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LEGAL PLAN

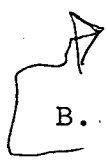
FOR

PHASE I

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## INTRODUCTION

Negotiating the future political status of the Marianas is only the initial step in actually achieving that status. Among other efforts, there must be legal preparation for and implementation of the transition of the Marianas from their present legal status to the agreed-on status. This effort is termed the Legal Plan for Phase I.

### A. Content of the Legal Plan

The first part of this memorandum is an attempt to define what is in the Legal Plan and what is not. Essentially, the Legal Plan will include two types of activities. First, there must be legal research. This includes the need for legal planning in the areas of conducting political education, holding a Constitutional Convention and series of referenda and elections, and developing an initial Legislative Program for the new government. The second type of activity covers the discrete events or activities necessary during the transition to implement the permanent political arrangement -- actually conducting political education programs, convening the Constitutional Convention, holding any required public votes, participating in the U.S. Congressional considerations, and obtaining the approval of the United Nations.

As will be detailed later, the Legal Plan does not include all legal research or implementing activities during

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the transition period. It of course does not include the development planning. It further does not include some planning or implementing activities which have a large legal component -- e.g., the planning for reorganization of the Executive Branch of the new government,<sup>1/</sup> the actual operation of the transitional government, and the possible operation of a public corporation.

Moreover, there is some uncertainty over the exact content of the Legal Plan because of the ambiguity about the time period covered by Phase I. The assumption here is that the legal research and possibly political education will start prior to the signing by the two delegations of a formal "status agreement" or other formal document. Deferring this complex work until after signing could slow down the pace of implementing the arrangement, increase confusion, and add to costs. (See discussion at pp. \_\_\_\_\_.) Except for some political education, the implementing activities would run from the signing of the formal agreement until the actual start of the first legislative session of the next government.

B. Costs

The second part of this memorandum seeks to estimate the costs of the Legal Plan for Phase I. The estimates draw

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<sup>1/</sup> This item will be covered in the separate Government Reorganization Plan. However, the drafting of the required legislation will be part of development of the Legislative Program (project A-6.)

on a variety of sources, including data from analogous events (e.g., elections) in the Marianas and the rest of the Trust Territory. We have also studied Puerto Rico's experience in the 1950's in becoming a commonwealth and the Virgin Islands' recent experience with a Constitutional Convention and referendum.

The starting point for trying to estimate costs is to estimate the time required to complete the projects. The exact length of Phase I and of particular events within it is highly uncertain since there are so many variables, over many of which the Marianas have little control. The total period surely will be in excess of one year,<sup>1/</sup> but by how much? For example, how long will it take to obtain congressional and U.N. approval of the new political status? Fortunately, no estimate of the total time period is necessary here since the costs of individual projects are relatively independent of the length of this period. For example, legal research on conducting a plebiscite or the holding of the plebiscite itself will not cost more or less because the total time period is of a particular duration. The one exception is political education (project B-1) where plans for a permanent

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<sup>1/</sup> Looking at the analogy of Puerto Rico becoming a commonwealth, over two years elapsed between passage by the U.S. Congress of "enabling" legislation (P.L. 600) and the date the new P.R. Constitution became effective, and the United Nations passed on the matter over a year later. In the Virgin Islands, a recent Constitutional Convention lasted over one year, a referendum approved the proposed Constitution two months later (November 1972), and nothing yet has been presented to the U.S. Congress for its approval.

staff mean that the costs for salary and overhead are related to the length of the total period. However, as detailed later, this does not significantly affect the total cost estimates for the Legal Plan.

It is necessary, however, for costing purposes to make estimates, albeit rough ones, of the time needed for some individual projects and we accordingly have made such estimates. These estimates assume that the implementing projects can each proceed at a business-like pace because the legal research projects have been completed in advance. Otherwise, stretching out individual projects can escalate the costs.<sup>1/</sup>

We estimate that the total costs for the Phase I Legal Plan as defined in this memorandum would range in 1973 dollars from about \$600,000 to \$720,000. (See Table 1.) As reflected by the range of costs, there is some uncertainty in the estimates here and, of course, adding or subtracting some projects from those described will affect the costs.

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<sup>1/</sup> See discussion at p. 2.

I. CONTENT OF THE LEGAL PLAN

This section describes the various projects in the Legal Plan. These projects can be separated into two groups: (A) Legal Research, and (B) Implementing the Arrangement.

A. Legal Research

While the Marianas could conceivably wait to begin preparing for the transition until after the status agreement is signed, this would be unwise. Advance legal research can avoid many problems since the legal issues are complex and will require considerable work. Early legal research could, first, accelerate the pace of some of the implementing activities. For example, if the legal research has been completed, a plebiscite on the status arrangement, an election for representatives to the Constitutional Convention, and the start of the convention could all occur within a period of about three months after the agreement has been signed.<sup>1/</sup> Not only

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<sup>1/</sup> See discussion at pp. \_\_\_\_\_.



would a business-like pace for the implementing activities help shorten the length of the transitional period, but it would help keep down the costs for staff and overhead. For example, thorough preparation for the Constitutional Convention will minimize the need for recesses to allow research and drafting.<sup>1/</sup> Finally, advance legal research would also help avoid the confusion caused by uncertainty on sensitive issues -- e.g., the format for the plebiscite.

