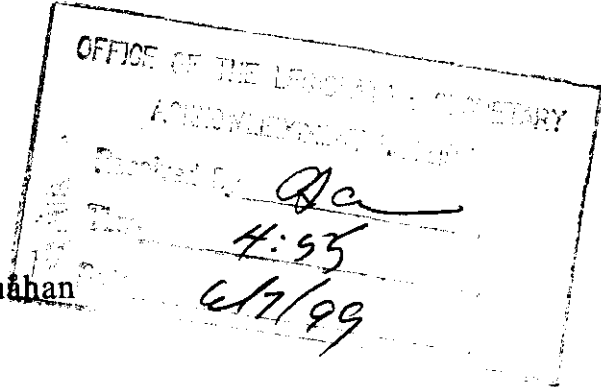




CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

Refer to  
Legislative Secretary

JUN 04 1999



The Honorable Antonio R. Unpingco  
Speaker  
I Mina'Bente Singko na Liheslaturan Guåhan  
Twenty-Fifth Guam Legislature  
Guam Legislature Temporary Building  
155 Hesler Street  
Hagåtña, Guam 96910

Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 175 (COR), "AN ACT TO ADD §5218 TO PART B, ARTICLE 3, CHAPTER 5, DIVISION 1, PART 1 OF TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO SUBJECTING ALL UNSOLICITED OFFERS TO THE GOVERNMENT OF GUAM TO THE COMPETITIVE SEALED BIDDING PROCEDURES OF GUAM PROCUREMENT REGULATIONS", which I have signed into law today as **Public Law No. 25-31**.

Very truly yours,

Carl T. C. Gutierrez  
I Maga'Lahen Guåhan  
Governor of Guam

Attachment: copy attached for signed bill or overridden bill  
original attached for vetoed bill

cc: The Honorable Joanne M. S. Brown  
Legislative Secretary

00266

Office of the Speaker  
ANTONIO R. UNPINGCO  
Date: 6-7-99  
Time: 1110  
Rec'd by:   
Print Name: Charlene

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN  
1999 (FIRST) Regular Session

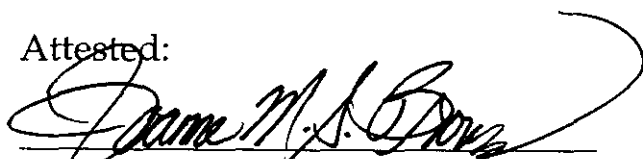
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 175 (COR), "AN ACT TO *ADD* §5218 TO PART B, ARTICLE 3, CHAPTER 5, DIVISION 1, PART 1 OF TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO SUBJECTING ALL UNSOLICITED OFFERS TO THE GOVERNMENT OF GUAM TO THE COMPETITIVE SEALED BIDDING PROCEDURES OF GUAM PROCUREMENT REGULATIONS," was on the 24<sup>th</sup> day of May, 1999, duly and regularly passed.



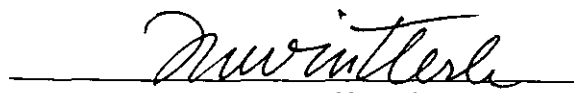
ANTONIO R. UNPINGCO  
Speaker

Attested:



JOANNE M.S. BROWN  
Senator and Legislative Secretary

This Act was received by I Maga'lahaen Guahan this 26<sup>th</sup> day of May, 1999,  
at 5:00 o'clock P.M.



Assistant Staff Officer  
Maga'laha's Office

APPROVED:



CARL T. C. GUTIERREZ  
I Maga'lahaen Guahan

Date: 6-4-99

Public Law No. 25-31

**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
**1999 (FIRST) Regular Session**

**Bill No. 175 (COR)**

As substituted on the Floor.

