

AN ACT

To further amend title 55 of the Code of the Federated States of Micronesia, as amended, by adding a new section 419 relating to the implementation of the Infrastructure Development Plan; and to further amend section 204 of Title 32 exempting such activities from the foreign investment laws, and for other purposes.

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

1 Section 1. Title 55 of the Code of the Federated States of
2 Micronesia, as enacted by Public Law No. 10-49, is hereby amended
3 by adding a new section 419 to read as follows:

4 "Section 419. Implementation of Infrastructure
5 Development Plan.

6 (1) Notwithstanding any provision of law to the
7 contrary, the National Government shall have
8 jurisdiction, in coordination with the respective state,
9 over activities relating to any public contract that is
10 or may be awarded for a civil works project to implement
11 any part of the Infrastructure Development Plan and that
12 is supported by funds provided through Section 211 of
13 the Amended Compact of Free Association, as that Plan
14 may be amended from time to time, including but not
15 limited to all contract management activities, all
16 bidding and pre-bidding procedures for such public
17 contracts, and all activities performed by any citizen

1 or noncitizen contractor or subcontractor pursuant to
2 any such public contract. Except for this section, the
3 provisions of chapter 4 shall not apply to public
4 contracts referred to in this subsection.

5 (2) Notwithstanding section 205 of Title 32 of the
6 Code of the Federated States of Micronesia, no Foreign
7 Investment Permit shall be required to conduct any
8 activity referred to in subsection (1).

9 (3) The President shall be responsible for
10 establishing procurement procedures specifically for use
11 with all public contracts referred to in subsection (1),
12 which shall

13 (a) meet or exceed prevailing international
14 standards for free and open competitive bidding,
15 transparency, and fairness to all parties,

16 (b) effectively and efficiently facilitate the
17 execution and implementation of public contract referred
18 to in subsection (1),

19 (c) protect resident workers, and

20 (d) protect the public interest.

21 Such procurement procedures shall take effect upon
22 adoption by the President in accordance with title 17 of
23 the Code of the Federated States of Micronesia.

24 (4) Any citizen taxpayer in the Federated States of
25 Micronesia may seek to enjoin a public contract referred

1 to in subsection (1) to the same extent and in the same
2 manner as such remedy is available to bona fide
3 unsuccessful bidders on the contract under the
4 procurement procedures established and approved by the
5 President pursuant to subsection (3).

6 (5) The courts of the Federated States of Micronesia
7 shall recognize and give full force and effect to the
8 dispute resolution methods established by the President
9 pursuant to subsection (3).

10 Section 2. Section 204 of chapter 2 of the Title 32 of the
11 Code of the Federated States of Micronesia, as enacted by Public
12 Law No. 10-49, is hereby amended to read as follows:

13 "Section 204. Requirement that a foreign investor
14 obtain a Foreign Investment Permit.

15 A noncitizen may not conduct any activity in the FSM
16 that amounts to 'engaging in business', as defined in
17 section 203 of this chapter, unless that noncitizen
18 holds a currently valid Foreign Investment Permit
19 authorizing that noncitizen to conduct that activity,
20 except as provided in section 419 of chapter 4 of Title
21 55."

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Section 3. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

January 31, 2006

/s/ Joseph J. Urusemal
Joseph J. Urusemal
President
Federated States of Micronesia

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