It might not be necessary or appropriate to complete all the legal research prior to the signing of a status agreement. Rather, the projects might be completed in advance for the most part, and then some final work be undertaken once all the details of the status agreement are known or as last-minute questions arise.<sup>2/</sup>

Besides the legal research projects listed below, political education (Project B-1) might well start before the

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<sup>1/</sup> The Virgin Islands "Second" Constitutional Convention was in session on a sporadic basis for almost a full year. Since there was little preparation prior to the convention, the first meetings spent most of their time on organization issues and then the convention had to recess until working committees researched issues and drafted sections.

<sup>2/</sup> A substantial portion of the legal research on developing local statutes and local government (project A-6) might well be done after the formal documents have been signed since the initial Legislative Program will not be needed until all the implementing activities are completed and the new government begins.

U.S.-Marianas negotiations have been completed. It could begin instead as soon as the basic terms of the status arrangement are known. Such an effort could likewise help avoid delay and confusion. However, because the bulk of political education will occur later, this project is included with the implementing activities.

1. Legal Research on Political Education

Providing timely, complete and objective information about the substance of the new political status arrangement and the steps needed to attain it are necessary to involve all Marianas voters and to allow them to make wise decisions. In large part, political parties, candidates, and interested individuals will provide a dialogue which will inform the voters. However, an independent political education program can disseminate critical information. This information would range from a balanced discussion of commonwealth versus independence to a set of instructions on how to register to vote.

As noted above, political education could start as soon as the basic provisions of the new status arrangement are clear and should continue until the new government has begun to function. Its intensity will vary as dictated by the circumstances. For example, political education will be especially important just prior to a plebiscite on the status agreement.

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Considerable legal research on political education will be needed. The research will have to address issues such as: Who should direct the program? What should the political education program do to inform the people versus what can and should the political parties and political candidates do? What is the line between providing information and indoctrinating? Each implementing event -- e.g., the plebiscite, a Constitutional Convention -- will raise new legal issues.

## 2. Legal Research on Conducting a Plebiscite

A plebiscite should be held as soon as possible after the signing of the political status agreement but still allowing adequate time for public discussion. This will insure that there is support for the agreed-upon approach, so that the Marianas can proceed with the transition to the new status. The vote should probably be solely on the issue of approving or not the political status agreement (or possibly with one or two alternatives). Voting at the same time for representatives to a Constitutional Convention would probably delay the holding of the plebiscite, would confuse the issues, and, if the voters do not approve the agreed political arrangement, would be premature.

Prior to holding the plebiscite some legal research will be needed on issues such as: Should the United Nations

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supervise or somehow participate in the plebiscite? Should some independent Elections Board be set up to register voters and conduct the vote? (Such a Board might well be established not only for the plebiscite but for the subsequent votes which will be necessary.) What exactly should be on the ballot?

3. Legal Research on Establishing a Transitional Government

At least by the time the Marianas people and the U.S. Government have approved the status agreement,<sup>1/</sup> a transitional government must be established to govern the Marianas until the Trusteeship is terminated and the new Marianas government is established. Since the U.S. negotiations with the rest of Micronesia might drag on for months and since the United States apparently will not seek partial termination of the Trusteeship, this transitional government will be needed for at least a few months and possibly longer. The operation of the transitional government is not considered part of the Phase I Legal Plan since the financing of this government should appropriately be on a basis very similar to the operation of the present TTPI government -- i.e., a combination of direct U.S. financial assistance and revenues from local taxes.

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<sup>1/</sup> The transitional government might be established earlier -- e.g., after the signing of the status agreement or after the Marianas plebiscite approving it. This needs to be researched and negotiated.

The legal research on establishing a transitional government, however, is very much a part of the Legal Plan. As soon as the basic terms of the status agreement are clear, lawyers and consultants need to consider a number of issues, including: How will the transitional government be established e.g., by agreement between the U.S.-Marianas Delegations, by an executive order from the U.S. Executive? What should be the structure of the transitional government -- e.g., might a public corporation be created with some responsibilities? How can Marianas control over this government be maximized and U.S. control be minimized?

4. Legal Research Preparing for a Constitutional Convention

The drafting of a constitution and related laws (e.g., possibly a Federal Relations Act) is a difficult and timely process. Lawyers and their consultants must collect information about analogous constitutions and assess the existing substantive law in the Marianas on issues which might be appropriate for a constitution. Of course, the researchers would not make any political decisions -- explicit or implicit -- but would define the issues and formulate alternative solutions.

5. Legal Research on the Application of Federal Laws

The formal status agreement will apparently include some decisions on which important federal laws (e.g., income tax, immigration) will apply in the Marianas and, if so, how. However, the negotiations are not likely to resolve all the questions about the important laws and will barely touch on the great mass of less-important federal legislation. The current thinking in the negotiations is that a joint commission or some equivalent group will be established to continue the work of deciding issues of applicability.

The Marianas side will need to retain lawyers and expert consultants to consider these issues in advance. They will need to: [study the federal laws in detail;] consider how these laws apply to the states, territories, and Puerto Rico; possibly develop new approaches; and, define the alternatives clearly. The Marianas side will also need to support its representatives on any commission or equivalent group. Given the complexity and extent of federal legislation, this will be a difficult, time-consuming project.

6. Legal Research on Developing Local Statutes and Local Government -- i.e., Development of an Initial Legislative Program

Even with all the legal research described in the preceding projects, there is a further huge project regarding

local government. The status agreement presumably will provide some agreed guidelines about local self-government in the Marianas, and the Constitutional Convention will provide a basic charter for the local government and possibly some detailed guidance in areas of importance (e.g., an extensive Bill of Rights about rights of the individual). However, a much more detailed set of tasks must be done.

