OFFICE OF THE PUBLIC AUDITOR

REPUBLIC OF PALAU

PERFORMANCE AUDIT REPORT

on

ADMINISTRATION OF FOREIGN INVESTMENT APPROVAL CERTIFICATE

FOREIGN INVESTMENT BOARD

Republic of Palau

For the period from October 1, 2022, through April 30, 2025

Performed by the Office of the Public Auditor

Report Number: 2026-003

REPUBLIC OF PALAU

Office of the Public Auditor

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26-107
July 6, 2026

Mr. Raymond August
Executive Director
Foreign Investment Board
Republic of Palau

Subject: **Final Report on the Audit of Administration of Foreign Investment Approval Certificate**

Dear Executive Director August:

This report presents the results of our audit of the **Administration of Foreign Investment Approval Certificate**.

We received your response to the Draft Audit Report, which is published in its entirety in the final report.

If you have any questions regarding the report or the subject matters discussed therein, we will be available at your request.

Sincerely,

Satrunino Tewid
Acting Public Auditor
Republic of Palau

ADMINISTRATION OF FOREIGN INVESTMENT APPROVAL CERTIFICATE

Foreign Investment Board
Republic of Palau

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Office of the Public Auditor

July 6, 2026

Mr. Raymond August
Executive Director
Foreign Investment Board
Koror, Republic of Palau

Dear Executive Director August:

At the request of the Senate, 11th Olbiil Era Kelulau, the Office of the Public Auditor (OPA) initiated a performance audit of the Foreign Investment Board (FIB) to assess whether the FIB is effectively administering the Foreign Investment Approval Certificate (FIAC) legislation in a manner consistent with its mandate and supportive of Palau's economic objectives. The audit examined whether (1) FIACs are issued to eligible businesses in line with law and regulation, and (2) approved FIACs are monitored to ensure intended benefits are achieved. The review covered October 1, 2022–April 30, 2025, including samples prior to Fiscal Year 2022.

Audit results indicate that control weaknesses in documentation, workflow timeliness, governance records, and post-approval monitoring increase the likelihood of inconsistent or delayed decisions, create ambiguity in grantee obligations, expose the government to revenue loss from unverified fees, and result in approvals that cannot be demonstrably linked to national priorities. These conditions undermine public confidence and materially limit FIB's ability to show that FIAC administration advances Palau's policy objectives.

The key conclusions and recommendations from the audit are summarized in the Executive Summary of the report, supported by the detailed findings in the full report.

The Office of the Public Auditor would like to extend our appreciation to the management and staff of the Foreign Investment Board Office for their cooperation and professional courtesy extended to us during the audit.

Sincerely,

Satrunino Tewid
Acting Public Auditor
Republic of Palau

Executive Summary

Based on our audit, we have concluded that the Foreign Investment Board (FIB) is partially effective in administering the Foreign Investment Approval Certificate (FIAC) law to support Palau's economy and livelihood. While the FIB has effectively enforced FIAC transfer and local ownership requirements in accordance with its enabling legislation and related regulations, key control weaknesses in documentation, evaluation, monitoring, and enforcement reduce the overall effectiveness, consistency, and transparency of FIAC's administration.

We noted that several applications lacked complete documentation, evidence of timely review, or evaluation against the criteria prescribed under the Foreign Investment Act (FIA) and FIB Regulations. The absence of a structured tracking system, as well as limited reference to the evaluation criteria and the National Development Plan, further weakens the link between investment approvals and national priorities. Additionally, the monitoring of FIAC holders' compliance is largely informal, with no systematic mechanism to verify adherence to certificate conditions or to assess whether the intended benefits, such as job creation, citizens' upskilling, or capital investment, are achieved.

Accordingly, we have made several recommendations to FIB to strengthen governance and accountability. Implementing these recommendations will enhance transparency, ensure consistency in decision-making, and help ensure that foreign investments deliver sustainable benefits for the Republic of Palau.

Recommendations

To improve the completeness and review of FIAC applications before submission to the Board for approval, we recommend that:

1. FIB ensures that the requirements for applying for and reviewing different types of FIACs (a new FIAC, or renewal or amendment of a FIAC) are clearly defined and complied with, including verifying that the relevant application fee is paid, before applications are submitted to the Board for consideration.
2. FIB ensures that only complete applications, including all the information required by the FIA and FIB Regulations 2020, are presented to the Board for review.
3. FIB ensures all FIAC applications are processed, reviewed, and put to the Board for approval in accordance with the relevant requirements of the FIA and FIB Regulations 2020 so that there is timely, complete, and consistent consideration of all applications.

To improve consideration and approval of FIAC Applications by the Board, we recommend that:

1. FIB ensures that all FIAC applications are systematically evaluated against the prescribed criteria and Palau's national development priorities, and evaluations are documented to provide transparency and accountability for decisions.
2. FIB includes an explicit quorum confirmation statement in each set of minutes for all FIAC decisions made and a vote tally showing assent/dissent box, noting any recusals.

To improve monitoring of FIAC compliance, we recommend that:

1. FIB should strengthen its monitoring and enforcement mechanisms by developing and implementing a systematic process to verify and document FIAC holders' compliance with all certificate conditions and grantee requirements, to help ensure that the Republic of Palau receives the intended benefits from foreign investments
2. FIB revises the application form to require applicants to clearly declare whether they are fulfilling the minimum requirement via capital investment or Palauan workforce employment, in accordance with FIA §106, and further strengthen compliance monitoring by documenting how compliance will be verified after FIAC approval
3. FIB ensures all FIAC terms and conditions are consistent with the requirements set forth in the FIA and FIB Regulations.

Introduction

To provide context to the report, the report is delivered in four (4) parts as explained below:

Part 1: We describe the audit background, outlining the role of the FIB, the FIAC process, and the coverage of the audit.

Part 2: We present our findings and recommendations on whether application requirements for FIACs are clear, the completeness of applications for FIACs, and whether FIB reviews applications for FIACs as required by the FIA and FIB Regulations

Part 3: We present our findings and recommendations on whether FIAC applications are considered using the required criteria, whether there is a quorum of the Board when FIACs are approved, and whether the Board complied with local ownership requirements.

Part 4: We present our findings and recommendations on the monitoring of compliance with the terms and conditions of FIACs granted and FIAC transfer requirements.

PART 1: BACKGROUND

In this part, we cover:

- The role of the FIB
- The FIAC process
- What the audit covers

The role of the FIB

The Foreign Investment Board (FIB) was established under the Foreign Investment Act (FIA) to regulate, facilitate, and promote foreign investment in the Republic of Palau. The Act seeks to modernize and encourage investment to expand the private sector, support a broader and more sustainable economy, and reduce reliance on government employment by creating private-sector jobs and business opportunities for Palauans, while balancing investor attraction with the protection of local enterprises to ensure fair competition.

