

FOURTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIRST SPECIAL SESSION, 1985 CONGRESSIONAL BILL NO. 4-113, C.D.1, C.D.2

AN ACT

To amend Public Law No. 2-65 by amending sections 2 and 4, relating to the definition of citizen bidders and citizen bidder preference; by adding a new section 5 and a new section 6, relating to eligibility to be a citizen bidder and bonding and insurance requirements; by amending section 10 to renumber a citation therein; by renumbering 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 at least 51 percent of the interest therein
7 is owned by a citizen or citizens of the Trust Territory of the
8 Pacific Islands;

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

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

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

20 (e) Upon termination of the Trusteeship, a business
21 which has paid gross revenue taxes to the Federated States of
22 Micronesia for the 1-year period immediately prior to the

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1 submission of its bid.

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

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

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

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

14 "Section 4. Citizen-bidder preference.

15 (1) Citizen bidders who qualify to bid under the pro-
16 visions of this act shall receive preference over noncitizen
17 bidders in determining the award of the contract.

18 (2) For the purpose of determining the preference to be
19 given to citizen bidders, the amount of the bid of each citizen
20 bidder shall be reduced according to the following formula, and
21 such reduction shall be used solely for the purpose of deter-
22 mining the lowest responsible bidder:

23 (a) For all contracts for construction projects
24 involving at least \$20,000, but less than \$500,000, or for the
25 purchase of personal property involving at least \$50,000, but

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1 less than \$500,000, the amount of the bid of each citizen
2 bidder shall be reduced by 15 percent;

3 (b) For all contracts for construction projects
4 involving at least \$500,000, but less than \$1.5 million, or
5 for the purchase of personal property involving at least
6 \$500,000, but less than \$1.5 million, the amount of the bid
7 of each citizen bidder shall be reduced by 10 percent;

8 (c) For all contracts for construction projects
9 involving at least \$1.5 million, but less than \$10 million,
10 or for the purchase of personal property involving at least
11 \$1.5 million, but less than \$10 million, the amount of the
12 bid of each citizen bidder shall be reduced by 5 percent; and

13 (d) There shall be no citizen bidder preference with
14 respect to contracts for construction projects involving \$10
15 million or more, or for the purchase of personal property
16 involving \$10 million or more.

17 Section 3. Public Law No. 2-65 is hereby amended by adding a new
18 section 5 to read as follows:

19 "Section 5. Eligibility. In order for a bidder to be eligible
20 to receive the citizen bidder preference provided for in section
21 4 of this act, such bidder shall meet the following criteria:

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

24 (b) The bidder shall be bidding for a construction
25 project or for the sale of personal property in response to an

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1 advertisement for bids made pursuant to this act;

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

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

16 Section 4. Public Law No. 2-65 is hereby amended by adding a new
17 section 6 to read as follows:

18 "Section 6. Bonding and insurance. Except for contracts
19 for construction projects involving \$150,000 or less, or for
20 the purchase of personal property involving \$100,000 or less,
21 the contracting officer is hereby authorized to impose such
22 bonding and insurance requirements that, in his best judgment,
23 are necessary and appropriate to ensure proper performance of
24 the contract by the contractor. Such bonding and insurance
25 requirements may include, but need not be limited to, bid

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1 guarantee, performance bond, or payment bond."

2 Section 5. Section 10 of Public Law No. 2-65 is hereby amended
3 to read as follows:

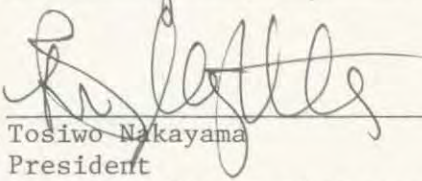
4 "Section 10. Written contract awarded to lowest responsible
5 bidder. All contracts shall be in writing and shall be executed
6 by the National Government agency which is authorized to let
7 contracts in its own name and shall be made with the lowest
8 responsible bidder. If the lowest bid is rejected,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

16 Section 6. Sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16
17 of Public Law No. 2-65 are hereby renumbered as 7, 8, 9, 10, 11, 12, 13,
18 14, 15, 16, 17, and 18, respectively.

19 Section 7. This act shall become law upon approval by the President
20 of the Federated States of Micronesia or upon its becoming law without
21 such approval.

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August 7, 1985


Tosiwo Nakayama
President
Federated States of Micronesia