First, the issues and alternatives for organizing the legislative and judicial branches of the local government must be researched and analyzed. (The basic research on organizing the Executive Branch will be done under another part of Phase I -- Government Reorganization Plan.) This effort will include a study of existing local laws and of analogous laws in other jurisdictions on such diverse subjects as the actual structure of legislative and judicial branches, tax systems, criminal laws, and real estate laws.

After informal conversations with popular leaders, the project will also have to narrow the alternatives and, as much as possible, prepare a Legislative Program to implement the new government. (This Legislative Program will even include the laws necessary to establish the Executive Branch since drafting the legislation will not be one of the tasks of the Government Reorganization Plan.) This huge package of legislative proposals will be prepared

for the first session of the new Marianas Legislature so that the legislature can consider and pass, as appropriate, the broad range of legislation needed to create a functioning new government.<sup>1/</sup>

B. Implementing the Arrangement

With the possible exception of political education, these implementing activities would occur after the U.S.-Marianas negotiations have been completed. They are presented here in what is their likely chronological order.

1. Political Education

This is already discussed in the description of the legal research project on political education (project A-1).

2. Holding a Plebiscite

As discussed in more detail earlier (project A-2), a simple plebiscite on the status agreement should be held as soon as possible after the signing of the agreement. An independent Elections Board, possibly with U.N. observers, might conduct the election.

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<sup>1/</sup> As noted earlier, a substantial portion of this project might well be done after the U.S.-Marianas negotiations have been completed since the initial Legislative Program will not be needed until all the implementing activities are completed and the new government begins.



3. Election for Representatives to the Constitutional Convention

Once a plebiscite has been held and the status arrangement has presumably received public support, then the Marianas should proceed as quickly as possible to the next step where the public is involved -- the election of representatives to the Constitutional Convention. Presumably there should be about 10-20 representatives.<sup>1/</sup> While the representatives might be in the same number and from the same districts as the present Marianas District Legislature, it would seem necessary that there be a special popular election.<sup>2/</sup> This will allow a focused, public debate on the basic issues which the convention will be considering. The legal research project preparing for the convention (project A-4) should have prepared some papers which could be the basis for public discussion. This election, like the preceding plebiscite, might be conducted by an independent Elections Board.

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1/ The present Marianas District Legislature has 16 members.

2/ Puerto Rico had a special election in 1951 for delegates (92) for its Constitutional Convention. The Virgin Islands did not have an election. Rather, the V.I. legislature and the political parties designated the membership (33); this might have been a reason why the proposed Constitution and Federal Relations Act obtained an unexpectedly small majority in the subsequent referendum. (The vote was about 57%-43%, with many blank ballots cast.)

4. The Constitutional Convention

The purpose of the convention is obviously to draft a proposed Marianas Constitution. Additionally, the convention would draft a Federal Relations Act or some appropriate document if it were felt necessary to have any further agreements between the United States and the Marianas besides the political status agreement.

The membership of the convention was discussed earlier. (See project B-3.) The convention will probably want to have a few plenary sessions to discuss organizational matters, then split into committees to do drafting, and finally have further plenary sessions.

5. Referendum on the Constitution

The Marianas people, by some appropriate majority, will have to approve the Constitution. Without delaying matters but still allowing sufficient time for public education and discussion, the vote should be held as soon as possible after the closing of the convention. The independent Elections Board could hold the referendum.

6. Participation in the U.S. Congress Considerations

After the Marianas people have approved the status agreement and the Marianas Constitution, the U.S. Congress still must approve the arrangement. Presumably the appropriate

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congressional committees will want to hold extensive hearings. There will be a need to make presentations at these hearings, as well as to contact a wide range of Senators and Congressmen to inform them of events. This effort would continue up until Congress has approved the arrangement, including the requested funds.<sup>1/</sup>

7. (Possible) Reconvening the Convention and Holding Another Referendum

In the unlikely event that the Marianas people do not approve the Constitution or in the possible case that the U.S. Congress suggests some changes in the status arrangement, the Constitutional Convention will have to be reconvened and there will have to be another referendum. However, the same delegates at the first convention can continue to serve and the issues should be simple enough to allow a short convention and a quick referendum.

8. Obtaining the Approval of the United Nations<sup>2/</sup>

The Trust Territory of the Pacific Islands will be

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<sup>1/</sup> It is not certain that the U.S. Congress would have to approve the Marianas Constitution. The terms of the status agreement might be important here. As for analogies, the U.S. Congress did approve (with changes) the Puerto Rican Constitution, and the Virgin Islands' new proposal would include Congressional review of the proposed V.I. Constitution.

<sup>2/</sup> Given the slower pace of the U.S. negotiations with the rest of the TTPI, the start of formal U.N. consideration of termination might well be many months or even years after the conclusion of U.S. congressional considerations of the Marianas arrangement or the Marianas referendum on the constitution since the United States has announced that it will not seek partial termination of the Trusteeship.

the last U.N. Trusteeship; this alone insures that the United Nations will focus much attention on it. Moreover, since the Marianas and the rest of the TTPI are pursuing separate negotiating tracks, the termination of the Trusteeship might encounter some opposition. Hence, there is a requirement for continuing and occasionally intensive discussions with the appropriate U.N. representatives and officials.

9. Election of the Officials in the New Government

After all the parties -- the Marianas people, the U.S. Government, and the United Nations <sup>1/</sup> -- have agreed to the new political status, there must still be elections for all those elected officials in the new government. The same procedures for political education and an independent Elections Board could apply here as with the previous popular votes (projects A-2, A-3 and A-5).