The FIA places FIB in charge of the entire Foreign Investment Approval Certificate (FIAC) process, from initiation through to post-approval oversight. In summary, FIB is responsible for:

- Approvals & oversight: Reviewing, evaluating, and approving FIAC applications; monitoring compliance with FIAC terms; and conducting spot inspections, including unannounced visits, subpoenas/summonses, and investigations of suspected front businesses[1].
- Policy & advisory: Reviewing Board procedures and wider foreign-investment regulations; advising the President and the Olbiil Era Kelulau on implementation and improvements; and representing Palau in relevant forums.
- Reporting & hearings: Submitting an annual report; holding administrative hearings on contested matters under the Administrative Procedures Act with written decisions and ensuring access to judicial review.
- Enforcement & rulemaking: Bringing civil actions to enforce the FIA; promulgating regulations to effectuate the Act, including sector-specific minimum Palauan employment requirements; and endorsing reputable accommodation rating systems for applications subject to FIA §107(b).
- General duties: Performing any other functions within the scope of the FIA or entrusted by the President.

FIB is a regulatory body within the Executive Branch, composed of seven members appointed by the President and confirmed by the Senate. The next page lists current and previous Board members.

[1] "Front business" means a business enterprise nominally owned exclusively by one or more citizens, but which in fact is owned or financed, in whole or in part, by one or more non-citizens.

Current Members as of April 30, 2025

No.	Members	Title	Confirmation Date	Expiration Date
1	Yvonne Ueda	Chairperson	9/23/2024	9/23/2027
2	Stephanie Nakamura	Vice Chairperson	6/15/2023	6/15/2026
3	Noah Secharraimul	Member	09/23/2024	09/23/2027
4	Ephraim Ngirachitei	Member	12/27/2022	12/27/2025
5	Cornelia R. Mason	Member	11/16/2023	11/16/2026

Previous Members

No.	Members	Title	Confirmation Date	Expiration Date
1	Fermin S. Meriang	Chairperson	01/04/2022	01/04/2025
2	Stephanie Nakamura	Vice Chairperson	6/15/2020	6/15/2023
3	Yvonne Ueda	Member	9/23/2021	9/23/2024
4	Williander Ngotel	Member	02/03/2022	02/03/2025
5	Noah Secharraimul	Member	09/23/2021	09/23/2024
6	Ephraim Ngirachitei	Member	12/27/2019	12/27/2022

The Board shall have an office. The office of the Board shall be headed by the Board Secretary, who shall ensure that a complete and systematic record of all Board meetings is maintained. The current Board Secretary and Executive Director, Mr. Raymond August, was appointed in April 2025. Since his appointment, he has been addressing challenges, including the hiring and training of new administrative personnel and investigators, the relocation of the office, and familiarization with the Board's mandate.

The FIAC Process

The FIAC process begins when the Board Secretary receives the application and logs the receipt date. The Secretary should then conduct a completeness review of the application within five days. If information is missing, the Secretary should issue a written deficiency notice within fourteen days. Once the file is complete, it should be circulated to relevant stakeholders within fifteen days, placed on the Board's agenda within thirty days of completeness, and brought to a decision within ninety days of receiving a complete application.

To support this process, the application package must contain specific documents. It must include a completed FIAC form and a business profile with a clear description of proposed activities. If a business is a corporation, it must contain corporate registration and governing documents, ownership and beneficial-ownership disclosures, and identification of principals. The package must also provide a capitalization plan and financial projections, including the source of funds. It must further set out an employment and training plan that shows preference for Palauan citizens, the planned investment amount and timetable, and any required sector licenses or other supporting analyses.

During deliberations, the Board should evaluate the application against the criteria set by the FIA. It should consider economic needs and market effects, the impact on local enterprises, and the expected benefits to the national economy. It should review the applicant's capacity and viability, expected employment generation, the use of local inputs, and the potential for skills and technology transfer. It should also weigh up social, cultural, and environmental factors. If the application is approved, the Board should set the terms and conditions of the certificate.

Following approval, the grantee must demonstrate ongoing compliance with the terms and conditions of the FIAC. The grantee must meet one of two minimum requirements: either the capital investment threshold (for example, \$500,000, or \$5,000,000 for hotels and short-term lodging) or a workforce that includes at least 20 percent Palauan citizens. Grantees must submit quarterly reports, and the Board should use these reports to verify investment or workforce thresholds, required fees, and other obligations. The Board should also monitor and perform spot inspections of any business enterprises to enforce compliance. When issues arise, the Board should document follow-up and take appropriate action.

See Appendix 1 for the FIAC Process Flowchart, which outlines visually the steps, responsible parties, and statutory timelines described in this section.

What the audit covers

Authority to audit

Article XII, § 2(b) of the Constitution of the Republic of Palau declares in part, "The Public Auditor shall inspect and audit accounts in every branch, department, agency, or statutory authority of the national government and in all other public legal entities or nonprofit organizations receiving funds from the national government." This mandate is implemented through the Public Auditing Act of 1985 (40 PNCA § 200 et. seq.), which charges the Public Auditor to "act to prevent and detect fraud, waste and abuse in the collection and expenditure of all public funds." (Id., §224.)

On December 26, 2024, the Honorable Senator Mark Rudimch, Chairman, Senate Committee on Resources, Commerce, Trade, and Development, Eleventh Olbiil Era Kelulau, requested the Office of the Public Auditor (OPA) to conduct a performance audit of the Foreign Investment Board to evaluate its adherence to its mandate and proper exercise of discretionary powers.

Audit objective

The objective of the audit is to assess whether the FIB is effectively administering the FIAC process to support the economy and livelihood of Palauans in accordance with the Foreign Investment Act. To make that determination, the objective is further divided into sub-objectives as follows:

1) To assess whether the FIB is issuing FIACs to eligible businesses

2) To assess whether the FIB is effectively monitoring FIACs to ensure they deliver the intended benefits specified in the FIACs' terms and conditions

Audit scope and methodology

To accomplish our audit objectives, we examined the Foreign Investment Act, Foreign Investment Board Regulations of 2020, Foreign Investment Approval Certificates issued by the board, and related applications, quarterly reports, board minutes, and other relevant documents required by the FIA and FIB rules and regulations. Furthermore, we interviewed the Vice-Chairperson and Executive Director responsible for administering the FIAC.

In addition, we conducted procedures to determine whether the required fees were paid to the national treasury, as required by the Act, for application, quarterly report, and foreign employment fees.

As this is a performance audit, we did not conduct audit procedures to assess the fairness of the financial statements of the Foreign Investment Board Office and, therefore, express no opinion on the financial statements.

We conducted this audit in accordance with the *Generally Accepted Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusion based on our audit objectives.

Prior audit coverage

The Office of the Public Auditor (OPA) previously conducted an audit of FIB and issued its report on July 17, 2003. The audit identified a number of internal controls and non-compliance findings with the FIA and the 1998 FIB Implementing Regulations then in effect.