Introduced by:

V. C. Pangelinan

F. B. Aguon, Jr.

E. C. Bermudes

A. C. Blaz

J. M.S. Brown

E. B. Calvo

M. G. Camacho

Mark Forbes

L. F. Kasperbauer

A. C. Lamorena, V

C. A. Leon Guerrero

K. S. Moylan

J. C. Salas

S. A. Sanchez, II

A. R. Unpingco

**AN ACT TO ADD §5218 TO PART B, ARTICLE 3,  
CHAPTER 5, DIVISION 1, PART 1 OF TITLE 5 OF  
THE GUAM CODE ANNOTATED, RELATIVE TO  
SUBJECTING ALL UNSOLICITED OFFERS TO  
THE GOVERNMENT OF GUAM TO THE  
COMPETITIVE SEALED BIDDING PROCEDURES  
OF GUAM PROCUREMENT REGULATIONS.**

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

2           **Section 1. Legislative Statement.**       *I Liheslaturan Guåhan* finds that  
3 the fate of unsolicited offers for supplies, services and other contracts to a  
4 government entity is at the discretion of the Chief Procurement Officer, the

1 Director of Public Works or the head of the Purchasing Agency. Such  
2 authority granted to expedite and facilitate the procurement of distinctive  
3 contracts has, at times, been challenged by those who believed are unfairly  
4 excluded in the process.

5 *I Liheslaturan Guåhan* further finds that an arbitrary determination by a  
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7 misrepresented or misperceived by the public. To ensure fair competition  
8 among qualified businesses, opportunity first must be provided by the way of  
9 a public notice of solicitation for bids. Competitive bidding ensures the  
10 transparency of the process to the public and allays any misgiving that may  
11 arise if done otherwise.

12 It is the intent of *I Liheslaturan Guåhan* to require all unsolicited offers to  
13 undergo the competitive selection procedures, specifically the competitive  
14 sealed bidding, which is designed to obtain the benefits of awarding a  
15 contract to the lowest responsive and responsible bidder. It includes the  
16 option to utilize the multi-step sealed bidding procedures, which provides the  
17 added benefit of ensuring the technical utility and feasibility of any  
18 competing offers, while procuring other contracts for services, supplies or  
19 construction, so that the public obtains the best offer and services available.

20 **Section 2.** Section 5218 is hereby *added* to Part B, Article 3, Chapter 5,  
21 Division 1, Part 1 of Title 5 of the Guam Code Annotated to read as follows:

22 **"Section 5218. Unsolicited Offers. (a) Defined.** An  
23 unsolicited offer is any offer other than one submitted in response  
24 to a solicitation.

1                   **(b) Processing of Unsolicited Offers.** The Chief  
2 Procurement Officer, the Director of Public Works or the head of  
3 the Purchasing Agency shall consider the offer as provided in this  
4 Section. *If* an agency that receives an unsolicited offer is *not*  
5 authorized to solicit or enter into a contract for the supplies,  
6 services or construction offered, the head of such agency shall  
7 forward the offer to the Chief Procurement Officer, the Director of  
8 Public Works or the head of a Purchasing Agency, who shall  
9 consider and evaluate the offer as provided in this Section.

10                   **(c) Conditions for Consideration.** To be considered  
11 for evaluation, an unsolicited offer:

12                           (1) must be in writing;

13                           (2) must be sufficiently detailed to allow a judgment  
14 to be made concerning the potential utility of the offer to  
15 Guam and to the government;

16                           (3) must be unique or innovative to Guam's and the  
17 government's use; *and*

18                           (4) may be subject to testing under terms and  
19 conditions specified by the government.

20                   **(d) Evaluation.** The unsolicited offer shall be  
21 evaluated to determine it's utility to Guam and to the government,  
22 and whether it would be to Guam's and the government's  
23 advantage to procure such service.

1                   **(e) Competitive Sealed Bidding Required.** All

2                   unsolicited offers considered as being desirable shall be subjected  
3                   to the Competitive Sealed Bidding process under §5211.  
4                   Notwithstanding any other provision of law, sole source  
5                   procurement shall *not* be permissible in any procurement arising  
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8                   proposed in the unsolicited offer, and the proprietary character of  
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15                  technical concept of the offer, and to prepare bids.”