Following the election, it only remains for the new government to take office. In that process, the initial Legislative Program, discussed earlier (project A-6), will be most important.

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1/ If the U.N. consideration is slow, then the United States, the Marianas, the rest of Micronesia might simply go ahead and establish the new government, thereby presenting the United Nations with a fait accompli.

## II. COSTS

Besides defining the content of the Legal Plan and outlining the chronological order of the implementing activities, it is necessary for planning purposes to estimate costs. Based on our time estimates plus other assumptions, we estimate that the total costs for the Phase I Legal Plan as defined in this memorandum would range in 1973 dollars from about \$600,000 to \$720,000. (See Table 1.) The range results from low and high estimates made on three projects as a way to quantify some of the uncertainty. The three projects and the underlying issues were: (a) the length of the Constitutional Convention;<sup>1/</sup> (b) whether the Constitutional Convention would have to be reconvened and another referendum held;<sup>2/</sup> and (c) the length of the political education program and whether it would be needed for a possible second referendum on the constitution.<sup>3/</sup>

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<sup>1/</sup> The low estimate assumed a convention lasting three months; the high assumed eight months.

<sup>2/</sup> The low estimate assumed there would not be a reconvened convention nor another referendum; the high estimate assumed the convention reconvened for two weeks and that there was a second referendum.

<sup>3/</sup> The low estimate assumed that a "permanent" staff would be required for two years and that there would not be a second referendum; the high estimate assumed an additional one year and four months and a second referendum.

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As a result of our analysis and the precautions taken, we expect that the estimates here of the total cost is well "within the ballpark" of reasonable estimates and that some of the specific estimates will be very accurate.

Following are the cost estimates for each project. Detailed estimates are in Appendix A:<sup>1/</sup>

A. Legal Research

1. Legal Research on Political Education

This project is estimated to require lawyers and a consultant working for about a total of six man-weeks. The consultant would help define the issues which the lawyers would have to research.

Total Cost . . . . . \$12,220

2. Legal Research on Conducting a Plebiscite

This legal research will involve one man-week of work by lawyers from Washington, D.C.

Total Cost . . . . . \$ 2,520

3. Legal Research on Establishing a Transitional Government

A combination of skilled personnel will be required for this project -- Washington lawyers, a Marianas lawyer, a

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<sup>1/</sup> The cost factors upon which some of these estimates are based are in Appendix B.

public administration consultant, and two community development consultants (one a local resident). A total of 28 man-weeks will be needed. Those experts from outside the Marianas should each make a two-week trip there.

Total Cost . . . . . \$46,750

4. Legal Research Preparing for a Constitutional Convention

This project will require 16 man-weeks from Washington lawyers, two man-weeks from a Marianas lawyer, and two man-weeks by a public administration consultant.

Total Cost . . . . . \$47,830

5. Legal Research on the Application of Federal Laws

This project will require extensive efforts by Washington lawyers (42 man-weeks) and by various consultants (40 man-weeks) who are experts in particular areas of federal legislation and programs. In addition, the project will need to finance the Marianas representatives on a joint commission or equivalent group -- the assumption here is that there will be three such representatives for 26 man-weeks each.<sup>1/</sup> (As noted before, except for the salary and expenses of the three representatives, neither this project nor the Legal Plan will support the commission or some equivalent.)

Total Cost . . . . . \$205,960

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<sup>1/</sup> By way of analogy, the 1950 Organic Act for Guam (Public Law 630, 81st Cong., 2d Sess.) established a Commission on the Application of Federal laws to Guam. The Commission had seven members, including three representatives from Guam. The Commission was given one year in which to make its report, and took that entire period to do so.

6. Legal Work on Developing Local Statutes and Local Government -- i.e., Development of an Initial Legislative Program

This large effort will involve major efforts by Washington lawyers (14 man-weeks) and Marianas lawyers (22 man-weeks). Also, a legislative program staff would be created with two full-time lawyers (one for 30 weeks and one for 20 weeks) and a public administration expert (20 weeks). These three people would be hired with the understanding that, if possible, they would become the nucleus of the legislative staff for the new Marianas Legislature. All the above persons would draw on consultants from outside the Marianas (20 man-weeks) and from local public representatives <sup>1/</sup> and local consultants (20 man-weeks).

Total Cost . . . . . \$146,790 <sup>2/</sup>

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<sup>1/</sup> Complete and formal review of the initial legislative Program would await the convening of the new legislature and would consequently not be a part of the Phase I Legal Plan.

<sup>2/</sup> This project involves more than a recodification and minor revision of the existing Trust Territory Code. It involves preparing a Legislative Program which might include wide-ranging changes in the TT Code; indeed, the Executive Branch reorganization will require significant changes in the laws.

Given that caveat, a limited analogy to this project is found in the effort initiated in 1969 to revise and recodify the TT Code. John Steincipher, a lawyer has done much of the work under the supervision and with the cooperation of a Committee on the Code. While estimates are not exact, this effort has cost over \$140,000. See the discussion in Appendix C.