The most recent Single Audit of the Republic of Palau, which includes activities of the FIB, was issued for fiscal year 2023.

PART 2: COMPLETENESS AND REVIEW OF FIAC APPLICATIONS

In this part, we present our findings and recommendations on whether:

- The FIB ensures the clarity of FIAC application requirements
- The FIB verifies the completeness of FIAC applications
- The FIB reviews applications for FIACs as required by the FIA and FIB Regulations 2020

FIB-01: Clarity of application requirements for FIACs

Under FIA §108, the Board is responsible for ensuring that FIAC applications are complete and properly processed. Consistent with internal control standards, forms and procedures should clearly distinguish between application types (e.g., new vs. renewal) and prescribe uniform processing fees, based on application type, to promote consistent administration, equitable treatment, accurate billing, and reliable records.

FIB's application process consists of only the initial application (new form) and an amendment form, with associated fees. FIB does not have a renewal application form to renew or extend the FIAC. To renew or extend the FIAC, the applicant is given the option of reapplying via a new application or an amendment application, demonstrating the lack of clear policies or guidelines directing applicants on how to renew or extend an FIAC, based on grantees' circumstances. Conditions occurring that require renewal of FIAC (e.g., expiration of FIAC) are different from those requiring an amendment (e.g., change of scope of FIAC) and therefore should distinguish the type of application.

Since the application form does not require applicants to disclose the application type (New, Renewal, or Amendment) and an expiring FIAC may be extended by either an amendment or a new application, each at $100, this creates ambiguity, causing otherwise similar cases to be processed under different documentation and review expectations. This undermines consistency and transparency, weakens the file documentation, and demonstrates the need to distinguish application types: new, renewal, and amendment.

We recommend that the FIB define the requirements for the different types of FIAC application (New, Renewal, or Amendment) in a clear and concise fashion and provide the essential guidelines under which each application type is to be used. To facilitate the process, the FIB should revise its Application Form to incorporate the mandatory fields for each application type (New, Renewal, or Amendment). Each application should be certified by the applicant and verified by the FIB staff to ensure all the required documents are intact, including the required fee payments. Fees and related control processes should be aligned by updating the fee schedule, application checklist, and pre-acceptance review to ensure that the application package does not advance unless the proper form/fee is used/paid (evidenced by a National Treasury receipt). Finally, FIB should monitor periodically by reconciling applications and fees (new/renewal/amendment) with the reports from National Treasury of the fees payments, and report and follow up on any irreconcilable items.

FIB's Response to Finding No. 1: We agree with the finding and recommendation. To improve clarity and consistency in the application process, we revised our application system and established separate forms for new FIAC applications, renewal applications, and amendment applications. We also adopted a Standard Operating Procedure (SOP) that defines the purpose of each application type and provides procedures for staff to determine the appropriate form to provide to applicants. *See Appendix 2, pages 20-24, for the complete response.*

FIB-02: Completeness of applications for FIACs

According to the FIA, § 108 prescribes the documentation and processing procedures for FIAC applications. Applications must include sufficient information to substantiate eligibility, ownership, financial capacity, and proposed activities (e.g., business details, ownership/beneficial-interest details, capitalization, employment and training plans, and investment analyses). Upon receipt of application, the Board Secretary must ensure completeness and obtain any additional information required for proper evaluation; a completed application must then be circulated for comment within 15 days and decided by the Board within 90 days.

We found that most applications contained the core documentation required by § 108. However, our review of 15 selected FIAC applications disclosed that required documentation or activity was missing or not documented in 7 application files. Specifically:

- Two applications lacked proof of application fee payments.
- One application was missing an employment and training plan.
- One application did not include capital and financial projections.

- Three applications had incomplete or missing corporate documents.
- Two applications lacked documentation of ownership and background information, source of funds, or corporation records.

A separate review of three (3) FIAC amendment cases revealed that two were approved without an application on file, one of which was approved solely on the basis of email correspondence.

Weak file management practices and document verification procedures resulted in applications being accepted or advanced without meeting application completeness requirements.

Incomplete documentation limits the FIB's ability to verify applicants' eligibility and compliance with FIAC requirements, increasing the risk of ineligible applications being approved; thus, potentially violating the requirements of the FIA. It also impedes timely circulation of the application for comments and runs afoul of the application process and procedures required under § 108 of the FIA.

FIB should use the existing standardized checklist document at the pre-acceptance stage to review applications to ensure completeness of the application package. The Board's Secretary should use the checklist to review applications and sign off on the completed items, leaving a trail of evidence of the review process. The Secretary should (i) verify and date-stamp completeness against § 108 requirements, (ii) document and issue any requests for additional information, and (iii) place the signed checklist in the official file as evidence of the review. Applications with outstanding items should be returned to the applicant with instructions, not advanced for circulation or the Board's consideration.

We recommend that FIB ensure that only complete applications, including all the information required by the FIA and FIB Regulations 2020, are presented to the Board for review and further action.

FIB's Response to Finding No. 2: We acknowledge the finding. When the current Executive Director assumed office, the office had limited staff, limited institutional records, and no established operational procedures to support continuity of operations. As a result, we did not have a formal system to track application processing timelines or notify applicants of deficiencies and status updates. To address this, we implemented a comprehensive SOP that covers application intake and logging, completeness review, applicant notifications, timeline tracking, and documentation and record management. These procedures are now being used to help ensure applications are processed consistently and in accordance with regulatory requirements. *See Appendix 2, pages 20-24, for the complete response.*

FIB-03: Review of applications for FIACs

§ 104 of the FIA assigns the Board responsibility for managing and reviewing FIAC applications. § 108 of the FIA stipulates that within fifteen (15) days following the applicants' submission of a completed application, the Board Secretary shall forward a copy of the complete application to key stakeholders, prior to the Board's action, for comments. Further, the Board shall issue a decision on each application for a FIAC within ninety (90) days after submission of the application. § 7 of the FIB Regulations requires staff to verify application completeness within five (5) days of receipt, and the Board Secretary notifies applicants of deficiencies within fourteen (14) days, and circulates completed applications for comments within fifteen (15) days. The Chairman places applications on the Board's agenda within thirty (30) days and notifies the applicant of deficiencies within 10 days of the Board's decision, and the Board is to issue a final decision within ninety (90) days.

Furthermore, effective internal control requires sufficient and appropriate documentation to support key decision points, ensuring transparency and accountability in the process.

We found that the FIB does not have a formal mechanism to track the progress of FIAC applications or to notify applicants when their submissions are deemed complete and ready for the Board's consideration. As a result, there is no reliable means to determine which stages of review an application has undergone or whether the prescribed timelines were met.

