Chapter, the President of the
Republic acting under Article VIII, Section 14, of the Constitution and other supporting
or authorizing statutes may authorize the Procurement Officer concerned to make an
emergency procurement. An emergency procurement shall be as competitive as
practicable under the circumstances. A detailed and substantiated written determination
describing the reason for the emergency procurement, the extent of competition obtained
if any, and the basis for selection of a particular contractor shall be prepared by the
Procurement Officer concerned and made part of the contract file. The Procurement
Officer shall provide a written report regarding the emergency procurement to the
President of the Republic and to the presiding officers of the Ombil Eka Kelulau.

(b) For a State's declaration of a State of Emergency to be confirmed, after such
declaration by the State's Governor, the National Emergency Management Office shall
determine the extension of risk and danger to those lives or property threatened and
submit said determination to the Office of the President of the Republic. The President
may affirm the State's declaration of emergency in order to allow for emergency
procurements in the State subject to the procurement and reporting provisions of
subsection (a). Emergency procurements shall be limited to a span of ten (10) days. The
ten (10) day period may be extended at the discretion of the President. Emergency
procurements over ten thousand dollars (10,000) shall be audited by the Public Auditor
within one (1) year of such procurement."

Section 11. Amendment. Amend Section 654 of Title 40 as follows:

"§ 654. Employee conflict of interest.

(a) It is a breach of ethical standards for any employee of a government agency to
participate directly or indirectly in a procurement with that government agency if:

..."

(d) Each government agency shall provide a written standard of conduct for
conflicts of interest in procurements for its employees consistent with this subchapter."

Section 12. Amendment. Amend 40 PNC Chapter 6 to include a new section as
follows:

"§ 664. Regulations.

Once every five (5) years the Minister of Finance shall evaluate the minimum
dollar amounts in sections 625 and 627 of this chapter in conjunction with inflation over
the same five (5) year period, and may adjust the dollar by regulation amounts to account
for inflation.”

Section 13. Amendment. Amend 40 PNC Chapter 6 to include a new subchapter as follows:

“Subchapter III

Grants

§ 691. Purpose.

The purpose of this subchapter is to ensure uniform guidance for grants, irrespective of source, in the Republic of Palau similar to the United States of America Office of Management and Budget’s (OMB) “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (commonly referred to as "Uniform Guidance") as officially implemented in December 2014.

§ 692. Grants.

The award, acceptance, and administration of grants, irrespective of source, shall be conducted in a manner which is consistent and subject to public scrutiny and audits and with the provisions of this Chapter.

§ 693. Regulations.

The Minister of Finance shall promulgate regulations consistent with the provisions of the Chapter, including, but not limited to:

(a) commonly accepted accounting standards.
(b) requirements for publication of grants and awards, and
(c) minimum auditing requirements for grants.”

Section 14. Effective date. This Act shall take effect upon its approval by the President of the Republic of Palau, or upon becoming law without such approval.

PASSED: June 12, 2018

Approved this day of , 2018.

H. E. Tommy E. Remengesau, Jr.
President of the Republic of Palau