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:

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

"Section 224A. Representation expenses, delegation expenses and official expense allowances—Accounting and Advances.

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

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

(3) The Secretary of Finance, upon specific written request containing specific justification satisfactory to the Secretary of Finance, shall make advance payments of representation expenses and advance payments of official expense allowances if the recipient of such advance payment agrees to submit affidavits or receipts for actual expenditures and return to the Secretary of
Finance all amounts advanced but not accounted for by affidavit, contract or receipt no later than one month after the end of the fiscal year and, upon leaving office, to return to the Secretary of Finance all amounts advanced but not expended.

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

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

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

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

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

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

(1) For any purchase of supplies and personal property involving less than [$1,000] $3,000, including the cost of shipping, the Secretary of Finance or his designee shall approve such purchase upon certification
of the availability of funds for such purchase and upon
satisfaction of the requirements under section [218] 219
of this chapter pertaining to documentary
evidence; PROVIDED, HOWEVER, that the head of each
branch of the National Government shall have the
authority to prescribe a more restrictive rule which
shall be binding upon that branch with the full force
and effect of the law.

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

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

(4) For purposes of this section, the Office of the
Public Auditor shall be considered a separate branch of
the National Government. For purposes of this section,
the agencies, boards, authorities, commissions and
corporations of the National Government shall be considered part of the executive branch.”

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

“Section 229. Audit requirements.

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

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

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

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

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

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

“Section 403. Competitive bidding require.

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

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

"Section 404. Citizen bidder preference-Amount

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

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

(a) for all contracts for construction projects
involving at least [\$20,000] $50,000 but less than
$500,000, or for the purchase of personal property
involving a least $50,000 but less than $500,000, the
amount of the bid of each citizen bidder shall be reduced by 15 percent;

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

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

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

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

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

“Section 406. Bonding and Insurance.

(1) Except for contracts for construction projects
involving $150,000 or less, or for the purchase of personal property involving [\$10,000,000] $1,000,000 or less, the contracting officer is hereby authorized to impose such bonding and insurance requirements that, in his best judgment, are necessary and appropriate to ensure proper performance of the contract by the contractor.

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

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

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

“Section 411. Bids - Opening, rejection.

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

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

(3) Any bid which does not comply with the
requirements of the advertisement shall be rejected.

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

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

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

“Section 413. Award to the lower responsible bidder.
All contracts shall be in writing and shall be executed by the National Government agency which is authorized to let contracts in its own name and shall be made with the lowest responsible bidder. If the lowest bid is rejected, the contracting officer may, at [his] discretion, award the contract to the lowest remaining responsible bidder or advertise anew for bids pursuant to section 412 of this chapter. In each instance the officer, at his discretion, after determining the lowest responsible bidder, may negotiate with that bidder, and that bidder only, to either reduce the scope of work or tendered price without compromising the scope of work.
depending on the situation. The contracting officer will [and to] award the contract at a price which reflects the [reduction in the scope of work] final negotiated price. In each instance where the lowest bidder is rejected, the Contracting Officer must support the decision with written reasons.”

Section 9. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: 12/8/17 

Introduced by: /s/ Florencio S. Harper
Florencio S. Harper
(by request)