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B. Implementing the Arrangement

1. Political Education

A permanent political education director would allow for a continuing, consistent program. For estimating purposes, we assume that the employee would be needed from a minimum of two years <sup>1/</sup> to a maximum of three years and four months. <sup>2/</sup>

In addition, three local political education consultants should be added to his staff for the six weeks preceding each vote. There will be either four or five Marianas-wide votes,

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<sup>1/</sup> This assumes a hypothetical period starting six months before the close of the U.S.-Marianas negotiations, then a plebiscite about 40 days after the signing of a formal status agreement, the election of representatives to the Constitutional Convention about 40 days later, the start of the convention within two weeks, a convention lasting three months, a referendum one-and-one-half months later, U.S. Congressional considerations for five months, no reconvening of the convention or second referendum, U.N. considerations for four months, and the election of officials to the new government one and a half months after U.N. approval. The estimate of four months for obtaining U.N. approval is probably quite low because of the U.S. plans not to seek partial termination. However, the political education office might go on a stand-by basis after Congressional approval and until the U.N. considerations become active.

<sup>2/</sup> The longer term results from assuming a longer Constitutional Convention (eight months versus three); longer U.S. Congress considerations (ten months versus five); three months for reconvening the Constitutional Convention and holding a second referendum; and longer active U.N. considerations (seven months versus four).

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depending on whether Congress insists on any amendments in the status agreement or Marianas Constitution. Because of the breadth of issues, the plebiscite and first referendum on the Constitution will require two pamphlets; the other votes will require one pamphlet each.

Total Cost:

Low estimate . . . \$62,240  
High estimate . . . \$86,570

2. Holding a Plebiscite

This project covers the administrative costs of conducting a Marianas-wide plebiscite. (See Appendix B, item 3b.)

Total Cost . . . . \$12,000

3. Election for Representatives to the Constitutional Convention

This project includes the administrative costs of conducting a Marianas-wide election.

Total Cost . . . . \$12,000

4. The Constitutional Convention

The Constitutional Convention is assumed to have 16 representatives and a full-time staff which includes a lawyer and another professional. The low estimate assumes the convention will last for three months, with the representatives each averaging eight man-weeks of official work. The high estimate assumes the convention will last eight months, with the representatives each averaging 17 man-weeks of official

work. <sup>1/</sup> In either case, there would be consultants -- Washington lawyers (five man-weeks), Marianas lawyers (five man-weeks), and political scientists (ten man-weeks).<sup>2/</sup>

Total Cost:

Low Estimate . . \$ 80,590  
High Estimate . . \$169,920

5. Referendum on the Constitution

This project includes the administrative costs of conducting a Marianas-wide referendum.

Total Cost . . . . \$12,000

6. Representation to the U.S. Congress

This project is estimated to require seven man-weeks of work by lawyers in Washington, D.C. and two trips of two full weeks duration each to Washington, D.C. by two Marianas representatives.

Total Cost . . . . \$23,340

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<sup>1/</sup> The Puerto Rico Constitutional Convention in 1951-52 lasted almost five months. As noted before, the Virgin Islands' "Second" Constitutional Convention met on a sporadic basis for almost a full year.

<sup>2/</sup> The Congress of Micronesia considered this year a bill to provide for a Micronesian Constitutional Convention. As amended, \$750,000 would have been appropriated. The bill passed the Senate, but stalled in the House. For details on costs, see Appendix C.

The Congress of Micronesia itself has a budget of \$1,268,900 for the period July 1, 1973 through March 31, 1974. The Congress has one 50-day session at the start of the calendar year. In most past years, it has had a special session, but passed supplemental appropriations to defray the costs of the special sessions. The Congress includes 12 Senators and 20 Representatives. For details on costs, see Appendix C.

7. (Possible) Reconvening the Convention and Holding Another Referendum

The low cost estimate assumes that the activities in this project are not required and, hence, do not occur. The high estimate assumes that the convention will be reconvened for two weeks, with each representative working full-time. In addition, while the staff will have been disbanded, the consultants (a Washington lawyer, a Marianas lawyer, and a local political scientist) will be available both weeks. In addition, there will be the administrative costs of conducting another Marianas-wide referendum.

Total Cost:  
Low Estimate . . . . . 0  
High Estimate . . . . . \$29,210

8. Representation to the United Nations

This project is estimated to require about five man-weeks of work by lawyers from Washington, D.C., much of this on location at the United Nations in New York. In addition, two Marianas representatives will need to appear at the United Nations for a two-week period.

Total Cost . . . . . \$16,910

9. Election of the Officials in the New Government

This project includes the administrative costs of conducting a Marianas-wide election.

Total Cost . . . . . \$12,000

TABLE 1

Total Costs  
of  
Legal Plan

	<u>Low Estimate</u>	<u>High Estimate</u> <sup>a/</sup>
<b>A. <u>Legal Research</u></b>		
1. Legal Research on Political Education	\$12,220	\$12,220
2. Legal Research on Conducting a Plebiscite	2,520	2,520
3. Legal Research on Establishing a Transitional Government	46,750	46,750
4. Legal Research Preparing for a Constitutional Convention	47,830	47,830
5. Legal Research on the Application of Federal Laws	205,960	205,960
6. Legal Research on Developing Local Statutes and Local Government -- <u>i.e.</u> , Development of an Initial Legislative Program	<u>146,790</u>	<u>146,790</u>
<u>Subtotal:</u>	<u>\$462,070</u>	<u>\$462,070</u>
<b>B. <u>Implementing the Arrangement</u></b>		
1. Political Education	\$62,240	\$86,570 <sup>a/</sup>
2. Holding a Plebiscite	12,000	12,000
3. Election for Representatives to the Constitutional Convention	12,000	12,000
4. The Constitutional Convention	89,330	169,920 <sup>a/</sup>
5. Referendum on the Constitution	12,000	12,000
6. Participation in the U. S. Congress Considerations	24,860	24,860
7. (Possible) Reconvening the Convention and Holding Another Referendum	-----	29,210 <sup>a/</sup>
8. Obtaining Approval of the United Nations	16,910	16,910
9. Election of the Officials in the New Government	<u>12,000</u>	<u>12,000</u>
<u>Subtotal:</u>	<u>\$137,430</u>	<u>\$259,230</u>
<u>Total:</u>	\$ 599,500	\$ 721,300

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a/ Except for the projects designated by this footnote, only one cost is estimated for each project. The reasons for the range of estimates are discussed in the text.

