

SECOND LEGISLATURE OF THE STATE OF TRUK

SECOND REGULAR SESSION, MAY SECOND 1983

ACT NO. 2-83

AN ACT

To establish procedures for competitive bidding on public contracts of the Truk State Government, and for other purposes.

Be it enacted by the Legislature of Truk State.

Section 1. Short Title. This Act is known and may be cited as the "Public Contracts Act."

Section 2. Definitions. As used in this act:

(a) "Citizen bidder" means any business in which an interest is wholly owned by a citizen of the Federated States of Micronesia and a bona fide resident of Truk State.

(b) "Contracting Officer" means the official in charge of letting a contract for a State Government agency.

(c) "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.

(d) "State Government agency" means any branch, department, office, division, board, bureau, commission, committee, institution, or authority of the State of Government of Truk.

Section 3. Contracts-Competitive bidding required. All contracts for construction projects involving \$20,000 or more or for the purchase of personal property involving \$50,000 or more made on behalf on any State 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 Act.

Section 4. Citizen-bidder preference. Citizen bidders who qualify to bid under the provisions of this act shall receive preference over noncitizen bidders in determining the award of the contract. Citizen bidders shall be subject to all standards and qualifications as set out in this act. Absent a qualified citizen bidder, noncitizen bidders shall be considered pursuant to the provisions of this act.

Section 5. Emergencies. In case of emergency affecting public health, safety, or convenience so declared in writing by the Governor upon application by the head of any State 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 6. Qualifications of bidders. Before any prospective bidder may be entitled to submit a bid for the performance of a contract covered by Section 3 of this Act, he shall, not less than 10 calendar days prior to the date designated for opening bids, give written notice to the contracting officer of his intention to bid, and such officer shall satisfy himself of the prospective bidder's financial ability to perform the work intended and of his experience and competence in performing similar work. Whenever it appears to the Contract Review Committee that the prospective bidder is not fully qualified and able to perform the intended work, the Committee shall refuse to receive or consider any bid offered by the prospective bidder. Upon being determined not to be fully qualified, a prospective bidder may appeal this determination within 10 days after notice of disqualification in accordance with the administrative procedures act of Truk State.

Section 7. Advertisement for bids. Publication of a call for sealed bids shall include posting of notice for at least 10 days in all prominent public places in Truk State in the Federated States of Micronesia, the use of radio and newspaper media when considered appropriate by the contracting officer, and any other means considered feasible. The notice shall state in clear terms the project that is to be bid on.

Section 8. Bids-Opening, rejection. The time of opening sealed bids shall not be less than 30 days after the final publication. All bids shall be sealed and delivered to the contracting officer and, in the presence

of all bidders who attend, shall be opened by the Committee the hour and place as stated in the advertisement and may be inspected by any bidder. Any bid which does not comply with the requirements of the advertisement shall be rejected. If two or more bids are the same and the lowest, the Contract Review Committee may accept the one it chooses. If no bids are received, the contracting officer may have the project done without further compliance with this act.

Section 9. Bids-Information. All bids on construction project contracts shall include the name of each person or firm to be engaged by the bidder as a joint contractor or subcontractor in the performance of the construction project contract. The bid shall also indicate the nature and scope of the work to be performed by such joint contractor or subcontractor.

Section 10. Written contract awarded to lowest responsible bidder. All contracts shall be in writing and shall be executed by the State 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 Contract Review Committee may, at its discretion, award the contract to the lowest remaining responsible bidder or advertise a new for bids pursuant to Section 7 of this act. In each instance the Contract Review Committee, at its 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 11. Committee, established. There is hereby established a committee to be known as a "Public Contract Review Committee". The Committee shall be composed of three members. The contracting officer shall serve ex-officio as member and chairman of the committee. Second member shall be appointed by the Governor and the third member shall be appointed by the Speaker of the Truk State Legislature. Member shall serve a term of four years. Duties and responsibilities of the committee shall include, but not limited to, the review of the bids, dissemination of information on public contracts, award of bids and other related duties as outline in this act and the regulations promulgated by the Governor.

Section 12. Effect of restraint of competition. Any agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding shall render the bids of such bidders void. Each bidder shall accompany his bid with a sworn statement that he has not been a party to such an agreement.

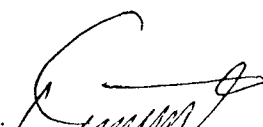
Section 13. Effect of advance disclosure of terms of bid. Any disclosure in advance of the terms of a bid submitted in response to an advertisement for bids shall render the proceedings void and require advertisement and award anew.

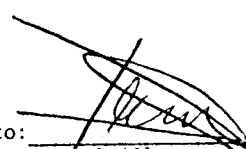
Section 14. Assignment of contracts. No contracts awarded to the lowest responsible bidder shall be assigned by the successful bidder without written consent of the awarding authority.

Section 15. Institution of Legal Actions. Any citizen taxpayer in the Federated States of Micronesia or any bona fide unsuccessful bidder on a particular contract shall be empowered to bring a civil action in the appropriate Court in the Federated States of Micronesia to enjoin execution of any contract entered into in violation of this act.

Section 16. Regulations. The Governor may issue regulations to implement this act in accordance with Section 2 of Administrative Procedures Act, Truk State Law No.

Section 17. Effective Date. This Act shall become law upon approval by the Governor or upon its becoming law without such approval.

Signed by: 
Kisande K. Sos, Speaker
Truk State Legislature

Attested to: 
Dadas Albert
Legislative Chief Clerk
Truk State Legislature

Date: 9/28/83

Approved by: _____
Erhart Aten, Governor
Truk State Government

Date: _____