

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN

2021 (FIRST) Regular Session

VOTING RECORD

NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Bill No. 182-36 (LS) As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning; and substituted on the Floor.	Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building December 15, 2021					
Senator V. Anthony Ada	✓					
Senator Frank Blas Jr.	✓					
Senator Joanne Brown	✓					
Senator Christopher M. Dueñas	✓					
Senator James C. Moylan	✓					
Vice Speaker Tina Rose Muña Barnes					✓	✓
Senator Telen Cruz Nelson	✓					
Senator Sabina Flores Perez	✓					
Senator Clynton E. Ridgell	✓					
Senator Joe S. San Agustin	✓					
Senator Amanda L. Shelton	✓					
Senator Telo T. Taitague	✓					
Senator Jose "Pedo" Terlaje					✓	✓
Speaker Therese M. Terlaje	✓					
Senator Mary Camacho Torres	✓					

TOTAL

13

0

2

2

Aye

Nay


Not
Voting/
Abstained

Out
During
Roll Call

Absent

Excused

CERTIFIED TRUE AND CORRECT:



RENNAE W. CAMENO
Clerk of the Legislature

I = Pass

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 182-36 (LS)

As amended by the Committee on Environment,
Revenue and Taxation, Labor, Procurement, and Statistics,
Research, and Planning; and substituted and
further amended on the Floor.

*

Introduced by:

Sabina Flores Perez
Joanne Brown
James C. Moylan
Joe S. San Agustin
Telo T. Taitague

**AN ACT TO *AMEND* § 5214 OF SUBARTICLE B,
ARTICLE 3, CHAPTER 5, TITLE 5, GUAM CODE
ANNOTATED, RELATIVE TO IMPROVING SOLE
SOURCE PROCUREMENT AND REQUIRING THE
PROMULGATION OF RULES AND REGULATIONS
FOR THE SAME.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that sole source procurement creates a greater temptation to use the sole business
4 contracted by the Government of Guam and increases vulnerability and risk of
5 interruption of supplies or services.

6 *I Liheslaturan Guåhan* also finds that the method of sole source selection may
7 not be understood and often misused. If competition is at all reasonably possible, or
8 where there is reasonable doubt that only a sole source exists, a competitive method
9 of source selection must be used.

1 Therefore, *I Liheslaturan Guåhan* intends to improve the sole source selection
2 method by limiting the term of the contract and requiring market research and
3 justification for using said method. If a similar supply or service is available, the
4 specifications justifying a sole source contract must be scrutinized, and where there
5 is reasonable doubt that the minimum needs of the Government were not specified,
6 the sole source contract shall be terminated and a competitive method of source
7 selection shall be used.

8 **Section 2.** § 5214 of Subarticle B, Article 3, Chapter 5, Title 5, Guam Code
9 Annotated, is hereby *amended* to read as follows:

10 “**§ 5214. Sole Source Procurement.**

11 (a) A contract may be awarded for a supply, service, or construction
12 item without competition when, prior to commencing negotiations:

13 (1) the Chief Procurement Officer, the Director of Public
14 Works, the head of a purchasing agency, or a designee of either officer
15 above the level of the Procurement Officer, determines in writing that
16 there is only one (1) source for the required supply, service, or
17 construction item; and

18 (2) the Chief Procurement Officer, the Director of Public
19 Works, the head of a purchasing agency, or a designee of either officer
20 above the level of the Procurement Officer, prepares a package to
21 market and present to prospective vendors or service providers, which
22 shall be based on the determination of need and market research, and
23 contain a purchase description, evaluation factors, delivery or
24 performance schedule, inspection and acceptance requirements, the
25 contract terms and conditions, and any warranty, bond, or other security
26 requirement of the sole source contract.

1 (b) A sole source contract shall not exceed a term greater than one
2 (1) year, with four (4) successive annual options to renew. Any option to
3 renew a contract under this Section shall not exceed a term greater than one
4 (1) year. An option to renew may be exercised only by the government when,
5 at the time to be exercised, the Chief Procurement Officer, the Director of
6 Public Works, the head of a purchasing agency, or a designee of either officer
7 above the level of the Procurement Officer, determines in writing that there is
8 only one (1) source for the required supply, service, or construction item.

9 (c) Prior to and as a condition of making any determination in
10 writing required under Subsections (a)(1) or (b) of this Section, the purchasing
11 agency shall prepare a written report for the person making such
12 determination, which shall include a detailed analysis of the minimum needs
13 of the government upon which the contract is based, findings from thorough
14 market research, and a conclusion that will certify accurate and complete
15 necessary data to support their recommendation that there is no other source
16 that will satisfy the minimum needs of the government. The report must be
17 signed by the person or persons conducting the market research and analysis,
18 and shall be made part of the procurement record.

19 (d) A sole source contract shall not be awarded or executed unless
20 and until the Chief Procurement Officer, the Director of Public Works, the
21 head of a purchasing agency, or a designee of either officer above the level of
22 the Procurement Officer, has determined in writing that the contract price is
23 fair and reasonable and consistent with applicable regulations. Such
24 determination shall include relevant cost and price information from the sole
25 source and comparable or substitute supplies, services, or construction items.

26 (e) The purchasing agency shall publish a notice in a newspaper of
27 general circulation on Guam, and on its website, within fourteen (14) calendar

1 days of awarding any contract under this Section, in excess of Fifty Thousand
2 Dollars (\$50,000). The notice shall include the names of the purchasing
3 agency and awardee(s), the contract award amount, term, and the nature of the
4 contract.”

5 **Section 3. Promulgation of Rules and Regulations for Sole Source**
6 **Procurement.** The Procurement Policy Office, pursuant to 5 GCA § 5130(a), shall
7 promulgate rules and regulations for sole source procurement consistent with 5 GCA
8 § 5214, no later than ninety (90) calendar days after enactment of this Act.

9 **Section 4. Effective Date.** This Act shall be effective ninety (90) calendar
10 days after enactment.

11 **Section 5. Severability.** If any provision of this Act or its application to any
12 person or circumstance is found to be invalid or contrary to law, such invalidity shall
13 not affect other provisions or applications of this Act that can be given effect without
14 the invalid provision or application, and to this end the provisions of this Act are
15 severable.