

**I MINA'TRENTAI SAIS NA LIHESLATURAN GUÁHAN**  
**2022 (SECOND) Regular Session**  
**VOTING RECORD**

NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
<b>Senator V. Anthony Ada</b>	✓					
<b>Senator Frank Blas Jr.</b>	✓					
<b>Senator Joanne Brown</b>	✓					
<b>Senator Christopher M. Dueñas</b>	✓					
<b>Senator James C. Moylan</b>	✓					
<b>Vice Speaker Tina Rose Muña Barnes</b>	✓					
<b>Senator Telena Cruz Nelson</b>					✓	✓
<b>Senator Sabina Flores Perez</b>	✓					
<b>Senator Clynton E. Ridgell</b>					✓	✓
<b>Senator Joe S. San Agustin</b>	✓					
<b>Senator Amanda L. Shelton</b>	✓					
<b>Senator Telo T. Taitague</b>	✓					
<b>Senator Jose "Pedro" Terlaje</b>	✓					
<b>Speaker Therese M. Terlaje</b>	✓					
<b>Senator Mary Camacho Torres</b>					✓	✓

**TOTAL**

**12**

**0**

**Not  
Voting/  
Abstained**

**Out  
During  
Roll Call**

**3**

**Absent**

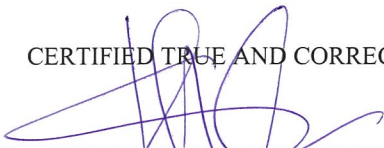
**3**

**Excused**

**Aye**

**Nay**

CERTIFIED TRUE AND CORRECT:



RENNAE V. CAMENO  
Clerk of the Legislature

I = Pass

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

**Bill No. 236-36 (COR)**

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  
Therese M. Terlaje  
Joanne Brown  
Telena Cruz Nelson  
James C. Moylan  
Joe S. San Agustin  
Clynton E. Ridgell  
Telo T. Taitague  
Tina Rose Muña Barnes

**AN ACT TO *AMEND* § 5213 OF SUBARTICLE B,  
ARTICLE 3, CHAPTER 5, TITLE 5, GUAM CODE  
ANNOTATED, RELATIVE TO STRENGTHENING THE  
REQUIREMENTS OF SMALL PURCHASES.**

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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*  
3 finds that 5 GCA § 5213, as first enacted in Public Law 16-124, allowed the  
4 Policy Office to establish, by regulation, the threshold amount and “small  
5 purchase procedures.” Currently, that statute specifies that “any procurement  
6 not exceeding Twenty-five Thousand Dollars (\$25,000) for supplies or  
7 services, and not exceeding One Hundred Thousand Dollars (\$100,000) for  
8 construction, may be made in accordance with small purchase procedures

1 promulgated by the Policy Office.” Regulations adopted by the Executive  
2 Branch have provided for two (2) specific competitive source selection  
3 procedures: (1) solicitation of goods and services and construction by  
4 informal (not advertised) Requests for Quotations (RFQs) (2 GAR § 3111);  
5 and, (2) Blanket Purchase Agreements (BPAs) (2 GAR § 3112.1). 2 GAR §  
6 3111 emphasizes that small purchases of goods and services must have  
7 competitive features [see, § 3111(c) through (f)]. But if “the supply, service,  
8 or construction item is available from only one business, the sole source  
9 procurement method set forth in § 3112 (Sole Source Procurement) of these  
10 regulations shall be used even if the procurement is a small purchase...” [2  
11 GAR § 3111(b)(4)].

12 *I Liheslatura* further finds that the fundamental purposes and policies  
13 underlying the Procurement Act, as expressed in 5 GCA § 5001(b), include  
14 underlying principles which “(3) provide for increased public confidence in  
15 the procedures followed in public procurement; (4) ensure the fair and  
16 equitable treatment of all persons who deal with the procurement system of  
17 this Territory; (5) provide increased economy in territorial activities and to  
18 maximize to the fullest extent practicable the purchasing value of public  
19 funds; and, (6) foster effective broad-based competition.” § 5001(a) expresses  
20 the command that the entirety of the procurement law “shall be construed and  
21 applied [to the facts and circumstances] to promote its underlying purposes  
22 and policies.” The government is obliged to promote its underlying purposes  
23 and policies generally, and to foster competition in particular.

