

A BILL FOR AN ACT

To amend sections 224A and 224C of chapter 2, to insert new section 229 in the same chapter, to amend sections 403, 404, 406, 411 and 413 of chapter 4 of title 55 of the Code of the Federated States of Micronesia (Annotated), as amended, to add provisions on accountability of representation funds, auditing and procurement of property, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1           Section 1. Section 224A of title 55 of the Code of the  
2 Federated States of Micronesia (Annotated), as amended, is hereby  
3 amended, to read as follows:

4           “Section 224A. Representation expenses, delegation  
5           expenses and official expense allowances—Accounting and  
6           Advances.

7           (1) Representation expenses and official expense  
8 allowance expenses shall be accounted for by affidavit,  
9 written contract or written receipt.

10          (2) Delegation expenses shall be accounted for by  
11 written contract or written receipt.

12          (3) The Secretary of Finance, upon specific written  
13 request containing specific justification satisfactory  
14 to the Secretary of Finance, shall make advance payments  
15 of representation expenses and advance payments of  
16 official expense allowances if the recipient of such  
17 advance payment agrees to submit affidavits or receipts  
18 for actual expenditures and return to the Secretary of

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1 Finance all amounts advanced but not accounted for by  
2 affidavit, contract or receipt no later than one month  
3 after the end of the fiscal year and, upon leaving  
4 office, to return to the Secretary of Finance all  
5 amounts advanced but not expended.

6 (4) In the case of Representation Expenses, once  
7 requested amounts have been advanced to the Allottee, it  
8 is the responsibility of the Allottee to be:

9 (a) accountable for these funds by submitting  
10 the appropriate documentation to support expenditure;

11 (b) liable to refund these funds if  
12 documentation is insufficient; and

13 (c) directly answerable to the auditors' to  
14 justify the reasonableness of spending in line with  
15 public sector good practice."

16 Section 2. Section 224C of title 55 of the Code of the  
17 Federated States of Micronesia (Annotated), as amended, is hereby  
18 amended to, read as follows:

19 "Section 224C. Purchases of supplies and personal  
20 property involving less than [~~\$1,000~~] \$3,000 and between  
21 \$3,000 and \$49,999.99.

22 (1) For any purchase of supplies and personal  
23 property involving less than [~~\$1,000~~] \$3,000, including  
24 the cost of shipping, the Secretary of Finance or his  
25 designee shall approve such purchase upon certification

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1 of the availability of funds for such purchase and upon  
2 satisfaction of the requirements under section [~~218~~] 219  
3 of this chapter pertaining to documentary  
4 evidence; PROVIDED, HOWEVER, that the head of each  
5 branch of the National Government shall have the  
6 authority to prescribe a more restrictive rule which  
7 shall be binding upon that branch with the full force  
8 and effect of the law.

9 (2) For such purchases less than \$3,000 the price  
10 must be considered to be reasonable and must be  
11 generally distributed among qualified suppliers without  
12 bias.

13 (3) For any purchase of supplies and personal  
14 property involving amounts between \$3,000 and  
15 \$49,999.99, including the cost of shipping, the  
16 Secretary of Finance or his designee shall approve such  
17 purchase upon certification of the availability of funds  
18 for such purchase and upon satisfaction of the  
19 requirements under section [~~218~~] 219 of this chapter  
20 pertaining to documentary evidence including the  
21 requirement to obtain three written quotations.

22 (4) For purposes of this section, the Office of the  
23 Public Auditor shall be considered a separate branch of  
24 the National Government. For purposes of this section,  
25 the agencies, boards, authorities, commissions and

1 corporations of the National Government shall be  
2 considered part of the executive branch.”

3 Section 3. Chapter 2 of title 55 of the Code of the  
4 Federated States of Micronesia (Annotated), as amended, is hereby  
5 amended by inserting a new section 229, to read as follows:

6 “Section 229. Audit requirements.

7 (1) Subject to section 226(2)(a) the financial  
8 statements of the National Government will be audited  
9 annually.

10 Other audit requirements may also be imposed by Funding  
11 Agencies on certain programs.

12 (2) The auditee will provide the auditor with access  
13 to personnel, accounts, books, records, supporting  
14 documentation, and other information as needed for the  
15 auditor to perform the audits required.

16 (3) The auditee will promptly follow up and take  
17 corrective action on audit findings and questioned  
18 costs.

19 For the purposes of this section, all Allottees  
20 (including non-national allottees) are considered to be  
21 the auditee.”

22 Section 4. Section 403 of title 55 of the Code of the  
23 Federated States of Micronesia (Annotated), as amended, is hereby  
24 amended to, read as follows:

25 “Section 403. Competitive bidding require. All

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1           contracts for construction projects involving [~~\$20,000~~  
2           \$50,000 or more or for the purchase of personal property  
3           involving \$50,000 or more made on behalf of any National  
4           Government agency shall be let by free and open  
5           competitive bidding, by sealed bids, to the lowest  
6           responsible bidder in accordance with the provisions of  
7           this chapter.