APPENDIX A:  
DETAILED COSTS

The following are detailed cost estimates for the 15 projects. Many of the underlying cost factors are noted in Appendix B.

A. Legal Research

1. Legal Research on Political Education

Five man-weeks of legal work would be required and one man-week from a political education consultant.

-- Three man-weeks by lawyers in Washington, D. C.:	\$ 7,560 ✓
-- Two man-weeks by a local lawyer in Saipan:	3,360
-- One man-week by a political education consultant:	<u>1,300</u>
Total . . . . .	\$12,220

2. Legal Research on Conducting a Plebescite

-- One man-week by Washington lawyers: \$ 2,520

3. Legal Research on Establishing a Transitional Government

-- Eight man-weeks by Washington lawyers, including two weeks (14 days, including travel) in Marianas by one:	\$21,460
-- Four man-weeks by Marianas lawyers:	6,720
-- Eight man-weeks by a public administration consultant, including two weeks (14 days with travel) in the Marianas:	11,300

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-- Four man-weeks by a community development consultant, including two weeks (14 days with travel) in the Marianas: \$ 6,300

-- Four man-weeks by a local community development consultant: 970

Total . . . . . \$46,750

4. Legal Research Preparing for a Constitutional Convention

-- Sixteen man-weeks by Washington lawyers, including four weeks (28 days with travel) in the Marianas: \$41,970

-- Two man-weeks by a Marianas lawyer: 3,360

-- Two man-weeks by a public administration consultant: 2,500

Total . . . . \$47,830

5. Legal Research on the Application of Federal Laws

-- 42 man-weeks by Washington lawyers, including two visits of two weeks (14 days with travel) each in the Marianas: \$118,520

-- 40 man-weeks by various consultants, including four visits of two weeks (14 days with travel) each in the Marianas: 57,200

-- 26 man-weeks by each of three Marianas representatives to a joint commission or equivalent group, with each representative making two trips of 30 days' each to Washington, D. C.: 30,240

Total . . . . \$205,960

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6. Legal Research on Developing Local Statutes and Local Government -- i.e., Development of an Initial Legislative Program

--- 14 man-weeks by Washington lawyers, including two weeks (14 days with travel) in the Marianas:	\$36,580
--- 22 man-weeks by a Marianas lawyer:	36,960
-- two lawyers hired full-time, one for 30 weeks and one for 20 weeks, salary and overhead <u>1/</u> :	33,650
--- one professional staff member hired full time for 20 weeks, salary and overhead <u>2/</u> :	4,850
-- 20 man-weeks by short-term consultants from outside the Marianas, including three trips (14 days each with travel) in the Marianas:	29,900
-- 20 man-weeks total by Marianas public representatives and local consultants:	<u>4,850</u>
Total . . . . .	\$146,790

B. Implementing the Arrangement

1. Political Education

Based on the discussion about high and low estimates at pp. \_\_\_\_, the low estimate would be:

-- 104 man-weeks (two years) of a permanent political education director:	\$ 25,200
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1/ The annual salary rate for these lawyers is assumed to be \$25,000 and overhead (including secretarial support) to be an additional 40% (or \$10,000).

2/ At the salary and overhead rate for a Marianas employer -- professional.



-- 24 man-weeks (six before each election) by each of three local political education consultants (= 72 man-weeks):	17,540
-- Two 20-page pamphlets for each person eligible to vote for the plebiscite and the first referendum on the Constitution:	13,000
-- One pamphlet for each of the two elections:	<u>6,500</u>
Total . . .	\$62,240

A longer transition period and an additional referendum on the constitution would create the following additional costs:

-- 69 man-weeks of a permanent political education director:	\$16,720
-- Six man-weeks by each of three local political education consultants (= 18 man-weeks):	4,360
-- One pamphlet:	<u>3,250</u>
Total Additional . . . .	\$24,330

This makes the high estimate: \$86,570

2. Holding a Plebiscite

-- See Appendix B; item 3b: \$12,000

3. Election for Representatives to the Constitutional Convention

-- See Appendix B, item 3b: \$12,000

4. The Constitutional Convention

Based on the discussion of low and high estimates at pp. \_\_\_\_, the low estimate would be for a 13-week (four month) convention:

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-- Eight man-weeks of official work for each of 16 representatives (= 128 man weeks), including per diem expenses and weekly trips home for five representatives from islands other than Saipan:	\$30,840
-- Thirteen man-weeks by a lawyer hired full-time, salary and overhead <u>1/</u>	8,750
-- Thirteen man-weeks for a professional employee from the Marianas, salary and overhead:	3,150
-- Five man-weeks by Washington lawyers, including 28 days in the Marianas:	14,250
-- Five man-weeks by Marianas lawyers:	8,400
-- Ten man-weeks by political scientist consultants, including 50 days in the Marianas:	<u>15,200</u>
Total . . . .	<u>\$80,590</u>

A longer convention (8 months or 39 weeks) would create the following additional costs:

-- 17 man-weeks of official work for each of 16 representatives (= 272 man weeks), including per diem expenses and weekly trips home for five representatives from islands other than Saipan:	\$65,530
-- 26 man-weeks by a lawyer hired full-time:	17,500
-- 26 man-weeks for a professional employee from the Marianas	<u>6,300</u>
Total Additional . . .	.\$89,330

This makes the high estimate: \$169,920

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1/ See footnote \_\_\_\_, p. \_\_\_\_.