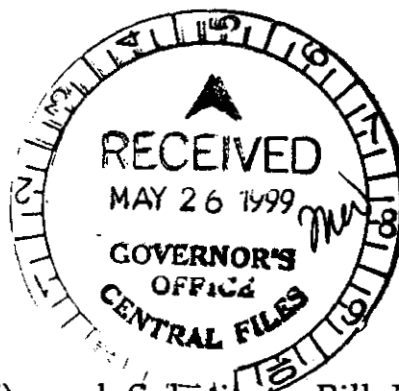


**MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN**  
**TWENTY-FIFTH GUAM LEGISLATURE**  
155 Hesler Street, Hagåtña, Guam 96910

May 26, 1999

COPY

The Honorable Carl T.C. Gutierrez  
*I Maga'lahen Guahan*  
*Ufisinan I Maga'lahi*  
*Hagåtña, Guam 96910*



Dear *Maga'lahi* Gutierrez:

Transmitted herewith are Bill No. 3 (LS), and Substitute Bill Nos. 62(COR), 164 (COR), ~~175~~ 175 (COR) and 202 (COR) which were passed by *I Mina'Bente Singko Na Liheslaturan Guahan* on May 24, 1999.

Sincerely,


JOANNE M.S. BROWN  
Senator and Legislative Secretary

Enclosure (5)

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN  
1999 (FIRST) Regular Session

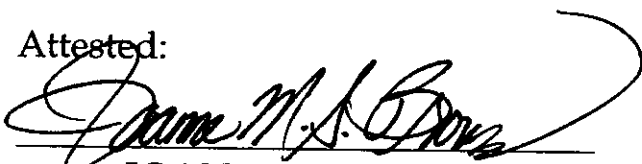
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

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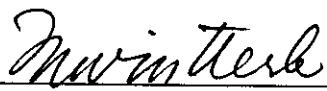
ANTONIO R. UNPINGCO  
Speaker

Attested:



JOANNE M.S. BROWN  
Senator and Legislative Secretary

-----  
This Act was received by *I Maga'lahen Guahan* this 26<sup>th</sup> day of May, 1999,  
at 5:00 o'clock P.M.



Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:

\_\_\_\_\_  
CARL T. C. GUTIERREZ  
*I Maga'lahen Guahan*

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_



**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
**1999 (FIRST) Regular Session**

**Bill No. 175 (COR)**

As substituted on the Floor.

Introduced by:

V. C. Pangelinan  
F. B. Aguon, Jr.  
E. C. Bermudes  
A. C. Blaz  
J. M.S. Brown  
E. B. Calvo  
M. G. Camacho  
Mark Forbes  
L. F. Kasperbauer  
A. C. Lamorena, V  
C. A. Leon Guerrero  
K. S. Moylan  
J. C. Salas  
S. A. Sanchez, II  
A. R. Unpingco

**AN ACT TO ADD §5218 TO PART B, ARTICLE 3,  
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THE GUAM CODE ANNOTATED, RELATIVE TO  
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15                  technical concept of the offer, and to prepare bids.”



**MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN**  
**TWENTY-FIFTH GUAM LEGISLATURE**  
155 Hesler Street, Hagåtña, Guam 96910

April 26, 1999  
( DATE )

Memorandum

**FILE**

To: Senator VICENTE C. PANGELINAN

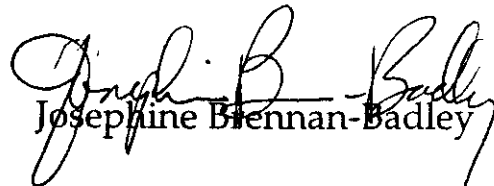
From: Clerk of the Legislature

**COPY**

Subject: Report on Bill No. 175 (COR)

Pursuant to §7.04 of Rule VII of the 25<sup>th</sup> Standing Rules, transmitted herewith is a copy of the Committee Report on Bill No. 175 (COR), for which you are the prime sponsor.

Should you have any questions or need further information, please call the undersigned at 472-3464/5.

