



I MINA' TRENTA NA LIHESLATURAN GUÅHAN  
2009 (FIRST) Regular Session

Bill No. 163 (COR)

Introduced by:

Ray Tenorio 

E.B. Calvo 

A.B. Palacios, Sr. 

**AN ACT TO ADD A NEW ARTICLE 14 TO CHAPTER 5 OF  
5GCA RELATIVE TO CREATING AN ON-LINE BIDDING  
OPTION FOR GOVERNMENT PROCUREMENT.**

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

**Section 1.** A new Article 14 is *added* to Chapter 5 of 5GCAA to read as follows:

**Article 14**

**On-line Bidding Procurement Option**

**§514101. Title** This Act may be cited as the “On-line Bidding Act.”

**§514102. Legislative Findings**

I Liheslaturan Guåhan finds that a procurement system that would allow public agencies to use on-line, electronic bidding as a means of obtaining bids from vendors for the procurement of goods, services, construction and information services may allow for greater transparency and thus, greater savings for the Government of Guam.

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I Liheslatura intends:

(A) to provide increased economy in government procurement activities and to maximize to the fullest extent practicable the purchasing values of funds while ensuring that procurements are the most advantageous to public agencies;

(B) to foster effective broad-based competition for public procurement within the free enterprise system;

(C) to modernize the law governing procurement in the government of Guam and permit the continued development of explicit and thoroughly considered procurement policies and practices;

(D) to ensure the fair and equitable treatment of all persons who deal with the procurement system through a transparent bidding process which will promote increased public confidence in the procedures followed in public procurement;

(E) to provide an ongoing source of funding for new and innovative electronic procurement practices that would otherwise not be possible due to existing funding practices and guidelines.

**§514103. Definitions.** Definitions as used in this Article are as follows:

1 (A) "Information Technology" (IT) means data processing, telecommunications,  
2 and office systems technologies and services.

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4 (B) "Services" means the furnishing of labor, time, or effort by a contractor not  
5 required to deliver a specific end product, other than reports that are merely  
6 incidental to required performance.

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8 (C) "Construction" means the process of building, altering, repairing, remodeling,  
9 improving, or demolishing any public structure or building or other public  
10 improvements of any kind to any public real property.

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12 (D) "Procurement" means buying, purchasing, renting, leasing, or otherwise  
13 acquiring any good, services, construction or information services. It also includes  
14 all functions that pertain to the obtaining of any good, service, construction or  
15 information services, including description of requirements, selection and  
16 solicitation of sources, preparation and award of contracts, and all phases of  
17 contract administration.

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19 (E) "Public Agencies" means a government of Guam department, commission,  
20 council, board, bureau, committee, institution, college, university, school, agency,  
21 government corporation, or other establishment of the executive, legislative or  
22 judicial branch. Public agencies also include interstate, federal or regional entities  
23 participating in any multi-state or multi-jurisdictional procurement.

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1 (F) "On-line Bidding" means a procurement process in which public agencies  
2 receive vendors' bids for goods, services, construction or information services  
3 electronically over the Internet in a real-time, competitive bidding event.

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5 (G) "Internet" means the international computer network of both federal and  
6 nonfederal interoperable packet switched data networks, including the graphical  
7 sub-network called the world wide web.

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9 **§514104. On-line Bidding Option**

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11 (A) Conditions for Use. When a public agency purchasing agent determines that  
12 electronic, on-line bidding is more advantageous than other procurement methods  
13 provided by this Chapter, procurement authority may use on-line bidding to obtain  
14 bids electronically for the purchase of goods, services, construction and  
15 information services.

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17 (B) Bidding Process.

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19 (1) The solicitation must designate an opening date and time.

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21 (2) The closing date and time may be fixed or remain open, depending on  
22 the structure of the item being bid on-line. Information regarding the closing  
23 date and time must also be included in the solicitation. At the opening date  
24 and time, public agencies must begin accepting on-line electronic bids, and  
25 must continue accepting bids until the bid is officially closed.

1 (3) All bids must be posted electronically and updated on a real-time basis.

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3 (4) Public agencies may require bidders to register before the opening date  
4 and time and, as part of that registration, require bidders to agree to any  
5 terms, conditions or other requirements of the solicitation.

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7 (5) Public agencies may also pre-qualify bidders and allow only those  
8 bidders who are pre-qualified to submit bids on-line.

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10 (6) Public agencies retain their existing authority to determine the criteria  
11 that will be used as the basis for making awards.

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13 **(C) Provisions Not to Apply.** The Bid Opening; Competitive Sealed Bidding; and  
14 Competitive Sealed Proposals that are associated with the sealed-bid option, do  
15 not apply to solicitations issued pursuant to this Article.

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17 **(D) Bid Results Public Information.** All bids submitted electronically through an  
18 on-line bidding process are public information and subject to, the same public  
19 disclosure laws that govern bids received through the sealed bid procurement  
20 process.

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22 **(E) Remedies.** All remedies available to public agencies and to bidders through  
23 the sealed bid process are also available to public agencies and bidders in an on-  
24 line bidding process.

1 **§514105. Administrative Rules and Regulations.** The General Services Agency  
2 and the Department of Public Works shall each create and maintain Administrative  
3 Rules and Regulations for the On-line Bidding Option created by this Article  
4 pursuant to Chapter 9 of 5GCA, Administrative Adjudication Law. Any agency  
5 that has been delegated procurement authority by either the General Services  
6 Agency of the Department of Public Works adhere to the Rules and Regulations  
7 adopted pursuant to this Section for the On-line Bidding Option.

8 Any agency exempt under Public Law from the procurement authority of the  
9 General Services Agency and/or the Department of Public Works, shall create and  
10 maintain Administrative Rules and Regulations for the On-line Bidding Option  
11 created by this Article pursuant to Chapter 9 of 5GCA.