Review of 15 selected FIAC applications disclosed the following noncompliance with FIB's established review timelines and documentation requirements. Specifically:

- Three (3) applications had no documentation of date received;
- Three (3) lacked evidence of initial review within 5 days of receipt;
- Eight (8) were reviewed after the required 5-day review period;
- Six (6) exceeded the required 14-day notification period (notify applicant) for incomplete applications;
- 12 lacked documentations confirming the circulation of the application to stakeholders within 15 days for comments;
- Five (5) had no documentation of stakeholder comments received within 15 days, and 2 received comments after the deadline;
- One (1) applicant was notified of additional information needed after the required 10 days, following the Board's review;
- Seven (7) lacked evidence that the FIB considered the completed application at the next scheduled Board meeting, within 30 days of receipt of the application; and
- Four (4) were issued FIACs after the required 90-day period following the receipt of a complete application.

The FIB has not established a standardized workflow, tracking, and quality control system to document and monitor each stage of the application process; from receipt of the application, review for completeness, stakeholder comment, and submission of the application package to the Board, thereby limiting its ability to effectively monitor compliance with prescribed timelines. Weak internal control documentation and records management practices have contributed to incomplete files and the absence of sufficient evidence demonstrating compliance with the Foreign Investment Act and its complementary regulations.

Because FIB lacks a formal tracking and quality control monitoring system, the Board cannot effectively demonstrate that applications were processed in accordance with regulatory timelines. This has resulted in noncompliance with review procedures, incomplete documentation, and inconsistent application handling. Applicants may experience delays and uncertainty regarding their application status, while the absence of complete records weakens transparency, oversight, and accountability in the FIAC approval process.

FIB should establish a system to keep track of each step of the FIAC review process: from the initial application receipt through to Board decision, and to flag pending actions or missed deadlines. Supervisors should periodically review the tracking records to ensure adherence to prescribed timelines and formal notification of applicants regarding the status of their applications, including when they are deemed complete for the Board's consideration. Staff should also receive training on documentation standards and workflow procedures to strengthen consistency, transparency, and accountability in the FIAC process.

We recommend that FIB ensure all FIAC applications are processed, reviewed, and put to the Board for consideration in accordance with the relevant requirements of the FIA and FIB Regulations 2020 so that there is timely, consistent, and equitable consideration of all applications.

FIB's Response to Finding No. 3: FIB did not respond to this finding.

PART 3: CONSIDERATION AND APPROVAL OF FIAC APPLICATIONS BY THE BOARD

In this part, we present our findings and recommendations on whether:

- The FIB uses the required evaluation criteria to consider FIAC applications
- The FIB ensures there is a Board quorum when approving FIACs
- The FIB complies with local ownership requirements

FIB-04: Use of the required evaluation criteria when considering FIAC applications

The FIA § 107 and the FIB Regulations § 10 require the Board to evaluate FIAC applications based on specific criteria such as economic need, impact on local industries, contribution to the national economy, technical and financial viability, employment generation, use of local resources, skills transfer, and alignment with Palau's social, cultural, and environmental values. In addition, FIB Regulation § 10 requires the Board to conduct a substantive evaluation of the project and investors, weigh the project against national development priorities, and then decide whether the project fits within the Republic's development goals, giving higher desirability to projects that provide stronger economic and infrastructure benefits to citizens.

Although 11 out of 15 FIAC applications reviewed had documentation of Board minutes, these minutes did not show evidence that the Board evaluated applications against the prescribed criteria. In addition, none of the 15 applications contained documentation showing that the National Development Plan or other strategic priorities were considered or referenced during the evaluation and approval process.

According to the Board, it relies primarily on the criteria outlined in §10 (c) of the FIB Regulations when reviewing applications and does not currently incorporate or reference the National Development Plan or other national policy frameworks in its evaluation process. In addition, our review of Board meeting minutes revealed that documentation practices do not capture the level of detail to substantiate that deliberations surrounding an FIAC application are measured up to or graded against each prescribed criterion.

As a result, FIB cannot demonstrate that the FIAC application evaluations and approvals process is based on a systematic evaluation against the criteria set forth in the Foreign Investment Act and/or the Foreign Investment Board Regulations to ensure that approved projects contribute to the Republic's broader development objectives. This lack of documentation and linkage to national priorities and development objectives weakens the role of the FIB to formulate a strategy to attract quality investments that are linked to Palau's national priorities and development objectives, weakens transparency in decision-making, and increases the risk of approving FIACs that may not fully support Palau's economic, social, or environmental development goals.

FIB should strengthen its role over the FIAC evaluation and approval process by establishing a system for assessment of each application against the prescribed criteria under FIA § 107 and FIB Regulations § 10. In doing so, the Board should document in its meeting minutes sufficient details of actions taken and decisions made throughout the process to support transparency and accountability. More importantly, the Board should incorporate references to the National Development Plan and relevant sectoral strategies in the evaluation process to ensure investment approvals are aligned with national development priorities.

<u>We recommend</u> that FIB ensure that all FIAC applications are systematically evaluated against the prescribed criteria set forth in the FIA §107 and Palau's national development priorities. In doing so, the Board should ensure that meeting minutes document in sufficient detail actions and decisions taken to support oversight, transparency, and accountability.

FIB's Response to Finding No. 4: We agree with the finding and recommendation. We have informed Board members of the statutory and regulatory evaluation criteria under Title 28 of the Palau National Code and the FIB Rules and Regulations. To support consistent application of these requirements, the Executive Director now conducts a detailed review of each application before Board consideration. During Board meetings, the Executive Director presents factual findings and analysis based on the applicable evaluation criteria, allowing Board members to make informed decisions consistent with legal and regulatory requirements. *See Appendix 2, pages 20-24, for complete response.*

FIB-05: Ensuring there is a Board quorum when approving FIACs

FIA §104 (e) states that the Board shall meet whenever required by the Chairman or the President, but in any event, no less than once every month. In any Board meeting, the attendance of at least four appointed members shall be required to constitute a quorum. The assents of at least four appointed members shall be required for all decisions requiring a vote.

Furthermore, per §104 (g), the office of the Board shall be headed by the Board Secretary, who shall ensure that a complete and systematic record of all meetings of the Board is maintained. In addition, § 22 (j) of FIB Regulations states that the Board shall maintain accurate minutes of its proceedings, up-to-date records relating to FIAC applications, and such other reports as are required by the Act. All such minutes, records, and reports shall be on file at the Board's Office.

We found that 11 out of 15 applications had documentation of Board meeting minutes with roll calls evidencing that a quorum was present at the time of FIAC approval. Hence, 4 out of 15 applications were approved without the proper documentation of Board meeting minutes to evidence assent of at least four appointed members.

The FIB failed to provide records of minutes of the Board's proceedings for the four (4) FIAC applications that were alleged to have been approved as required by law and regulations.

As a result, we were unable to verify whether a quorum of Board members was present for the four (4) applications previously mentioned and whether any actions or decisions taken were properly approved by a quorum of Board members as required by law and regulations. Documented quorum and clear meeting minutes strengthen governance transparency, support legal sufficiency of decisions, and provide reliable documentation for deliberations and approvals processes.

