A BILL FOR AN ACT

To further amend title 55 of the Code of the Federated States of Micronesia, as amended, by amending sections 402, 403, 408 and 413 for the purpose of updating and expanding the applicability of the Public Contracts Act, and for other purposes.

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

1 Section 1. Section 402 of title 55 of the Code of the
2 Federated States of Micronesia is hereby amended to read as
3 follows:

4 "Section 402. Definitions. As used in this chapter:
5
6 (1) ‘Citizen bidder’ means:
7
8 (a) until the termination of the Trusteeship
9 any business in which at least fifty-one percent of the
10 interest therein is owned by a citizen of the
11 Trust Territory of the Pacific Islands;
12
13 (b) upon termination of the Trusteeship, any
14 business in which at least fifty-one percent of the
15 interest therein is owned by a citizen or citizens of
16 the Federated States of Micronesia;
17
18 (c) until the termination of the Trusteeship, a
19 business which has been a resident of the Trust
20 Territory of the Pacific Islands for at least one year
21 immediately prior to the submission of its bid;
22
23 (db) upon termination of the Trusteeship, a
24 business which has been a resident of the Federated
25 States of Micronesia for at least one year immediately
26 prior to the submission of its bid; and
27
28 (dc) upon termination of the Trusteeship, a
29 business which has paid gross revenue taxes to the
30 Federated States of Micronesia for the one year period
31 immediately prior to the submission of its 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.

"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 403 of title 55 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 403. Competitive bidding required. All contracts for construction projects involving $20,000 or more of National Government funds or for the purchase of personal property involving $50,000 or more of National Government funds made on behalf of any National Government agency shall be let by free and open competitive bidding, by sealed bids, to the lowest responsible bidder in accordance with the provisions of this chapter."

Section 3. Section 408 of title 55 of the Code of the Federated States of Micronesia is hereby amended to read as
follows:

"Section 408. Emergencies. In case of emergency affecting public health, safety, or convenience so declared in writing by the President upon application by the contracting officer or his superior head of any national government agency setting forth the nature of the emergency and the danger to the public health, safety, or convenience caused by delay, contracts may be let to the extent necessary to meet the emergency without public advertisement. Such action and the reasons therefor shall immediately be made public by the awarding authority."

Section 4. Section 413 of title 55 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 413. Award to lowest responsible bidder. All contracts shall be in writing and shall be executed by the legal entity 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 412 of this chapter. 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."

Section 5. 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: 5/30/94

Introduced by: Joseph J. Orusema
(by request)