

I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
90-36 (COR) As amended on the Floor.	James C. Moylan Sabina Flores Perez Therese M. Terlaje Joanne Brown V. Anthony Ada Christopher M. Dueñas Frank F. Blas, Jr. Joe S. San Agustin Telo T. Taitague	AN ACT TO <i>AMEND</i> § 5248 OF CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING MONTHLY REPORTS AND JUSTIFICATION SUMMARIES WHEN PURCHASES ARE MADE THROUGH A SOLE SOURCE OR EMERGENCY PROCUREMENT PROCESS.	3/19/21 8:39 a.m.	3/19/21	Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning	4/15/21 9:00 a.m.	5/19/21 10:11 a.m.	Request: 3/22/21. Waiver: 3/26/21	
	SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW NO.	DATE SIGNED	NOTES	
	5/21/21	AN ACT TO <i>AMEND</i> § 5248 OF SUBARTICLE G, ARTICLE 3, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING MONTHLY RECORDS AND JUSTIFICATION REPORTS WHEN PURCHASES ARE MADE THROUGH A SOLE SOURCE OR EMERGENCY PROCUREMENT PROCESS.	5/28/21	6/1/21	6/12/21	36-35	6/11/21	Received: 6/11/21 Mess and Comm. Doc. No. 36GL-21-0686	

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HĀGAN GUĀHAN
OFFICE OF THE GOVERNOR OF GUAM

June 11, 2021

HONORABLE THERESE M. TERLAJE

Speaker

I Mina'trentai Sais Na Liheslaturan Guåhan

36th Guam Legislature

Guam Congress Building

163 Chalan Santo Papa

Hagåtña, Guam 96910

Re: Bill No. 90-36 (COR) - An Act to Amend § 5248 of Subarticle G, Article 3, Chapter 5, Title 5, Guam Code Annotated, Relative to Requiring Monthly Records and Justification Reports when Purchases are made through a Sole Source or Emergency Procurement Process

Buenas yan Hafa Adai Madame Speaker:

Under existing law, the General Services Agency (GSA) reports sole source and emergency procurements to the Legislature on an annual basis. Bill No. 90-36 seeks to implement monthly reporting, in part to increase public awareness regarding such procurements at more regular intervals. The drafters of the Bill go a bridge too far, however, in the multiple mischaracterizations they make in the legislative intent section of the Bill. First, the drafters state, without basis or support or even proper reference, that the 2020 GSA Report includes several expenses related to federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, which the drafters describe as “questionable expenses that may warrant a legislative oversight hearing.” It is unfortunate that in the same breath it calls for more transparency, the Legislature itself is hiding the ball about expenses it appears to have unilaterally determined to be questionable and the reasons for such bald findings. The Legislature further mischaracterizes federally appropriated funds as “taxpayer dollars” when it knows full well that both CARES Act funds and American Rescue Plan (ARP) funds are appropriated by the U.S. Congress, involve no local funds, and do not allow for further local legislative appropriation, a source of constant consternation for this Legislature.

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RICARDO J. BORDALLO GOVERNOR'S COMPLEX
513 W. Marine Corps Drive Hagåtña, Guam 96910
governor.guam.gov | (671) 472-8931

To: Speaker Terlaje
Fr: Governor of Guam
Date: June 09, 2021
Re: Bill No. 90-36 (LS) *nka P.L. 36-35*

Page 2 of 2

In sum, while I sign Bill No. 90-36 into law today as *Public Law No. 36-35* because its operational provisions mandating more regular reporting is well within the Legislature's authority to impose, I must nevertheless note that the Bill is premised on faulty and baseless assumptions. When the Legislature calls for accountability, it should be mindful of the fact that it is not exempt from this standard, and should behave accordingly in its actions and its words.

Senseremente,



LOURDES A. LEON GUERRERO

Maga'hågan Guåhan
Governor of Guam

Enclosure(s): Substitute Bill No. 90-36 (COR) *nka P.L. 36-35*

cc: *Honorable Joshua F. Tenorio, Sigundo Maga'låhen Guåhan*
Compiler of Laws

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HĀGAN GUĀHAN
OFFICE OF THE GOVERNOR OF GUAM

June 11, 2021

Doc Type: 36GL-21-0686
OFFICE OF THE SPEAKER
THERESE M. TERLAJE

HONORABLE THERESE M. TERLAJE
Speaker
I Mina'trentai Sais Na Liheslaturan Guāhan
36th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

-06- 11 2021
Time: 4:53pm
Received: [Signature]

Re: Bill No. 90-36 (COR) - An Act to Amend § 5248 of Subarticle G, Article 3, Chapter 5, Title 5, Guam Code Annotated, Relative to Requiring Monthly Records and Justification Reports when Purchases are made through a Sole Source or Emergency Procurement Process

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COMMITTEE ON RULES
RECEIVED:
June 11, 2021
5:29 P.M.

To: Speaker Terlaje
Fr: Governor of Guam
Date: June 09, 2021
Re: Bill No. 90-36 (LS) nka P.L. 36-35

Page 2 of 2

In sum, while I sign Bill No. 90-36 into law today as *Public Law No. 36-35* because its operational provisions mandating more regular reporting is well within the Legislature's authority to impose, I must nevertheless note that the Bill is premised on faulty and baseless assumptions. When the Legislature calls for accountability, it should be mindful of the fact that it is not exempt from this standard, and should behave accordingly in its actions and its words.