8           Section 5. Section 404 of title 55 of the Code of the  
9 Federated States of Micronesia (Annotated), as amended, is hereby  
10 amended, to read as follows:

11           "Section 404. Citizen bidder preference-Amount

12           (1) Citizen bidders who qualify to bid under the  
13 provisions of this chapter shall receive preference over  
14 noncitizen bidders in determining the award of the  
15 contract.

16           (2) For the purpose of determining the preference to  
17 be given to citizen bidders, the amount of the bid of  
18 each citizen bidder shall be reduced according to the  
19 following formula, and such reduction shall be used  
20 solely for the purpose of determining the lowest  
21 responsible bidder:

22           (a) for all contracts for construction projects  
23 involving at least [~~\$20,000~~] \$50,000 but less than  
24 \$500,000, or for the purchase of personal property  
25 involving a least \$50,000 but less than \$500,000, the

1 amount of the bid of each citizen bidder shall be  
2 reduced by 15 percent;

3 (b) for all contracts for construction projects  
4 involving at least \$500,000, but less than \$1,500,000,  
5 the amount of the bid of each citizen bidder shall be  
6 reduced by ten percent;

7 (c) for all contracts for construction projects  
8 involving at least \$1,500,000, but less than  
9 \$10,000,000, or for the purchase of personal property  
10 involving at least \$1,500,000, but less than  
11 \$10,000,000, the amount of the bid of each citizen  
12 bidder shall be reduced by five percent; and

13 (d) there shall be no citizen bidder preference  
14 with respect to contracts for construction projects  
15 involving \$10,000,000 or more, or for the purchase of  
16 personal property involving \$10,000,000 or more.

17 (3) Citizen bidder preference can be overridden in  
18 cases where the funding agency has specific tender  
19 bidding requirements that require a full competitive  
20 bidding process."

21 Section 6. Section 406 of title 55 of the Code of the  
22 Federated States of Micronesia (Annotated), as amended, is hereby  
23 amended to read as follows:

24 "Section 406. Bonding and Insurance.

25 (1) Except for contracts for construction projects

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1 involving \$150,000 or less, or for the purchase of  
2 personal property involving [~~\$10,000,000~~] \$1,000,000 or  
3 less, the contracting officer is hereby authorized to  
4 impose such bonding and insurance requirements that, in  
5 his best judgment, are necessary and appropriate to  
6 ensure proper performance of the contract by the  
7 contractor.

8 (2) Such bonding and insurance requirements may  
9 include, but need not be limited to, bid guarantee,  
10 performance bond, or payment bond.

11 (3) Specific bonding and insurance requirements may  
12 be required by funding agencies will override any  
13 requirements specified in this section."

14 Section 7. Section 411 of title 55 of the Code of the  
15 Federated States of Micronesia (Annotated), as amended, is hereby  
16 amended, to read as follows:

17 "Section 411. Bids - Opening, rejection.

18 (1) The time of opening sealed bids shall not be less  
19 than 30 days after the final publication.

20 (2) All bids shall be sealed and delivered to the  
21 contracting officer and, in the presence of all bidders  
22 who attend, shall be opened by him at the hour and  
23 places as stated in the advertisement and may be  
24 inspected by any bidder.

25 (3) Any bid which does not comply with the

1 requirements of the advertisement shall be rejected.

2 (4) If two or more bids are the same and the lowest,  
3 the contracting officer may accept the one he chooses.

4 (5) If no bids are received, the contracting officer  
5 may [~~have~~] release the project [~~done~~] to be completed  
6 without further compliance with this chapter. The  
7 contracting officer will still be required to obtain  
8 three written quotations in line with the Financial  
9 Management Regulations."

10 Section 8. Section 413 of title 55 of the Code of the  
11 Federated States of Micronesia (Annotated), as amended, is hereby  
12 amended, to read as follows:

13 "Section 413. Award to the lower responsible bidder.  
14 All contracts shall be in writing and shall be executed  
15 by the National Government agency which is authorized to  
16 let contracts in its own name and shall be made with the  
17 lowest responsible bidder. If the lowest bid is  
18 rejected, the contracting officer may, at [~~his~~]  
19 discretion, award the contract to the lowest remaining  
20 responsible bidder or advertise anew for bids pursuant  
21 to section 412 of this chapter. In each instance the  
22 officer, at his discretion, after determining the lowest  
23 responsible bidder, may negotiate with that bidder, and  
24 that bidder only, to either reduce the scope of work or  
25 tendered price without compromising the scope of work

