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A BILL FOR 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 as
2 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 of
10 Micronesia.

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

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

16 (4) "National Government agency" means any branch, depart-
17 ment, office, division, board, bureau, commission, committee, insti-
18 tution, or authority of the National Government of the Federated
19 States of Micronesia.

20 Section 3. Contracts-Competitive bidding required. All contracts
21 for construction projects involving \$20,000 or more or for the purchase
22 of personal property involving \$50,000 or more made on behalf of any
23 National Government agency shall be let by free and open competitive
24 bidding, by sealed bids, to the lowest responsible bidder in accordance
25 with the provisions of this act.

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

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

15 Section 6. Qualifications of bidders. Before any prospective
16 bidder may be entitled to submit a bid for the performance of a contract
17 covered by section 3 of this act, he shall, not less than 10 calendar
18 days prior to the date designated for opening bids, give written notice to
19 the contracting officer of his intention to bid, and such officer shall
20 satisfy himself of the prospective bidder's financial ability to perform
21 the work intended and of his experience and competence in performing
22 similar work. Whenever it appears to the contracting officer that the
23 prospective bidder is not fully qualified and able to perform the intended
24 work, the contracting officer shall refuse to receive or consider any
25 bid offered by the prospective bidder. Upon being determined not to be

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1 fully qualified, a prospective bidder may appeal this determination
2 within 10 days after notice of disqualification in accordance with the
3 administrative procedures act, title 17, chapter 1, of the Code of the
4 Federated States of Micronesia.

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

12 Section 8. Bids-Opening, rejection. The time of opening sealed bids
13 shall not be less than 30 days after the final publication. All bids shall
14 be sealed and delivered to the contracting officer and, in the presence of
15 all bidders who attend, shall be opened by him at the hour and place as
16 stated in the advertisement and may be inspected by any bidder. Any bid which
17 does not comply with the requirements of the advertisement shall be rejected.
18 If two or more bids are the same and the lowest, the contracting officer
19 may accept the one he chooses. If no bids are received, the contracting
20 officer may have the project done without further compliance with this act.

21 Section 9. Bids-Information. All bids on construction project contracts
22 shall include the name of each person or firm to be engaged by the bidder
23 as a joint contractor or subcontractor in the performance of the con-
24 struction project contract. The bid shall also indicate the nature and
25 scope of the work to be performed by such joint contractor or subcontractor.

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

12 Section 11. Effect of restraint of competition. Any agreement or
13 collusion among bidders or prospective bidders in restraint of freedom
14 of competition by agreement to bid at a fixed price or to refrain
15 from bidding shall render the bids of such bidders void. Each bidder
16 shall accompany his bid with a sworn statement that he has not been a
17 party to such an agreement.

18 Section 12. Effect of advance disclosure of terms of bid. Any
19 disclosure in advance of the terms of a bid submitted in response to
20 an advertisement for bids shall render the proceedings void and require
21 advertisement and award anew.

22 Section 13. Assignment of contracts. No contracts awarded to
23 the lowest responsible bidder shall be assignable by the successful
24 bidder without written consent of the awarding authority.

25 Section 14. Institution of legal actions. Any citizen taxpayer

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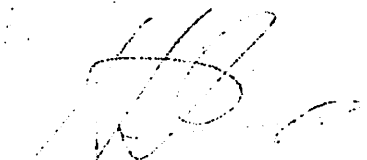
1 in the Federated States of Micronesia or any bona fide unsuccessful
2 bidder on a particular contract shall be empowered to bring a civil
3 action in the Federated States of Micronesia Supreme Court to enjoin
4 execution of any contract entered into in violation of this act.

5 Section 15. Regulations. The President may issue regulations to
6 implement this act in accordance with the provisions of the Adminis-
7 trative Procedures Act, title 17, chapter 1, of the Code of the Federated
8 States of Micronesia.

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

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Date: 11-2-82

Introduced by: 
Hirosi Ismael