Senseremente,



LOURDES A. LEON GUERRERO

Maga'hågan Guåhan

Governor of Guam

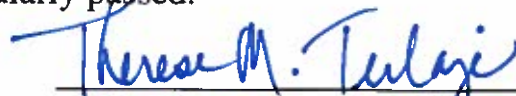
Enclosure(s): Substitute Bill No. 90-36 (COR) nka P.L. 36-35

cc: *Honorable Joshua F. Tenorio, Sigundo Maga'låhen Guåhan*
Compiler of Laws

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

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'HÅGAN GUÅHAN

This is to certify that **Bill No. 90-36 (COR)**, "AN ACT TO AMEND § 5248 OF SUBARTICLE G, ARTICLE 3, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING MONTHLY RECORDS AND JUSTIFICATION REPORTS WHEN PURCHASES ARE MADE THROUGH A SOLE SOURCE OR EMERGENCY PROCUREMENT PROCESS," was on the 28th day of May 2021, duly and regularly passed.



**Therese M. Tevlaje
Speaker**

Attested:



**Amanda E. Shelton
Legislative Secretary**

This Act was received by *I Maga'hågan Guåhan* this 1st day of June,
2021, at 1:45 o'clock P.M.



**Assistant Staff Officer
Maga'håga's Office**

APPROVED:



**Lourdes A. Leon Guerrero
*I Maga'hågan Guåhan***

Date: 6/11/2021

Public Law No. 36-35

2021-13805

RCUD AT CENTRAL FILES
JUN 1 '21 PM 1:45

Elaine Tajalle

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

Bill No. 90-36 (COR)

As amended on the Floor.

Introduced by:

James C. Moylan
Sabina Flores Perez
Therese M. Terlaje
Joanne Brown
V. Anthony Ada
Christopher M. Dueñas
Frank Blas Jr.
Joe S. San Agustin
Telo T. Taitague
Tina Rose Muña Barnes
Telena Cruz Nelson
Clynton E. Ridgell
Amanda L. Shelton
Jose "Pedo" Terlaje
Mary Camacho Torres

**AN ACT TO AMEND § 5248 OF SUBARTICLE G,
ARTICLE 3, CHAPTER 5, TITLE 5, GUAM CODE
ANNOTATED, RELATIVE TO REQUIRING MONTHLY
RECORDS AND JUSTIFICATION REPORTS WHEN
PURCHASES ARE MADE THROUGH A SOLE SOURCE
OR EMERGENCY PROCUREMENT PROCESS.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that § 5248 of Subarticle G, Article 3, Chapter 5, Title 5, Guam Code Annotated,
4 mandates that the General Services Agency provide annual reports to *I Liheslaturan*
5 *Guåhan* when it comes to any procurement which was transacted through a sole

1 source or emergency procurement process. It is also at this point that the report is
2 made available for public inspection.

3 With over Six Hundred Sixty Million Dollars (\$660,000,000) in federal funds
4 being provided to the government of Guam through the *American Rescue Plan*, it is
5 a fair assessment that many purchases will be made under the premise of a sole
6 source or emergency procurement; and, unfortunately, the public will be unaware of
7 these transactions until the first quarter of 2022. The 2020 report, which includes a
8 number of expenses from the federal CARES Act, was provided to *I Liheslaturan*
9 *Guahan* on March 15, 2021, and contains several questionable expenses that may
10 warrant a legislative oversight hearing.

11 Mandating monthly reports would provide a consistent understanding of how
12 taxpayer dollars are being spent and could also reduce questionable expenditures in
13 the long run, as public scrutiny or oversight would take place more frequently. Thus,
14 any problematic transactions could be rectified from the outset. Further, this Act
15 promotes a greater level of transparency by requiring justification reports by
16 agencies outlining how a purchase was qualified as a sole source or emergency
17 procurement and does not take away an agency's authority in pursuing a sole source
18 or emergency procurement when justified; rather, it ensures that accountability is in
19 place by establishing a more rigid and routine reporting requirement.

20 **Section 2.** § 5248 of Subarticle G, Article 3, Chapter 5, Title 5, Guam Code
21 Annotated, is hereby *amended* to read as follows:

22 **“§ 5248. Record of Procurement Actions Taken Under §§ 5214**
23 **and 5215 of this Chapter.**

24 (a) Contents of Record. The Chief Procurement Officer, the
25 Director of Public Works, all autonomous agencies and public
26 corporations, or the head of an agency utilizing this Section shall
27 maintain a record listing of all contracts made under §§ 5214 and 5215

1 of this Chapter for a minimum of five (5) years. The record shall
2 contain:

- 3 (1) each contractor's name;
- 4 (2) the amount and type of each contract;
- 5 (3) a listing of the supplies, services or construction
6 procured under each contract; and
- 7 (4) a report detailing the justification as to why the
8 procurement transaction was determined to be a sole source
9 procurement or an emergency procurement and the funding
10 source used, pursuant to this Chapter.

11 (b) Submission to Legislature. A copy of such record shall be
12 submitted to the Legislature on a monthly basis. The record shall be
13 available for public inspection.”

14 **Section 3. Severability.** If any provision of this Act or its application to any
15 person or circumstance is found to be invalid or contrary to law, such invalidity shall
16 not affect other provisions or applications of this Act that can be given effect without
17 the invalid provision or application, and to this end the provisions of this Act are
18 severable.

19 **Section 4. Effective Date.** This Act shall be effective upon enactment.