

A BILL FOR AN ACT

To amend Public Law No. 2-65 by amending sections 2 and 4; to add a new section 5 for the purpose of clarifying the definition of citizen bidder and the preference to be extended to citizen bidders; to renumber sections 5 through 16; and for other purposes.

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

1 Section 1. Section 2 of Public Law No. 2-65 is hereby amended to
2 read as follows:

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 (a) Until the termination of the Trusteeship, any
12 business in which 51 percent of the interest therein is owned
13 by a citizen or citizens of the Trust Territory of the Pacific
14 Islands; and

15 (b) Upon termination of the Trusteeship, any
16 business in which 51 percent of the interest therein is
17 owned by a citizen or citizens of the Federated States of
18 Micronesia.

19 (2) 'Contracting officer' means the official in charge
20 of letting a contract for a National Government agency.

21 (3) 'Lowest responsible bidder' means the lowest bidder
22 whose offer adequately responds in quality, fitness, and
23 capacity to the particular requirements of the proposed work
24 called for by the contract.

25 (4) 'National Government agency' means any branch,

JGO

C.B. No. 4-113

1 department, office, division, board, bureau, commission,
2 committee, institution, or authority of the National Govern-
3 ment of the Federated States of Micronesia."

4 Section 2. Section 4 of Public Law No. 2-65 is hereby amended to
5 read as follows:

6 "Section 4. Citizen-bidder preference.

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

13 (2) In order for a bidder to be considered as such, and
14 in order to be eligible to be considered for the citizen-bidder
15 preference, the following criteria shall be satisfied:

16 (a) The project for which the bid is submitted is
17 100 percent financed by the National Government of the Federated
18 States of Micronesia;

19 (b) The bidder shall include in his bid a notice that
20 he is submitting his bid as a citizen bidder;

21 (c) The bidder is a domiciliary of the Federated
22 States of Micronesia for at least 5 years prior to the
23 submission of his bid;

24 (d) The bidder must have paid gross revenue taxes
25 for the 2 years immediately preceding the submission of his bid;

JGO

C.B. No. 4-113

1 (e) The key personnel and a substantial percentage
2 of the labor force thereof are citizens of the Federated States
3 of Micronesia; and

4 (f) The bidder, be it a corporation, joint venture,
5 or partnership, shall be at least 51 percent owned by a citizen or
6 citizens of the Trust Territory of the Pacific Islands, if the
7 bid is submitted prior to the termination of the Trusteeship
8 Agreement, or at least 51 percent owned by citizens of the
9 Federated States of Micronesia, if the bid is submitted upon
10 termination of the Trusteeship Agreement.

11 (3) For the purpose of determining the preference to be
12 given to citizen bidders, the amount of the bid of each citizen
13 bidder shall be reduced percentage-wise according to the
14 following sliding scale formula, and such reduction shall be
15 used solely for the purpose of determining the lowest responsible
16 bidder:

17 (a) All contracts for construction projects involving
18 not less than \$20,000, but not more than \$500,000, or for the
19 purchase of personal property involving not less than \$50,000,
20 but not more than \$500,000, the amount of the bid of each
21 citizen bidder shall be reduced by 15 percent;

22 (b) All contracts for construction projects involving
23 not less than \$500,000, but not more than \$1.5 million, or for
24 the purchase of personal property involving not less than
25 \$500,000, but not more than \$1.5 million, the amount of the

JGO

C.B. No. 4-113

1 bid of each citizen bidder shall be reduced by 10 percent;

2 (c) All contracts for construction projects involving
3 not less than \$1.5 million, but not more than \$10 million, or
4 for the purchase of personal property involving not less than
5 \$1.5 million, but not more than \$10 million, the amount of the
6 bid of each citizen bidder shall be reduced by 5 percent; and

7 (d) There shall be no citizen preference with respect
8 to contracts for construction projects involving more than \$10
9 million, or for the purchase of personal property involving
10 more than \$10 million."

11 Section 3. Public Law No. 2-65 is hereby amended by the addition of
12 a new section 5 to read as follows:

13 "Section 5. Except for contracts for construction projects
14 involving \$150,000 or less, or for the purchase of personal
15 property involving \$100,000 or less, the contracting officer
16 is hereby authorized to impose such bonding and insurance
17 that, in his best judgment, is necessary and appropriate to
18 ensure proper performance of the contract by the contractor.
19 Such bonding and insurance may include, but need not be
20 limited to, bid guarantee, performance bond, or payment bond."

21 Section 4. Sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16
22 of Public Law No. 2-65 are hereby renumbered as sections 6, 7, 8, 9, 10,
23 11, 12, 13, 14, 15, 16, and 17, respectively.

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C.B. No. 4-113

1 Section 5. This act shall become law upon approval by the
2 President of the Federated States of Micronesia or upon its becoming
3 law without such approval.

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5 Date: 7/18/85

Introduced by: Jack Fritz
Jack Fritz
By Request

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