

AN ACT

To establish procedures for competitive bidding on public contracts of the National Government, and for other purposes.

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

1 Section 1. Short title. This act is known and may be cited
2 as the "Public Contracts Act."

3 Section 2. Definitions.

4 (1) "Citizen bidder" means:

5 (a) Until the termination of the Trusteeship, any
6 business in which an interest is owned by a citizen of the Trust
7 Territory of the Pacific Islands; and

8 (b) Upon termination of the Trusteeship, any business
9 in which an interest is owned by a citizen of the Federated States
10 of Micronesia.

11 (2) "Contracting officer" means the official in charge
12 of letting a contract for a National Government agency.

13 (3) "Lowest responsible bidder" means the lowest bidder
14 whose offer adequately responds in quality, fitness, and capacity
15 to the particular requirements of the proposed work called for by
16 the contract.

17 (4) "National Government agency" means any branch,
18 department, office, division, board, bureau, commission, committee,
19 institution, or authority of the National Government of the Federated
20 States of Micronesia.

21 Section 3. Contracts-Competitive bidding required. All
22 contracts for construction projects involving \$20,000 or more or for

1 the purchase of personal property involving \$50,000 or more made
2 on behalf of any National Government agency shall be let by
3 free and open competitive bidding, by sealed bids, to the lowest
4 responsible bidder in accordance with the provisions of this act.

5 Section 4. Citizen-bidder preference. Citizen bidders who
6 qualify to bid under the provisions of this act shall receive
7 preference over noncitizen bidders in determining the award of
8 the contract. Citizen bidders shall be subject to all standards
9 and qualifications as set out in this act. Absent a qualified
10 citizen bidder, noncitizen bidders shall be considered pursuant
11 to the provisions of this act.

12 Section 5. Emergencies. In case of emergency affecting public
13 health, safety, or convenience so declared in writing by the
14 President upon application by the head of any National Government
15 agency setting forth the nature of the emergency and the danger
16 to the public health, safety, or convenience caused by delay,
17 contracts may be let to the extent necessary to meet the emergency
18 without public advertisement. Such action and the reasons therefor
19 shall immediately be made public by the awarding authority.

20 Section 6. Qualifications of bidders. Before any prospective
21 bidder may be entitled to submit a bid for the performance of a
22 contract covered by section 3 of this act, he shall, not less than
23 10 calendar days prior to the date designated for opening bids, give
24 written notice to the contracting officer of his intention to bid,
25 and such officer shall satisfy himself of the prospective bidder's

1 financial ability to perform the work intended and of his
2 experience and competence in performing similar work. Whenever
3 it appears to the contracting officer that the prospective
4 bidder is not fully qualified and able to perform the intended
5 work, the contracting officer shall refuse to receive or consider
6 any bid offered by the prospective bidder. Upon being determined
7 not to be fully qualified, a prospective bidder may appeal this
8 determination within 10 days after notice of disqualification in
9 accordance with the administrative procedures act, title 17, chapter
10 1, of the Code of the Federated States of Micronesia.

11 Section 7. Advertisement for bids. Publication of a call for
12 sealed bids shall include posting of notice for at least 10 days in
13 the immigration office and in one other prominent public place in
14 each State in the Federated States of Micronesia, the use of radio
15 and newspaper media when considered appropriate by the contracting
16 officer, and any other means he may consider feasible. The notice
17 shall state in clear terms the project that is to be bid on.

18 Section 8. Bids-Opening, rejection. The time of opening sealed
19 bids shall not be less than 30 days after the final publication. All
20 bids shall be sealed and delivered to the contracting officer and,
21 in the presence of all bidders who attend, shall be opened by him
22 at the hour and place as stated in the advertisement and may be
23 inspected by any bidder. Any bid which does not comply with the
24 requirements of the advertisement shall be rejected. If two or
25 more bids are the same and the lowest, the contracting officer may

1 accept the one he chooses. If no bids are received, the contracting
2 officer may have the project done without further compliance with
3 this act.

4 Section 9. Bids-Information. All bids on construction project
5 contracts shall include the name of each person or firm to be engaged
6 by the bidder as a joint contractor or subcontractor in the performance
7 of the construction project contract. The bid shall also indicate the
8 nature and scope of the work to be performed by such joint contractor
9 or subcontractor.

10 Section 10. Written contract awarded to lowest responsible bidder.
11 All contracts shall be in writing and shall be executed by the National
12 Government agency which is authorized to let contracts in its own name
13 and shall be made with the lowest responsible bidder. If the lowest
14 bid is rejected, the contracting officer may, at his discretion, award
15 the contract to the lowest remaining responsible bidder or advertise
16 anew for bids pursuant to section 7 of this act. In each instance the
17 officer, at his discretion, after determining the lowest responsible
18 bidder, may negotiate with that bidder, and that bidder only, to reduce
19 the scope of work and to award the contract at a price which reflects
20 the reduction in the scope of work.

21 Section 11. Effect of restraint of competition. Any agreement
22 or collusion among bidders or prospective bidders in restraint of
23 freedom of competition by agreement to bid at a fixed price or to
24 refrain from bidding shall render the bids of such bidders void. Each
25 bidder shall accompany his bid with a sworn statement that he has not

1 been a party to such an agreement.

2 Section 12. Effect of advance disclosure of terms of bid. Any
3 disclosure in advance of the terms of a bid submitted in response
4 to an advertisement for bids shall render the proceedings void and
5 require advertisement and award anew.

6 Section 13. Assignment of contracts. No contracts awarded to
7 the lowest responsible bidder shall be assignable by the successful
8 bidder without written consent of the awarding authority.

9 Section 14. Institution of legal actions. Any citizen taxpayer
10 in the Federated States of Micronesia or any bona fide unsuccessful
11 bidder on a particular contract shall be empowered to bring a civil
12 action in the Federated States of Micronesia Supreme Court to enjoin
13 execution of any contract entered into in violation of this act.

14 Section 15. Regulations. The President may issue regulations to
15 implement this act in accordance with the provisions of the
16 Administrative Procedures Act, title 17, chapter 1, of the Code of the
17 Federated States of Micronesia.

18 Section 16. Effective date. This act shall become law upon approval
19 by the President of the Federated States of Micronesia or upon its
20 becoming law without such approval.

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January 6, 1983



Tosiwo Nakayama
President
Federated States of Micronesia