We recommend that FIB follow up with the Board's Secretary to locate the missing meeting minutes of the four (4) FIAC applications and, if discovered that the minutes were not duly documented, the Board should take corrective action to ensure that similar breaches do not occur in future meetings. The minutes of Board meetings are the primary source documents that justify the Board's actions and decision-making, without which transparency and accountability are lost. Accordingly, the Board should instruct the Secretary to locate and secure the trail of documentation that supports the Board's actions or decisions taken to support the above four (4) FIAC approvals.

FIB's response to Finding No. 5: We acknowledge the finding. During the audit period, we experienced administrative challenges due to the office relocation from the Civic Center to the One Stop Building and the absence of administrative staff. These challenges contributed to filing and record-management issues that limited our ability to readily provide supporting documentation during the audit. Since then, we have reorganized our filing system and improved our document management procedures. We have also located and organized meeting records showing that quorum requirements were met for the referenced FIAC approvals. *See Appendix 2, pages 20-24, for complete response.*

OPA's Response: The OPA concurs that subsequent to the issuance of the Draft Report, the FIB in its response did provide the minutes of the Board meetings showing approval by a quorum of Board members for the four (4) FIACS.

FIB-06: Compliance with FIAC Local Ownership Requirement

§ 105 of the Foreign Investment Act establishes business activities reserved exclusively for business enterprises in which at least one citizen is an owner or part owner and specifically prohibits ownership in these business enterprises in which no citizen is an owner or part owner. However, in specific cases, § 105 grants exemptions, e.g., handicraft and gifts shops located in the premises of hotels or at the Palau International Airport, and bar services in a restaurant or hotel establishment. The Act also authorizes the Board to designate additional restricted business activities.

Based on samples reviewed during the period of the audit, we observed that the Board approved FIACs in conformance with the local ownership requirements. In one instance, for example, an applicant seeking an FIAC to establish a tailored nightclub and bar lounge was initially denied because the business did not include a Palauan partial owner, as required. The applicant subsequently resubmitted the application with a Palauan partner; however, the application was denied for other reasons unrelated to ownership requirements. In another instance, a hotel with

50 rooms was approved to operate a bar under the exemption provisions of the local ownership requirements.

FIB effectively applied the requirements decreed in the FIA § 105 by reserving those designated business activities exclusively for local ownership.

FIB's adherence to the statutory requirements protects and promotes citizen participation in designated sectors of the economy.

We commend the FIB for upholding and enforcing FIAC's local ownership requirements, ensuring that citizens are given the opportunity to participate in the development of Palau's economy.

FIB's Response to Finding No. 8: FIB did not respond to this finding.

PART 4: MONITORING OF FIAC COMPLIANCE

In this part, we present our findings and recommendations on whether:

- The FIB is monitoring compliance with the FIAC terms and conditions
- The FIB is monitoring compliance with FIAC transfer requirements.

FIB-07: Monitoring compliance with the terms and conditions of FIACs granted

FIA §104 (a) states in part: …there is hereby established…a Foreign Investment Board with the following functions: Subsections (a) through (i); however, for monitoring compliance, we highlight Subsections (a) (2) and (3) below:

(2) to monitor and enforce compliance with the terms and conditions of any FIAC granted,

(3) to monitor and perform spot inspections of any business enterprises to enforce compliance with the provisions of this chapter, including investigations of suspected front businesses and compliance with the minimum requirements for grantees specified in FIA §106 (a) (1) level of investment or (2) percentage of Palauan workforce, among other requirements.

FIB-07a: Overall compliance monitoring

FIA §111 states that a grantee shall submit to the Board quarterly reports to enable the Board to monitor compliance by the grantee with FIAC terms and conditions. FIB Regulations §13 (a) states that the Board shall conduct investigations which may include: reviewing the reports submitted by the grantees; making unannounced on-site inspections or spot checks of the business premises of grantees, applicants, and other business enterprises which the Board reasonably believes to be operating as front businesses or in violation of the Act.

We found that FIB did not conduct monitoring to demonstrate that FIAC holders complied with the conditions specified in their certificates, including grantee requirements.

In our review of seven (7) FIACs within the audit scope, we noted:

- Five (5), or 71 %, had no documentation confirming that applicants met the $500,000 minimum capital investment or 20% Palauan employment requirements,

- Three (3), or 43%, contained documentation, but did not meet the requirements of the $500,000 minimum capital investment or 20% Palauan employment,
- One (1), or 14%, had no documentation of payment of the $500 annual non-citizen fee for 2 employees, resulting in an estimated $1,000 in annual fees not paid,
- Two (2), or 28%, contained insufficient supporting documentation, including missing or incomplete quarterly reports, unclear tax filing information, and payment records that did not clearly identify whether annual foreign workers fees had been paid,
- One (1), 14%, had no documentation of Quarterly Reports,
- Seven (7), or 100%, lacked evidence that FIB conducted reviews of Quarterly Reports,
- Two (2), or 28%, lacked evidence of payment of the Initial Quarterly Report filing fee,
- Three (3), or 43%, showed payment records, but lacked supporting documents to indicate the type of payment: application fee, initial quarterly report fee, or annual non-citizen worker fee.

To further assess monitoring effectiveness, we expanded our testing to include five (5) additional FIACs that had been active for over ten years. Of the 5 FIACs, none contained documentation to show the required filing of the initial quarterly or annual report and payment of the related $25 filing fee. In addition, there was a lack of documentation to evidence filing of subsequent quarterly reports and payments of related fees, following the issuance of FIACs up until 2025. Given their ten-year duration, each grantee should have submitted more than twenty quarterly reports along with the required filing fee. Had quarterly reports been filed and fees paid on time, estimated revenues would have totaled $1,475; with the estimate rising to $2,950, if paid late. Moreover, for calendar year 2025, of the three that submitted quarterly reports, two did not meet the 20% Palauan workforce requirement, none reported any training initiatives, and there was no evidence that FIB reviewed the submissions. Two of the five grantees did not submit the required quarterly reports and pay the associated $25 filing fee. Furthermore, with respect to payment of foreign worker fees, no supporting documentation was available for the earlier periods for review; therefore, testing was limited to the period from FY 2023 through April 30, 2025. Based on records available, we identified three (3) of the five (5) grantees with unpaid non-citizen worker annual fees covering a total of 28 workers. Pursuant to FIA §106(b)(10), each non-citizen worker is subject to a $500 annual fee; accordingly, the unpaid fees identified represent an estimated $14,000 in annual fees not paid.

Overall, none of the FIACs reviewed had consistent documentation to show compliance with quarterly reporting requirements. The timescale and prevalence of the problem points to the absence of a robust in-house process for enforcing reporting requirements and pursuing non-filers for outstanding quarterly reports and other violations. Due to these documentation gaps, we could not verify whether grantees met the minimum capital investment or workforce thresholds, complied with other FIAC conditions (e.g., training initiatives, adherence to approved activities), or whether FIB performed or escalated follow-up actions for noncompliance, which would be the expected reaction.