  
Josephine Brennan-Badley

Attachment

ACKNOWLEDGEMENT RECEIPT

Received By: [Signature]

Time: \_\_\_\_\_

Date: 4/26/99

**Senator Kaleo S. Moylan**  
Chairperson, Committee on Housing,  
General Government Services and Foreign Affairs  
*Mina'Bente Singko Na Liheslaturan Guåhan*  
Twenty-Fifth Guam Legislature

April 23, 1999

Honorable Antonio R. Unpingco  
Speaker  
*Mina'Bente Singko Na Liheslaturan Guåhan*  
155 Hesler Street  
Hagåtña, Guam 96910

VIA: Chairperson, Committee on Rules, Government Reform, Reorganization and  
Federal Affairs

Dear Mr. Speaker:

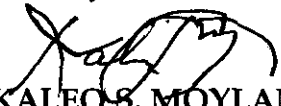
The Committee on Housing, General Government Services and Foreign Affairs, to which was referred Bill No. 175 (COR), "AN ACT TO ADD A NEW §5218 TO TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO SUBJECTING ALL UNSOLICITED OFFERS TO THE GOVERNMENT OF GUAM TO THE COMPETITIVE SEALED BIDDING PROCEDURES OF GUAM PROCUREMENT REGULATIONS," has had the same under consideration and now wishes to report back the same with the recommendation to do pass.

The Committee votes are as follows:

<u>10</u>	To Do Pass
<u>0</u>	Not to Pass
<u>0</u>	Abstain
<u>0</u>	Inactive File

A copy of the Committee Report and other pertinent documents are attached for your immediate reference and information.

Thank you,

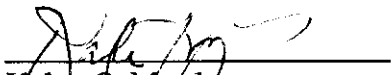
  
**KALEO S. MOYLAN**  
Chairperson


Enclosure:


Committee on Housing, General Government Services and Foreign Affairs  
Vote Sheet on  
Bill No. 175 (COR)

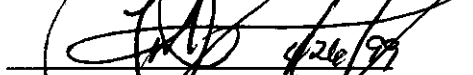
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COMMITTEE MEMBER	TO PASS	NOT TO PASS	ABSTAIN	INACTIVE FILE
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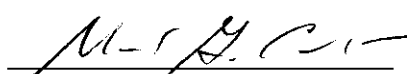
  
 \_\_\_\_\_  
 Kateo S. Moylan, Chairperson      ✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_


  
 \_\_\_\_\_  
 John C. Salas, Vice Chairperson      ✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_


  
 \_\_\_\_\_  
 Antonio R. Umpingco, Speaker & Ex-Officio      ✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_


  
 \_\_\_\_\_  
 Frank B. Aguon, Jr., Member      ✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_

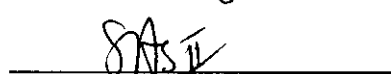
  
 \_\_\_\_\_  
 Anthony C. Blaz, Member      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_

  
 \_\_\_\_\_  
 Marcel G. Camacho, Member      ✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_

  
 \_\_\_\_\_  
 Alberto C. Lamorena, V, Member      ✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_

  
 \_\_\_\_\_  
 Carlotta A. Leon Guerrero, Member      ✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_

  
 \_\_\_\_\_  
 Vicente C. Pangelinan, Member      ✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_

  
 \_\_\_\_\_  
 Simon A. Sanchez, Member      ✓      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_

**COMMITTEE ON HOUSING  
GENERAL GOVERNMENT SERVICES  
AND FOREIGN AFFAIRS**  
I Mina Bente Sinko Na Liheslaturan Guahan  
155 Hesler Street  
Hagatna, Guam 96932

**COMMITTEE REPORT  
ON  
BILL NO. 175**

**AN ACT TO ADD A NEW SECTION 5218 TO TITLE 5, GUAM CODE ANNOTATED,  
RELATIVE TO SUBJECTING ALL UNSOLICITED OFFERS TO THE GOVERNMENT OF  
GUAM TO THE COMPETITIVE SEALED BIDDING PROCEDURES OF GUAM  
PROCUREMENT REGULATIONS.**

**COMMITTEE MEMBERS**  
**CHAIRMAN:** Senator Kaleo S. Moylan  
**Vice Chairman:** Senator John C. Salas

Senator Frank B. Aguon, Jr.  
Senator Marcel G. Camacho  
Senator Carlotta A. Leon Guerrero  
Senator Simon A. Sanchez, II.