24 *I Liheslatura* finds that procurement without public competition by  
25 informal Requests for Quotations (RFQs) of small purchases may be abused  
26 by the acquirement of a vague “no quote quotation” requirement in regulation  
27 2 GAR § 3111(c)(1), and by a purchasing agency’s obligation to obtain “no

1 less than three positive written quotations from businesses”, and due to failure  
2 of purchasing agencies to keep procurement records that create an audit trail  
3 which would reveal, among other matters: how many and which vendors were  
4 actually solicited by an RFQ; how were the chosen recipients selected; and  
5 which recipients of an RFQ returned a price quote. *I Liheslatura* has not  
6 noticed any evidence that small purchases by the sole source method have  
7 received any of the treatment required by 5 GCA § 5214 or 2 GAR § 3112 to  
8 provide competition, frugality, transparency, and accountability under the  
9 formal sole source method of procurement.

10 Inasmuch as they are meant to share the same monetary thresholds, *I*  
11 *Liheslaturan Guåhan* intends to clarify that the small purchase method of  
12 source selection is intended to apply to the regulations applicable to Requests  
13 for Quotations (RFQs) as contemplated in 2 GAR § 3111 as well as to Blanket  
14 Purchase Agreements (BPAs) which the Executive Branch has adopted as 2  
15 GAR § 3112.1, which is found within the context of 2 GAR § 3112 (Sole  
16 Source Procurement, a non-competitive procedure). *I Liheslatura* further  
17 intends to increase transparency and foster competition in the use of small  
18 purchases with more thorough and transparent reporting by all agencies of  
19 cumulative purchases of similar goods and services to give teeth to the  
20 mandate of the procurement law that “procurement requirements shall not be  
21 artificially divided so as to constitute a small purchase” (5 GCA § 5213). By  
22 bringing both small purchase procedures under the umbrella of 5 GCA § 5213,  
23 and out from under the company of sole source purchases, it is intended that  
24 the Procurement Policy Office will take note of the more demanding  
25 transparency and accounting attention given to BPAs and apply those  
26 standards to RFQs.

27 **Section 2.** § 5213 of Subarticle B, Article 3, Chapter 5, Title 5, Guam

1 Code Annotated, is hereby *amended* to read as follows:

2 **“§ 5213. Small Purchases.**

3 Any procurement not exceeding Twenty-five Thousand Dollars  
4 (\$25,000) for supplies or services, and not exceeding One Hundred  
5 Thousand Dollars (\$100,000) for construction, may be made in  
6 accordance with small purchase regulations, promulgated by the Policy  
7 Office, which shall include the requirement, in a Request for Quotes  
8 (RFQ) small purchase solicitation, to solicit and obtain, to the  
9 maximum extent practicable, no less than three (3) positive written  
10 quotations from qualified sources and which shall be part of the  
11 procurement record. A “no quote” response will not be considered a  
12 positive quotation but shall be part of the procurement record, which  
13 shall further include a written record or memorandum of all  
14 solicitations and responses thereto, negative or positive, orally or in  
15 writing. The purchasing agency shall include in the procurement record  
16 of a small purchase solicitation made by RFQ, regardless of whether it  
17 was concluded, an attestation containing the following:

18 (a) a record of those particular businesses that were contacted,  
19 and those who, contacted or not, submitted a “no quote,” or did not  
20 respond to the solicitation, as well as those that submitted positive  
21 written quotations;

22 (b) a statement documenting the solicitation efforts to obtain  
23 quotations from qualified sources other than those which responded;  
24 and

25 (c) GSA’s list of all qualified vendors for the item(s) or  
26 service(s) being procured.

27 Small purchase procurement requirements shall not be artificially

1 divided so as to constitute a small purchase under this Section. The  
2 Chief Procurement Officer, the Director of the Department of Public  
3 Works, the head of a purchasing agency, or designee at or above the  
4 level of Procurement Officer utilizing this Section for procurement,  
5 shall submit a report of all small purchases to the Speaker of *I*  
6 *Liheslaturan Guâhan* quarterly.”

7 **Section 3. Effective Date.** This Act shall be effective upon  
8 enactment.

9 **Section 4. Severability.** If any provision of this Act or its application  
10 to any person or circumstance is found to be invalid or contrary to law, such  
11 invalidity shall not affect other provisions or applications of this Act that can  
12 be given effect without the invalid provision or application, and to this end  
13 the provisions of this Act are severable.