According to the FIB, investigations or verification activities are typically initiated based on word-of-mouth reports or suspicions of noncompliance, rather than through structured monitoring, such as reviewing quarterly reports to identify red flags and other non-compliance with FIAC terms and conditions, the latter being more of a proactive approach and the former a reactive one.

FIB has not established or implemented a proactive monitoring and reporting system to track FIAC holders' compliance with certificate conditions. As a result, FIB cannot demonstrate whether FIAC holders have met their obligations under the FIA and its Regulations. Given that FIAC approvals are based on proposed capital investment levels and commitments to employ Palauan workers, weak monitoring and verification mechanisms limit FIB's ability to enforce grantees' obligations and commitments to ensure they are being fulfilled and that foreign investments are generating the intended economic and social benefits for the Republic of Palau.

We recommend that the FIB strengthen its monitoring and enforcement mechanisms by developing and implementing a systematic process to verify, document, and maintain complete records of each FIAC holder's compliance with all certificate conditions, grantee requirements, including required payments. This will enhance the FIB's ability to conduct timely follow-up, investigations, and spot checks, enforce compliance, and help ensure that the Republic of Palau receives the intended benefits from foreign investments.

FIB's response to Finding No. 07a: We agree with the finding and recommendation. Our Compliance Section has received training and has implemented a systematic monitoring process supported by our newly adopted SOP and compliance monitoring checklists. We also developed and implemented a Front Business Assessment Questionnaire to help investigators identify potential front-business activities and other compliance concerns. Our Criminal Investigators have been trained on these tools and are using them during compliance reviews and investigations. *See Appendix 2, pages 20-24, for complete response.*

FIB-07b: FIAC application form

FIA §106 decrees that a grantee must meet one of the two minimum requirements: (1) make or maintain foreign investment in the Republic of no less than $500,000 or, in the case of a hotel or short-term lodge facility, $5,000,000; or (2) maintain a work force of which at least twenty percent (20%) are citizens of the Republic, or such other percentage as may be fixed by the Board through regulation.

Although the application form requires applicants to declare the minimum requirement they intend to fulfill: (1) minimum capital investment or (2) employment of citizens, it does not clearly provide field options for applicants to declare their intent: (1) whether to fulfill the minimum capital investment requirement or (2) to fulfill the requirement to maintain work force of which 20% are citizens, as required in FIA §106. According to the FIB, the intent is determined subsequent to the issuance of the FIAC and upon follow-up verification to determine compliance with the minimum requirements.

FIB's application form for a FIAC does not clearly align with the requirements of the FIA § 106. The Application Form in its current format does not list the two (2) field options: (1) minimum capital investment or (2) 20% citizen employment, to enable the investor to clearly declare his/her intent. The application form is the primary document that shows the intent and commitment of the investor and, therefore, it should clearly show the two (2) field options for the investor to choose/declare his/her intent and, once the application is certified, the FIB can hold the investor accountable to his/her declaration. The investor should outright declare his/her intent at the point of application and, thereafter, following the approval and issuance of the FIAC, the FIB should conduct monitoring to determine compliance with the declaration.

In its present format, the application form is weak or deficient of the required declaration by the investor, essential for the FIB to hold the investor accountable in the enforcement of the requirements of the FIA and the terms and conditions of the FIAC. The FIB's expectations of the investor are unclear, which complicates compliance follow-up and weakens accountability repercussions.

<u>We recommend</u> that FIB revises its FIAC application form to incorporate the two field options for investors to declare their intentions: (1) make or maintain foreign investment in the Republic of no less than $500,000 or, in the case of a hotel or short-term lodge facility, $5,000,000; or (2) maintain a work force of which at least twenty percent (20%) are citizens of the Republic, or such other percentage as may be fixed by the Board through regulation. The upfront declaration presents the FIB with documentary evidence to support its compliance monitoring and inspections and enforce accountability for noncompliance.

FIB's response to Finding No. 07b: We agree with the recommendation and have implemented procedures to address this issue. Our SOP now includes a process for evaluating compliance with statutory requirements related to local workforce participation and capital asset investment. Under the revised process, we review quarterly reports to determine whether FIAC holders meet the required 20 percent local workforce threshold. If a FIAC holder does not meet the workforce requirement, we provide an opportunity for the grantee to demonstrate compliance through qualifying capital asset investments. If the grantee fails to meet either requirement, we refer the matter to the Board for appropriate action, which may include citation, corrective action, suspension, or revocation. *See Appendix 2, pages 20-24, for complete response.*

FIB-07c: Verifying compliance

FIB Regulations § 9(b) requires FIAC grantees to meet either the minimum capital investment threshold or the 20% citizen workforce requirement within 365 days after FIAC issuance; however, grantees are allowed until the due date of the first quarterly report, following its first-year anniversary, to submit verification of compliance. Further, FIB Regulations § 11(a)(3) and (4) establish distinct compliance and documentation requirements depending on the basis of approval of an FIAC: when a FIAC is granted based on a minimum capital investment of less than $500,000, the grantee must submit proof of compliance within 120 days after the first year of operation and periodically thereafter as required by the Board; when granted based on employment of at least 20% citizens, the grantee must maintain that workforce for the duration of the FIAC and provide documentation of compliance by the end of the first year and periodically thereafter as required.

In contrast, the FIB's standard FIAC terms and conditions template sets a six-month deadline for grantees to document compliance with the 20% Palauan workforce requirement but is silent on compliance requirements with respect to the minimum capital investment threshold.

This inconsistency occurred because: (1) the Board amended its Regulations without updating the standard FIAC Terms and Conditions template, and (2) the FIAC application form does not provide field options for the investor to declare his/her intention, with which the FIB can use to establish reporting and documentation requirements and hold the investor accountable for violations.

As a result, the FIB's standard FIAC terms and conditions template references only the workforce requirements and omits the capital investment requirements, making compliance reporting and enforcement partially effective. Furthermore, the inconsistency between the standard FIAC terms and conditions and the FIA and FIB Regulations undermines the integrity of the foreign investment verification process, creates inconsistencies in enforcement, and exposes the FIB to legal and reputational risks.

We recommend that the FIB update the FIAC terms and conditions to align with the requirements set forth in the FIA and FIB Regulations.

FIB's response to Finding No. 07c: We agree with the finding and recommendation. We have adopted and implemented compliance monitoring procedures, including standardized monitoring checklists, documentation requirements, and verification protocols. These procedures are now being used by compliance personnel during inspections, reviews, and investigations to verify that FIAC holders comply with applicable certificate conditions and the laws of the Republic of Palau. *See Appendix 2, pages 20-24, for complete response.*

FIB-08: Monitoring compliance with FIAC transfer requirements

Per FIB Regulations §20, a Foreign Investment Approval Certificate (FIAC) authorizes non-citizens to own or control a beneficial interest in a business within the Republic. While the FIAC itself is non-transferable, the beneficial interest in a business may be transferred only in accordance with the Regulations and with prior approval from the FIB. When a corporation holds a FIAC, beneficial ownership must be traceable to the natural persons who ultimately control it. Any transfer of corporate shares is deemed a transfer of the FIAC's beneficial interest. Non-citizens must obtain a statement of non-objection from the Board before transfer of beneficial interest, and the Board may revoke a FIAC if a beneficial interest is transferred without a written statement of non-objection or if more than 50% of ownership changes within 12 months.