5. Referendum on Constitution

-- See Appendix B, item 3b: \$ 12,000

6. Participation in the United States Congress Considerations

-- Seven man-weeks by lawyers in Washington, D. C.: \$ 17,640

-- Four weeks (28 days, including travel) in Washington, D. C. in two-week segments by each of two Marianas representatives (= 56 days): 7,220

Total . . . \$24,860

7. (Possible) Reconvening the Convention and Holding Another Referendum

a. Reconvening the Convention (2 Weeks)

-- Two man-weeks of official work for each of 16 representatives (= 128 man-weeks), including per diem expenses and weekly trips home for non-Saiponese representatives: \$ 7,210

-- Two man-weeks for a Marianas lawyer: 3,360

-- Two man-weeks for a Washington lawyer, including 7 days in the Marianas: 6,160

-- Two man-weeks by a local political science consultant: 480  
17,210

b. Referendum. See Appendix B, item 3b: 12,000

Total . . . \$29,210

8. Obtaining Approval of the United Nations

- Five man-weeks by Washington lawyers, including six trips and 12 days in New York: \$13,200
- Two weeks (14 days, including travel) in New York by each of two Marianas representatives (= 28 days): 3,710

9. Election of Officials in the New Government

- See Appendix B, item 3b: \$12,000
- Total . . . . . \$16,910

APPENDIX B:  
COST FACTORS

The following are the basic factors used for making cost estimates.

1. Salaries and Expenses for Marianas Officials and Employees

- a. Representatives and Elected Officials. (This category includes Marianas people serving as representatives to the U.S. Government or the United Nations and those elected as officials to the Constitutional Convention.) 1/
- Salary: \$30 per day.
  - Overhead (secretarial support, supplies, telephone): \$6 per day (or 25% of salary).
  - Per diem expenses (when out of the Mariana Islands or on an island other than one's own -- e.g., a Tinian resident on Saipan): \$25 per day.
  - Travel Expenses:
    - Between islands: average of \$20 round trip.
    - Between Saipan and Washington, D.C.: \$950 round trip.
    - Between Washington, D.C. and New York: \$50 round trip.
- b. Employees -- Professional. (This includes, inter alia, the political education officers, the professional staff for the Constitutional Convention, and the legislative staff preparing the Legislative Program.)

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1/ Members of the Marianas District Legislature presently receive \$30 per day salary. Members of the Congress of Micronesia receive a salary of \$12,000 per year, \$25 per day expenses (when outside of their District), travel expenses, and \$1,500 per year for office expenses. The U.S. Government allows its employees \$25 per diem expenses.

- Salary: average \$9,000 per year.
  - Overhead (secretarial support, supplies, telephone, etc.): \$3,600 per year (or 40% of salary).
  - Per diem and travel expenses: see 1.a. above.
  - c. Consultants. (This would include former TTPI employees or others.)
    - Same as 1.b.
2. Salaries and Expenses for Lawyers and Consultants.
- a. Lawyers from the Marianas.
    - Salary and overhead (including secretarial support): \$40 per hour.
    - Xeroxing and out-of-pocket expenses (e.g., taxis, long-distance phone calls): \$2 per hour.
    - Per diem and travel expenses: see 1.a. above.
  - b. Lawyers from Washington, D.C.
    - Salary and overhead: average of \$60 per hour.
    - Xeroxing and out-of-pocket expenses: \$3 per hour
    - Per diem (when out of Washington, D.C.) and travel expenses: see 1.a. above.
  - c. Consultants
    - Salary and overhead: \$250 per day.
    - Xeroxing and out-of-pocket expenses: \$10 per day.
    - Per diem (when out of home town) and travel expenses: see 1.a. above.
3. Elections
- a. Voters. (Compared to present numbers, these numbers assume some increase in eligible voters as a result of

increased population and more registered and voting voters as a result of political education and voter interest.) 1/

- Number eligible: 6,500.
- Number registered: 6,000.
- Number who vote: 5,000.

b. Administrative costs of conducting a Marianas-wide vote. (This includes the cost of printing ballots, distributing them, supervising the election, and counting ballots. It also covers the costs, allocated over a series of votes, of establishing and maintaining an independent Elections Board. It does not include political education.) 2/

- Each plebiscite, referendum, or election: \$12,000.

#### 4. Political Education

a. Publications. (This assumes a 20-page black-and-white pamphlet.)

- To each eligible voter: \$.50 each 3/ x 6,500 eligibles = \$3,250.

b. Radio and TV time: No cost. (The TTPI government owns the radio stations and could provide free air time. The TTPI government also has access to twenty percent of the television time each day and could make some of this available for public elections.)

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1/ There are now about 6,300 people eligible to register and 5,680 are registered. In the 1972 election, 4416 people voted.

