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:

Section 1. Section 2 of Public Law No. 2-65, as amended by Public Law No. 4-4, is hereby further amended to read as follows:

"Section 2. Definitions.

(1) 'Citizen bidder' means:

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

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

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

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

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

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

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

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

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

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

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

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

(c) The bidder shall include in his written
notice of intention to bid a statement that he is submitting his bid as a citizen bidder and provide sufficient documentation of his eligibility to receive the citizen bidder preference, and.

(4) For construction projects, the bidder shall comply that until the termination of the Trustee ship, at least 25 percent of all workers employed at all times at the job site shall be citizens of the Trust Territory of the Pacific Islands. That upon termination of the Trustee ship, at least 15 percent of all workers employed at the job site at all times shall be citizens of the Federated States of Micronesia, and that at least 25 percent of all materials and supplies utilized in the construction project shall be purchased from within the Federated States of Micronesia.

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

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

(1) 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 9 of this act. In each instance the officer, at
his discretion, after determining the lowest responsible
bidder, may negotiate with that bidder, and that bidder
only, to reduce the scope of work and to award the
contract at a price which reflects the reduction in the
scope of work.\footnote{2}

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

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

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

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

(3) The contracting officer shall have the
discretion to increase the percentage of citizen workers
who must be employed at the job site pursuant to
subsections (2)(b) and (c), and to increase the
percentage of materials and supplies which must be
purchased from sources within the Federated States of
Micronesia pursuant to subsection (2)(a).

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

Section 4. 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: Nov. 6, 1985

Introduced by: John R. Haglelgam
(by request)