Senator Anthony C. Blaz  
Senator Albert C. Lamorena, V.  
Senator Vicente C. Pangelinan  
Senator Antonio R. Unpingco, Speaker



**COMMITTEE ON HOUSING  
GENERAL GOVERNMENT SERVICES  
AND FOREIGN AFFAIRS**  
I Mina Bente Singko Na Liheslaturan Guahan  
155 Hesler Street Hagatna, Guam 96932

**COMMITTEE REPORT  
ON  
BILL NO. 175**

**INTRODUCTION**

The Committee on Housing, General Government Services and Foreign Affairs conducted a Public Hearing at 8:30 a.m., on Wednesday, April 21, 1999, in the Public Hearing Room of the Guam Legislature in Hagatna.

Committee Members Present:	Senator Kaleo S. Moylan, Chairman Senator Frank B. Aguon, Jr. Senator Albert C. Lamorena, V Senator Vicente C. Pangelinan Senator Marcel G. Camacho
Other Senators Present	Senator Lawrence F. Kasperbauer Senator Eduardo B. Calvo
Written Testimony:	None Received/Presented
Oral Testimony:	None Received/Presented

**COMMITTEE FINDINGS**

The committee finds that unsolicited offers for supplies, services and other contracts to a government entity is at the discretion of the Chief Procurement Officer, the Director of Public Works, or the head of the Purchasing Agency. It further finds that such authority has, at times, been challenged as unfairly excluding parties who may be interested in competing for providing such goods or services. To ensure fair competition among qualified businesses, such opportunity must be provided by way of a public notice of solicitation for bids. The committee, therefore, finds that all unsolicited offers should undergo the competitive selection procedures, specifically sealed bidding, to ensure both the technical utility and feasibility of any competing offers and the lowest responsive and responsible bidder in accordance with competitive sealed bidding procedures.

**COMMITTEE RECOMMENDATIONS**

The Committee on Housing, General Government Services and Foreign Affairs hereby reports out Bill No. 175 to the Twenty-Fifth Guam Legislature with the recommendation **TO PASS**.



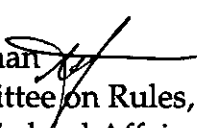
**MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
Kumitean Areklamento, Refotman Gubetnamento Siha, Inetnon di Nuebu, yan Asunton Fidirat

*Senador Mark Forbes, Gehilu  
Kabisiyon Mayuråt*

**APR 12 1999**

**MEMORANDUM**

**TO:** Chairman  
Committee on Housing, General Government Services and Foreign Affairs

**FROM:** Chairman   
Committee on Rules, Government Reform, Reorganization  
and Federal Affairs

**SUBJECT:** Principal Referral – Bill No. 175


The above bill is referred to your Committee as the Principal Committee. In accordance with Section 6.04.05. of the Standing Rules, your Committee "shall be the Committee to perform the public hearing and have the authority to amend or substitute the bill, as well as report the bill out to the Body." It is recommended that you schedule a public hearing at your earliest convenience.

Please note that a Secondary referral of this bill has been made to the Committee on Power, Public Works, Tax & Regulatory Reform, Municipal and Community Affairs.

Thank you for your attention to this matter.