We observed that no FIACs were transferred based on the samples reviewed during the audit period. However, in one case of transfer of beneficial interest, a corporation holding an FIAC for over a year sought to transfer 30% of its beneficial interest and submitted a request to the Board for a statement of non-objection accordingly. The Board convened to review the request, engaged the applicant for clarification, and reviewed additional supporting documents, including the transferee's financial information, police clearance, passport copy, and other relevant documentation, before ultimately approving the request.

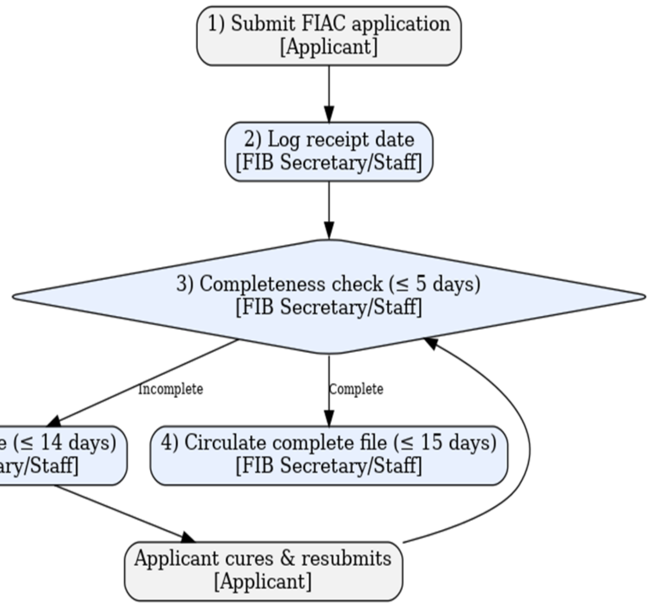
FIB effectively applied the procedures outlined in FIB Regulations §20 to ensure compliance prior to any transfer of beneficial ownership.

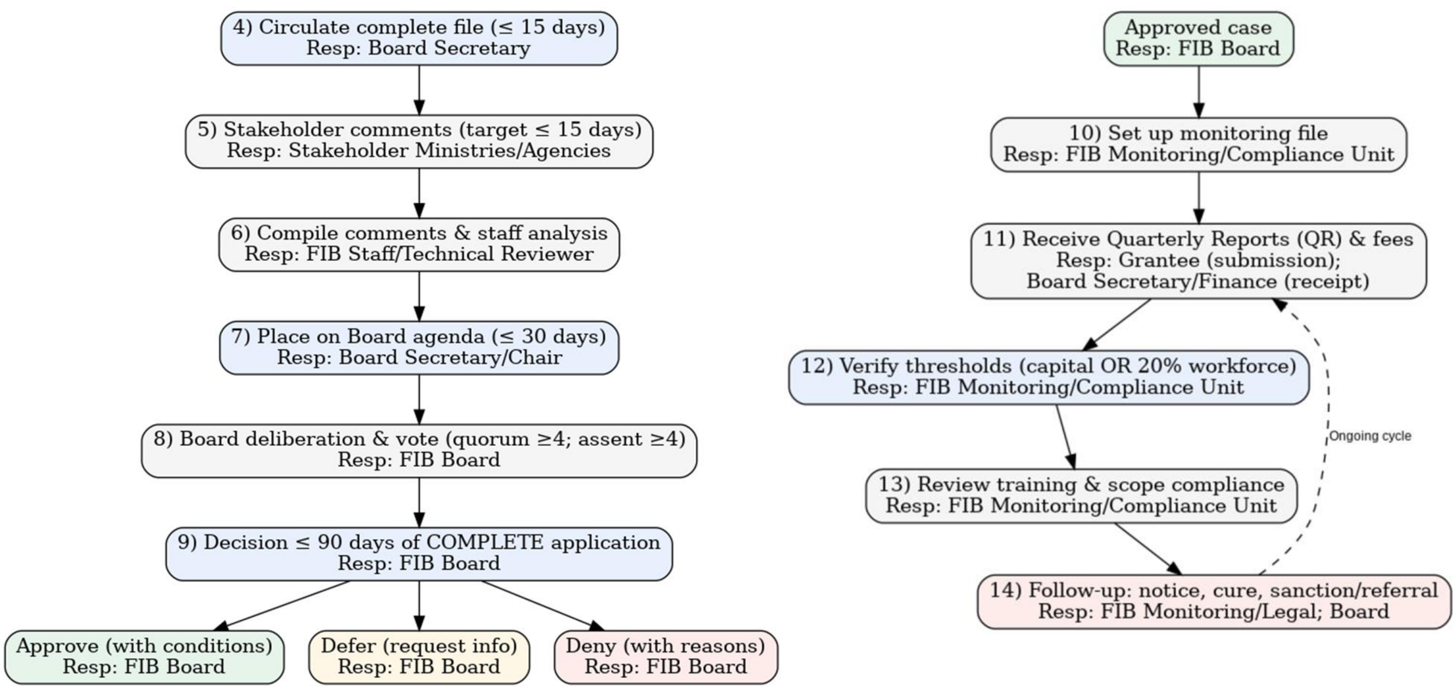
FIB's adherence to the regulatory process prevents unauthorized or illegal transfers of FIACs, ensuring transparency, accountability, and protection of national interests.

We commend the FIB for upholding and enforcing FIAC's transfer regulations, demonstrating steadfast compliance with requirements.

FIB's Response to Finding No. 8: FIB did not respond to this finding.

APPENDIX 1: FIAC PROCESS FLOWCHART





APPENDIX 2: FIB's Response

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Office of the Public Auditor
Received
Date 6/16/26 Time 2:35pm
Received By mc
No. OPA 26-085

June 15, 2026

Office of the Public Auditor
Republic of Palau
Koror, Palau

Subject: Management Response to the Draft Performance Audit Report of the Foreign Investment Board for the Period October 1, 2022, through April 30, 2025

Dear Public Auditor:

On behalf of the Foreign Investment Board (FIB), we would like to thank the Office of the Public Auditor (OPA) for conducting the Performance Audit of the Foreign Investment Board for the period of October 1, 2022, through April 30, 2025.

First and foremost, we would like to express our sincere appreciation to you and your team for your professionalism, cooperation, and the extensive work invested in conducting this audit. We particularly acknowledge Ms. Mechol and Ms. Chin for their excellent work and constructive engagement with the FIB staff throughout the audit process.