2/ The TTPI government specifically earmarked \$1,300 and \$2,300 for the administrative costs of the last two elections, 1970 and 1972, respectively. However, there were many hidden costs incurred and absorbed in other government accounts. For example, government employees were deployed on a temporary basis to assist in the conduct of the elections with their salaries, including overtime, charged to their regular activities, not election funds. The TTPI Government estimates that the "many hidden costs . . . would increase actual cost of administration for any given year approximately five times greater than amount earmarked." TTPI Cable 524, "Joint Exercise with Economic and Legal Consultants," September 1973.

3/ Ibid.

APPENDIX C:  
SOME ANALOGIES

The following are three analogies which deserve some detailed discussion.

1. Revision and Recodification of the Trust Territory Code

From 1969 through the present, there has been an on-going project to revise and recodify the TT Code. John Steincipher, an attorney from outside the Marianas, was initially retained in 1969 to do the work under the supervision and with the cooperation of a Committee on the Code. The Committee is composed of the Attorney General of the TTPI, the Chief Justice of the High Court, the Legislative Counsel of the Congress of Micronesia, and, since April 1972, a representative from the office of the Public Defender and one from the Micronesian Legal Services Corporation. Members of the Committee employed two staff attorneys to assist Steincipher and specifically to proofread and scrutinize the drafts he proposed.

While it has not been possible to obtain the total cost or time involved in the project, the TTPI Government reports the following expenditure of time and funds. Steincipher worked on Saipan for approximately six months in 1969 to devise a structure for the new code. The Committee on the Code then modified and revised his proposals, whereupon he worked at least another six months to prepare an initial preliminary draft. The Committee



read every volume thoroughly and made suggestions. A ten-member committee from the House and Senate of the Congress of Micronesia met with Steincipher and with the Committee on the Code for approximately two weeks. The Congressional committee suggested the code include only existing material, and that all new statutes drafted by Steincipher be deleted. All of the new material was then deleted, and the Congress of Micronesia then enacted the draft into law on September 22, 1970.

A supplementary agreement was subsequently entered into between TTPI and the Book Publishing Co. of Seattle to create a supplement to the Code. The Committee on the Code met several times to review proposed drafts of the supplement, and members and their staffs once again spent days proof-reading material. The revision and recodification involved no substantive changes or additions to the TT laws. Public Law 3C-51, which enacted the code as law, reads in part: "This enactment of the Trust Territory Code is intended to effect a recodification of the general and permanent laws of the Trust Territory and is not intended to effect any substantive changes therein."

The Congress of Micronesia appropriated a total of seventy thousand dollars (\$70,000) for revision and

recompilation. The TTPI Government contracted on June 9, 1969, with Book Publishing Co. for the company's services in return for \$62,000, and an additional amount of approximately \$14,000 will be paid to Book Publishing Co. for the supplement.<sup>1/</sup>

2. Proposed Constitutional Convention for Micronesia.

In 1973, the Congress of Micronesia considered S.B. No. 38, S.D. 1, "A Bill for an Act Calling a Constitutional Convention for Micronesia; Prescribing its Powers, Duties, and Functions; Appropriating Money Therefore; and for Other Purposes." The bill passed the Senate, but was stalled in the House. As reported from the Senate Committee on Ways and Means and as passed by the Senate, the bill provided the following:

A Constitutional Convention was to be held. There would be 60 delegates. Elections would be held in early November 1973 and the convention would convene on May 6, 1974. There would be a Pre-Convention Committee, consisting of seven members, which would be authorized to take "necessary and appropriate" steps to facilitate the work of the convention. The convention itself was not to

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<sup>1/</sup> Source for the above: TTPI Cable #540, "Joint Exercise with Economic and Legal Consultants," October 4, 1973.

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last longer than 120 days. The Constitutional Convention and the Pre-Convention Committee would be assisted by the staff of the Congress of Micronesia and by such other staff as the convention or the committee deemed necessary. There would be a referendum on the draft constitution in April 1975.

The total appropriation would be \$750,000, with a hope expressed by the Senate Committee on Ways and Means that the U.S. Government would help finance some of the costs out of other than COM funds. The detailed budget was as follows:

A. Expenses of the Convention and Pre-Convention Committee:	
Delegates' Compensation (130 days) <sup>1/</sup>	\$411,000
Staff travel and per diem (140 days)	157,500
Miscellaneous salaries	11,500
Consultants' travel and allowance	45,000
Per-Convention Committee travel and per diem	<u>25,000</u>
Subtotal	650,000
B. Expenses to Conduct an Election for Delegates	
	25,000
C. Expenses for Referendum on Constitution	
	25,000
D. Expenses for the Political Education Commission.	
	<u>50,000</u>
Total	\$750,000

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<sup>1/</sup> Delegates were to be paid at a rate of \$30 per day. Delegates were entitled to all necessary travel expenses, and to per diem at standard TTPI rates.

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3. Congress of Micronesia.

The Congress of Micronesia has appropriated for its operating expenses for the period from July 1, 1973, to March 31, 1974, the sum of about \$1,268,659. This is apparently for the regular 50-day session, since the usual practice in the past has been to seek a supplemental appropriation when there is a special session. The Congress has 12 Senators and 20 Representatives.<sup>1/</sup>

The detailed budget is as follows:

A. House of Representatives . . . . .	\$395,419
B. Senate . . . . .	256,287
C. Office of the Legislative Council . . . . .	377,683
D. Joint Committee . . . . .	139,270
E. Special Session . . . . .	80,000
F. Outside Travel . . . . .	<u>20,000</u>
Total	\$1,268,659

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<sup>1/</sup> The present size of the Congressional staff when the Congress is not in session is 28. When in session there are 73 staff members, including clerks and pages.