**MARK FORBES**

Attachment

<p>GUAM LEGISLATURE OFFICE OF SENATOR KALEO S. MOYLAN ACKNOWLEDGEMENT RECEIPT Date: <u>4/12/99</u> Time: <u>12:42PM</u> Received by: <u></u></p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

**MINA' BENTE SING'KO NA LIHESLATURAN GUÅHAN**  
**1999 (FIRST) Regular Session**

Bill No. 175 (H.F.)  
Introduced by:

v. c. pangelinan

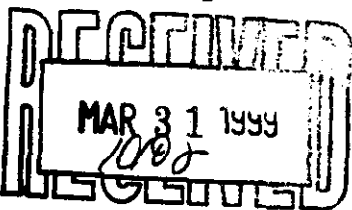
*F.B. Aquino*

**AN ACT TO ADD A NEW §5218 TO TITLE 5,  
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COMPETITIVE SEALED BIDDING PROCEDURES  
OF GUAM PROCUREMENT REGULATIONS.**

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

2           **Section 1. Legislative Statement.** *I Liheslaturan Guåhan* finds that the  
3 fate of unsolicited offers for supplies, services and other contracts to a  
4 government entity is at the discretion of the Chief Procurement Officer, the  
5 Director of Public Works, or the head of the Purchasing Agency. Such  
6 authority, granted to expedite and facilitate the procurement of distinctive  
7 contracts has, at times, been challenged by those who believed are unfairly  
8 excluded in the process.

9           *I Liheslaturan Guåhan* further finds that arbitrary determination by a  
10 single entity or an individual, when concerning public contracts often may be  
11 misrepresented or misperceived by the public. To ensure fair competition  
12 among qualified businesses, opportunity first must be provided by the way of  
13 a public notice of solicitation for bids. Competitive bidding ensures the



1 transparency of the process to the public and allays any misgiving that may  
2 arise if done otherwise.

3 It is the intent of *I Liheslaturan Guåhan* to require all unsolicited offers to  
4 undergo the competitive selection procedures, specifically the multi-step  
5 sealed bidding, which ensures both the technical utility and feasibility of any  
6 competing offers and the lowest responsive and responsible bidder in  
7 accordance with the competitive sealed bidding procedures as provided for in  
8 procuring other contracts for services, supplies or construction, so that the  
9 public obtains the best offer and services available.

10 **Section 2. A new 5 GCA §5218 is added to read:**

11 **“§5218. Unsolicited Offers. (a) Defined.** An unsolicited  
12 offer is any offer other than one submitted in response to a solicitation.

13 (b) **Processing of Unsolicited Offers.** The Chief Procurement  
14 Officer, the Director of Public Works, or the head of the Purchasing  
15 Agency shall consider the offer as provided in this section. If an agency  
16 that receives an unsolicited offer is not authorized to solicit or enter into  
17 a contract for the supplies, services, or construction offered, the head of  
18 such agency shall forward the offer to the Chief Procurement officer, the  
19 Director of Public Works, or the head of a Purchasing Agency, who shall  
20 consider and evaluate the offer as provided in this section.

21 (c) **Conditions for Consideration.** To be considered for  
22 evaluation an unsolicited offer:

23 (1) must be in writing;

24 (2) must be sufficiently detailed to allow a judgment to be  
25 made concerning the potential utility of the offer to the territory;

1                   (3) must be unique or innovative to territorial use;

2                   (4) may be subject to testing under terms and conditions  
3 specified by the territory.

4           (d) Evaluation.       The unsolicited offer shall be evaluated to  
5 determine its utility to the territory and whether it would be to the  
6 territory's advantage to procure such service.

7           (e) Multi-Step Sealed Bidding Required.   Any unsolicited  
8 offer considered as being desirable shall be subjected to the Multi-Step  
9 Sealed Bidding process under subsection (h) of §5211. Notwithstanding  
10 any other provision of law, sole source procurement shall not be  
11 permissible in any procurement arising from an unsolicited offer. The  
12 criteria set forth in the Invitation for Bids shall not require the inclusion  
13 of any proprietary item proposed in the unsolicited offer, and the  
14 proprietary character of an unsolicited offer or the inclusion of a  
15 proprietary item in the unsolicited offer shall not be used to favor the  
16 offer or any other bid, nor be a determining factor in awarding a bid.  
17 Such Invitation for Bids shall not contain any reference to the financial  
18 offer of the unsolicited offeror, but shall contain a sufficient technical  
19 description to allow other parties to identify the technical concept of the  
20 offer, and to prepare bids."