

Simplified Approval Process

Annex 9a: Legal due diligence



GREEN
CLIMATE
FUND

9.A Legal Due Diligence

- *Government or regulatory approvals, licenses or permits required for implementing and operating the project*

FSM is a member country of SPC and the Host Country of SPC's Micronesia Regional Office and therefore grants SPC certain privileges and immunities which may facilitate obtaining the necessary licenses and permits in-country.

Component 3 of the project involves investments in rainwater harvesting tanks in remote islands and water-sealed toilet (with septic tank and/or cesspool) in at-risk communities in main islands.

Based on current understanding, the installation of rainwater harvesting tanks is not known to require specific licences or permit approvals. However, this may vary depending on local implementation practices, and further clarification from relevant authorities may be needed.

The climate-resilient latrines will align with applicable the State Environmental Protection Agency (EPA) regulations, while septic waste management is expected to be supported through access to the Utilities Corporation. The relevant regulations include:

- Chuuk State Code Title 21: Health & Sanitation, Ch 13: Sanitation
- Kosrae Code Section 13.1201
- Pohnpei EPA Toilet Facilities and Sewage Disposal Regulations
- Yap Toilet Facilities and Sewage Disposal Regulations

These regulations establish minimum standards for toilet facilities and sewage disposal to minimize environmental pollution, health hazards, and public nuisance from such facilities. Thus, the following steps are expected to be undertaken prior to the installation of any toilet:

1. Submission of required documentation to the relevant EPA office, with permits to be granted as applicable;
2. Inspection by the State- EPA (or Kosrae Island Resource Management (KIRMA) for Kosrae) will be conducted prior to any cover being placed to ensure the site poses minimal risk to surface water, groundwater, and drinking water. If the EPA/KIRMA assesses that the site as posing more than a minor risk, the installation will not proceed. It is anticipated that maintenance and operation responsibilities will be clarified in coordination with the relevant EPA or KIRMA authority, potentially through community-level arrangements, subject to further discussions and agreement by the concerned parties.

The project team will remain in contact with State authorities to ensure full compliance. SPC confirms that it will seek and obtain all necessary licenses, permits, or approvals required for the implementation of the Funded Activity, including those that may arise from operational or administrative processes.

- *Applicable taxes (or exemptions thereof) and foreign exchange regulations related to the project*

The Federated States of Micronesia (FSM) is a member of SPC and hosts SPC's Micronesia Regional Office.

Article 6 of the Host Country Agreement between FSM and SPC states that:

"1 Within the scope of its official activities, the SPC, its property, premises and its income, including contributions made to the SPC under this Agreement, shall be exempt from all national taxes.

2. Goods, including SPC's publications, motor vehicles and items for official entertainment purposes that are intended for the official use of the SPC shall be exempt from all customs and excise duties including sales tax payable at customs, except payment for services. Goods which have been acquired or imported by the SPC to which exemptions apply shall not be given away, sold, lent, hired out or otherwise disposed of in the Federated States of Micronesia except under conditions agreed on in advance with the Government.

3. The Government shall not impose any foreign exchange restrictions or taxes upon any financial transfers into and out of the Federated States of Micronesia made by the SPC, staff members, experts and representatives, other than citizens of the Federated States of Micronesia.”

Accordingly, all payment made by SPC in connection with the Project/Funded Activity are, in principle, exempt from national taxes. However, in practice, the application of these exemptions may occasionally encounter administrative or operational challenges. SPC commits to addressing such issues in coordination with the FSM authorities.

To date, no foreign exchange approvals, certificates of residency, or licenses have been required for SPC to receive, manage, or transfer GCF funds in FSM. Should any such documentation become necessary, SPC will take the necessary steps to obtain the appropriate authorizations, consistent with its privileges and immunities and in consultation with the relevant national authorities.

Any tax liability that may be incurred by the co-financing entities will be covered through their own resources.

- *Details of any insurance policies or requirements related to the project*

Depending on the installation of rainwater tanks and pit latrines in vulnerable areas that will be prioritized by the project, insurance will be a condition required under the tender application process for any contractor applying for water supply and water safety installation.

The procurement of goods and services for funded activities by SPC as the Accredited Entity and Executing Entity, shall be done in accordance with the rules, policies and procedures of SPC to the extent and scope of its accreditation.

In the case there are any reflowed funds paid by SPC or any return of investment income on funds held in SPC accounts, SPC would not apply any tax or make any tax-related deductions from its end. The GCF will determine its own tax obligations with respect to the receipt of such funds in accordance with its own applicable legal and tax framework.