

JGO

A BILL FOR AN ACT

To further amend Public Law No. 2-65, as amended by Public Law No. 4-4, by amending section 2(e) relating to the definition of citizen bidder; by amending sections 5(a), (b), and (c) and by deleting section 5(d); by amending section 10 by adding new subsections (1), (2), (3), and (4) relating to requirements for citizen labor and domestic purchase of materials to be inserted into all contracts for construction; 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, as amended by
2 Public Law No. 4-4, is hereby further amended to read as follows:

3 "Section 2. Definitions.

4 (1) 'Citizen bidder' means:

5 (a) Until the termination of the Trusteeship,
6 any business in which at least 51 percent of the interest
7 therein is owned by a citizen or citizens of the Trust
8 Territory of the Pacific Islands;

9 (b) Upon termination of the Trusteeship, any
10 business in which at least 51 percent of the interest
11 therein is owned by a citizen or citizens of the
12 Federated States of Micronesia;

13 (c) Until the termination of the Trusteeship,
14 a business which has been a resident of the Trust
15 Territory of the Pacific Islands for at least 1 year
16 immediately prior to the submission of its bid;

17 (d) Upon termination of the Trusteeship, a
18 business which has been a resident of the Federated
19 States of Micronesia for at least 1 year immediately
20 prior to the submission of its bid; and

21 (e) Upon termination of the Trusteeship, a
22 business which has paid gross revenue taxes to the
23 Federated States of Micronesia for the ~~1-year period~~
24 ~~immediately prior to~~ 4 quarters immediately preceding
25 the submission of ~~its bid~~ its written notice of

1 intention to bid.

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

5 (3) 'Lowest responsible bidder' means the lowest
6 bidder whose offer adequately responds in quality,
7 fitness, and capacity to the particular requirements of
8 the proposed work called for by the contract.

9 (4) 'National Government agency' means any branch,
10 department, office, division, board, bureau, commission,
11 committee, institution, or authority of the National
12 Government of the Federated States of Micronesia."

13 Section 2. Section 5 of Public Law No. 2-65, as amended by
14 Public Law No. 4-4, is hereby further amended to read as follows:

15 "Section 5. Eligibility. In order for a bidder to be
16 eligible to receive the citizen bidder preference
17 provided for in section 4 of this act, such bidder shall
18 meet the following criteria:

19 (a) The bidder shall be a citizen bidder as
20 defined under section 2(1) of this act;

21 (b) The bidder shall be bidding for a
22 construction project or for the sale of personal property
23 in response to an advertisement for bids made pursuant to
24 this act; and

25 (c) The bidder shall include in his written

1 notice of intention to bid a statement that he is
2 submitting his bid as a citizen bidder and provide
3 sufficient documentation of his eligibility to receive
4 the citizen bidder preference, and."

5 (d) For construction projects, the bidder shall
6 commit that until the termination of the Trusteeship, at
7 least 25 percent of all workers employed at all times at
8 the job site shall be citizens of the Trust Territory of
9 the Pacific Islands, that upon termination of the
10 Trusteeship, at least 25 percent of all workers employed
11 at the job site at all times shall be citizens of the
12 Federated States of Micronesia, and that at least 25
13 percent of all materials and supplies utilized in the
14 construction project shall be purchased from within the
15 Federated States of Micronesia."

16 Section 3. Section 10 of Public Law No. 2-65, as amended by
17 Public Law No. 4-4, is hereby further amended to read as follows:

18 "Section 10. Written contract awarded to lowest
19 responsible bidder.

20 (1) All contracts shall be in writing and shall be
21 executed by the National Government agency which is
22 authorized to let contracts in its own name and shall be
23 made with the lowest responsible bidder. If the lowest
24 bid is rejected, the contracting officer may, at his
25 discretion, award the contract to the lowest remaining

1 responsible bidder or advertise anew for bids pursuant to
2 section 9 of this act. In each instance the officer, at
3 his discretion, after determining the lowest responsible
4 bidder, may negotiate with that bidder, and that bidder
5 only, to reduce the scope of work and to award the
6 contract at a price which reflects the reduction in the
7 scope of work.!

8 (2) For all construction contracts awarded pursuant
9 to this act, the contracting officer shall require that
10 the following requirements be made conditions of the
11 contract:

12 (a) At least 25 percent of all materials and
13 supplies utilized in the construction project shall be
14 purchased from sources within the Federated States of
15 Micronesia;

16 (b) Until the termination of the Trusteeship,
17 at least 25 percent of all workers employed at all times
18 at the job site shall be citizens of the Trust Territory
19 of the Pacific Islands; and

20 (c) After termination of the Trusteeship, at
21 least 25 percent of all workers employed at all times at
22 the job site shall be citizens of the Federated States of
23 Micronesia.

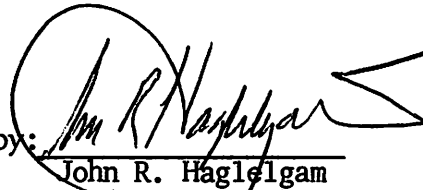
24 (3) The contracting officer shall have the
25 discretion to increase the percentage of citizen workers

1 who must be employed at the job site pursuant to
 2 subsections (2)(b) and (c), and to increase the
 3 percentage of materials and supplies which must be
 4 purchased from sources within the Federated States of
 5 Micronesia pursuant to subsection (2)(a).

6 (4) The contracting officer shall have the
 7 authority to waive or relax the requirements of
 8 subsection (2) upon a showing that the contractor has
 9 made a good faith effort to meet the requirements set
 10 forth in subsection (2), but, due to a lack of workers,
 11 supplies, or materials, or due to other circumstances
 12 beyond his control, has been unable to do so."

13 Section 4. This act shall become law upon approval by the
 14 President of the Federated States of Micronesia or upon its
 15 becoming law without such approval.

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 17 Date: Nov. 6, 1985

Introduced by: 
John R. Hagelgam
 (by request)

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