Chairperson Cornelia R. Mason and I, Executive Director Raymond August, have carefully reviewed the draft audit report, including all findings and recommendations. We appreciate the opportunity to provide the following collective response.

Role and Mandate of the Foreign Investment Board

The report discusses the role of the Foreign Investment Board in relation to the Foreign Investment Act. Based on our interpretation of the Foreign Investment Act and our historical understanding of the Board's responsibilities, the FIB's primary role has been to regulate foreign investment activities and carry out the mandates established under the Act, particularly to protect Palauan citizens and entrepreneurs while ensuring compliance by foreign investors operating within the Republic of Palau.

The Board has traditionally interpreted its responsibilities as regulatory in nature and has not actively engaged in foreign investment promotion or marketing activities due to the potential conflict such activities may create with the Board's impartial decision-making authority when reviewing and approving applications.

However, should the OPA's interpretation conclude that the statutory mandate of the FIB includes investment promotion activities, the Board will evaluate and incorporate foreign investment promotion efforts into its future strategic planning and operational objectives.

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Additionally, the FIB has adopted and implemented a comprehensive Standard Operating Procedure (SOP), effective June 2026, to address the deficiencies identified during the audit and strengthen compliance with the Foreign Investment Act and the FIB Rules and Regulations.

Response to Finding FIB-01: Clarity of Application Requirements for FIACs

The Foreign Investment Board agrees with this finding and recommendation.

To improve clarity and consistency in the application process, the FIB has revised its application system and established three distinct application forms:

1. New FIAC Application;
2. FIAC Renewal Application; and
3. FIAC Amendment Application.

The newly adopted SOP clearly defines the purpose of each application type and establishes procedures for staff to determine the appropriate application to provide to applicants. Copies of the SOP are attached for reference.

Response to Finding FIB-02: Completeness of Applications for FIACs

The Foreign Investment Board acknowledges this finding.

As noted in the audit report, when the current Executive Director assumed office, there were no active staff members, limited institutional records, and no established operational procedures available to support continuity of operations. Consequently, there was no formal mechanism to track application processing timelines or notify applicants regarding deficiencies and status updates as required under the FIB Rules and Regulations.

To address these deficiencies, the Board has implemented a comprehensive SOP that establishes procedures for:

- Application intake and logging;
- Completeness review;
- Applicant notifications;
- Timeline tracking; and
- Documentation and record management.

These procedures are currently being utilized to ensure applications are processed consistently and in accordance with regulatory requirements.

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Response to Finding FIB-04: Use of Required Evaluation Criteria When Considering FIAC Applications

The Foreign Investment Board agrees with this finding and recommendation.

Board members have been informed of the statutory and regulatory evaluation criteria established under Title 28 of the Palau National Code and the FIB Rules and Regulations.

To ensure consistent application of these requirements, the Executive Director now conducts a detailed review of each application prior to Board consideration. During Board meetings, the Executive Director presents factual findings and analyses under each applicable evaluation criterion, enabling Board members to make informed decisions based upon the legal standards established by law and regulation.

This practice has been incorporated into the Board's standard review process.

Response to Finding FIB-05: Ensuring Board Quorum When Approving FIACs

The Foreign Investment Board acknowledges this finding.

During the audit period, the Board experienced significant administrative challenges resulting from the relocation of the office from the Civic Center to the One Stop Building, combined with the absence of administrative staff. These circumstances contributed to filing and record-management deficiencies that limited the Board's ability to readily produce supporting documentation requested during the audit.

Since that time, the FIB has reorganized its filing system and implemented improved document management procedures. The Board has also located and organized meeting records that demonstrate quorum requirements were met during the approval of the referenced FIAC applications.

Supporting meeting minutes and related documentation are attached for review.

Response to Finding FIB-07a: Overall Compliance Monitoring

The Foreign Investment Board agrees with this finding and recommendation.

The Compliance Section has undergone training and has implemented a systematic monitoring process supported by the newly adopted SOP and compliance monitoring checklists.

In addition, the Board has developed and implemented a Front Business Assessment Questionnaire to assist investigators in identifying potential front-business activities and other compliance concerns. Criminal Investigators have been trained in the use of these tools and are actively utilizing them during compliance reviews and investigations.

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These measures are intended to strengthen oversight and ensure consistent monitoring of FIAC holders.

Response to Finding FIB-07b: FIAC Application Form

The Foreign Investment Board agrees with the recommendation and has implemented procedures to address this issue.

The SOP establishes a process for evaluating compliance with the statutory requirement related to local workforce participation and capital asset investment.

Under the revised process, FIB staff first review quarterly reports to determine whether the FIAC holder maintains the required twenty percent (20%) local workforce threshold. If the FIAC holder does not satisfy the workforce requirement, the Board provides an opportunity for the grantee to demonstrate compliance through qualifying capital asset investments, as permitted by law.

Where a grantee fails to satisfy either requirement, the matter is referred to the Board for appropriate action, which may include citation, corrective action, suspension, or revocation proceedings.

Response to Finding FIB-07c: Verifying Compliance

The Foreign Investment Board agrees with this finding and recommendation.

The Board has adopted and implemented compliance monitoring procedures, including standardized monitoring checklists, documentation requirements, and verification protocols to ensure FIAC holders comply with all applicable conditions and laws of the Republic of Palau.

These procedures are currently in operation and are being used by compliance personnel during inspections, reviews, and investigations.

Conclusion

The Foreign Investment Board recognizes the importance of the findings and recommendations identified in this audit. While we acknowledge that certain practices and procedures during the audit period were not fully aligned with the requirements of the Foreign Investment Act and the FIB Rules and Regulations, substantial corrective measures have already been implemented.

The Board's immediate goal is to ensure that all operations are fully compliant with applicable laws and regulations. To achieve this objective, the FIB has adopted comprehensive Standard Operating Procedures, enhanced application and compliance review processes, strengthened documentation practices, and provided training to staff responsible for implementation.

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The current staff and Board remain committed to continuous improvement and are working diligently to ensure the Foreign Investment Board operates in full compliance with the law and effectively fulfills its responsibilities to the people of the Republic of Palau.

We appreciate the valuable recommendations provided by the Office of the Public Auditor and look forward to continued cooperation in strengthening government accountability and public service.

Sincerely,

Executive Director Raymond August
Secretary, Foreign Investment Board
Republic of Palau

Attachments:

1. Foreign Investment Board Standard Operating Procedures (Effective June 2026)
2. Supporting Board Meeting Minutes
3. Compliance Monitoring Checklist
4. Front Business Assessment Questionnaire

ILLEGAL OR WASTEFUL ACTIVITIES SHOULD BE REPORTED TO:

OFFICE OF THE PUBLIC AUDITOR
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KOROR, REPUBLIC OF PALAU 96940

GROUND FLOOR
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MONDAY THRU FRIDAY
7:30 a.m. - 4:30 p.m.

(Closed on Legal Holidays)