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For Assistant Secretary R. Hughs' statement

~~2/21/75~~
1975

Legal Status of the Trust Territory

The Trust Territory of the Pacific Islands is neither a territory nor a possession of the United States. The United States asserts no claim of sovereignty over it, but administers it pursuant to the provisions of a 1947 Trusteeship Agreement with the United Nations Security Council. Pursuant to this Agreement, the United States is required to help the people develop their own political institution in order to foster self-government and permit them to freely determine their future political destiny. The Agreement also authorizes the United States to extend, as it may deem appropriate, its laws to Micronesia. This provision of the Agreement is not self-executing. The U.S. Congress must specifically extend U.S. laws to Micronesia before they will be deemed to be applicable there.

Recognizing this principle, Congress decreed in 1947 that, until it legislated further on the subject, all executive, legislative and judicial authority necessary for the civil administration of the Trust Territory is vested in the President of the United States or his delegate. The President has delegated this authority to the Secretary of the Interior who, in turn, has, with limited reservations, delegated it to the local government of Micronesia.

This government is not a Federal agency or instrumentality. It exists in its own right and name as a separate and distinct legal entity, like a state, with the same semi-sovereign powers to govern and make laws and to sue, be sued and to contract.

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The government of Micronesia employs over 7,000 people. Of these, only 155 are Federal employees who are assigned duties to serve as officials in a "foreign government" in order to assist the United States in meeting its obligations under the Trusteeship Agreement. These employees are subject to all the usual laws and regulations governing the conduct, behavior and performance of Federal employees. The rest of the people employed by the Trust Territory government are Trust Territory employees--not Federal employees.

The operations of the government of Micronesia are funded from two sources--locally raised revenues and Federal appropriations granted to it by the Department of the Interior. Regarding these grant funds, the Comptroller General has ruled that when they have been receipted for by the local treasury and have been comingled with locally raised revenues, as they are, they lose their character as Federal funds.

Since it is clear that the government of Micronesia is not a Federal agency or instrumentality and that the monies in its treasury are not Federal funds, it is equally clear that the Federal laws and regulations regulating the control of and accountability for Federal property and money by Federal agencies are inapplicable in the Trust Territory.

Most of the Federal property used in the Trust Territory is acquired by the local government, in its own name and right, as "foreign excess property." This means that, once it is acquired, the local government can do with it pretty much as it wishes, including selling it if it wants, and the proceeds belong to the local--not the Federal--treasury. In short, there are no legal strictures on the use and disposition of this property.

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There is, however, a category of property which, by law, can be acquired by the Department of Interior for use in the Trust Territory. As to these properties, of which there are very few, the Department remains the accountable agency, and all Federal rules and regulations applicable to their use and disposition must be complied with.

It may appear, therefore, that the Trust Territory is cast upon an entirely permissive and uncontrolled course with regard to stewardship of money and property, but this is not so. The Congress has given the General Accounting Office the authority to audit the Trust Territory. Though they have not exercised this authority as regularly as they might have, nonetheless it is there. Recently, Congress has expanded the powers of the Government Comptroller for Guam to include audits of the Trust Territory government operations. His first audit, just received, is before you. It speaks for itself.

But more importantly, the Secretary of the Interior, through successive administrations, has established a policy that Federal laws, rules and regulations relating to the conduct of good government will to the extent feasible, be applicable in the Trust Territory, and, in pursuance of this policy, the Trust Territory Government has established a "Manual of Administration," which adopts in no small measure the high degree of stewardship and accountability of money and property required under Federal law.

Further, since the Trust Territory Government must come each year to the Congress of the United States to secure the appropriations for its existence, it must of necessity be in compliance with and responsive to the budgetary and financial requirements of the United States Government.

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A more detailed and legal statement of these points is contained in the January 14, 1975, letter from the Solicitor of the Department to the Chairman of this Committee. It is made a part hereof and annexed hereto as Annex .

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