


*I MINA' TRENTA NA LIHESLATURAN GUÅHAN*  
2010 (SECOND) Regular Session

Bill No. 488-30(Lov)

2010 NOV - 5  
1400  
PH 1: 50  
T.C. Ada 

Introduced by:

**AN ACT TO AMEND SECTION 10401 OF TITLE 12, GUAM CODE ANNOTATED, CHAPTER 10, PORT AUTHORITY OF GUAM, ARTICLE 4, PUBLIC-PRIVATE PARTNERSHIP THROUGH A PERFORMANCE MANAGEMENT CONTRACT.**

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

2           **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that the mandates of  
3 Public Laws 29-23 and 30-90 regarding the observation by the Chief Procurement Officer  
4 (“CPO”) of the procurement of a public-private partnership for the Jose D. Leon Guerrero  
5 Commercial Port through a Performance Management Contract (“PMC”), require such amounts  
6 of time so as to conflict with the CPO’s primary responsibility to acquire materials and services  
7 for other Government of Guam departments and agencies. To ensure that services provided by  
8 the Chief Procurement Officer to other Government of Guam departments and agencies are not  
9 jeopardized, *I Liheslaturan Guåhan* finds the participation of the Chief Procurement Officer in  
10 the PMC procurement process should be discretionary and not mandatory.

11           **Section 2. To amend Title 12, GCA, Chapter 10, Section 10401. Public Private**  
12 **Partnership Authorization through a Performance Management Contract to read as**  
13 **follows:**

14                   “The Board of Directors of the Jose D. Leon Guerrero Commercial Port (Port) is  
15 authorized to issue a Request for Proposal (RFP), Multi-Step Bid (MSB), Invitation for

1 Bid (IFB), soliciting bids or proposals from qualified parties for the management,  
2 operation and maintenance of its cargo handling equipment through a performance  
3 management contract, subject to the procurement laws of Guam. The scope of work  
4 required through this RFP, MSB or IFB *shall* include the daily operation and  
5 maintenance of its cargo handling equipment; any repairs required, inclusive of all parts  
6 and labor; performance monitoring requirements; and preventive maintenance of all  
7 equipment and/or facilities directly associated with the equipment, including, *but not*  
8 *limited to*, the acquisition for replacement of such equipment.

9 The RFP, MSB and/or IFB *shall* include performance standards that will provide  
10 operating criteria, guidelines and requirements to minimize costly downtime and  
11 maximize cargo handling equipment availability and its life span. Parties interested in  
12 submitting proposals *shall* have sixty (60) days to prepare and submit a response to the  
13 Port. The General Services Agency Chief Procurement Officer ~~shall~~ may be an observer  
14 throughout the RFP, MSB or IFB process as specified in this Section, and *shall* receive  
15 copies of all documents involved and *shall* be invited to any meetings regarding the  
16 public-private partnership process specified in this Section.

17 The Port *may* award a performance management contract subject to the RFP,  
18 MSB or IFB detailed in this Section *no later than* two hundred twenty (220) days from  
19 the established deadline for submission *or* receipt of the RFP, MSB or IFB; provided, that  
20 qualified Offerors have submitted proposals in compliance with the procurement laws of  
21 Guam and the provisions of this Section. The Attorney General *shall* act as legal advisor  
22 during all phases of the solicitation or procurement process and *shall* have the authority  
23 to extend the timelines as outlined in this section as it deems necessary.”

1           **Section 3. Severability.** If any provision of this law or its application to any person or  
2   circumstance is found to be invalid or contrary to law, such invalidity shall not affect other  
3   provisions or applications of this law which can be given effect without the invalid provisions or  
4   applications, and to this end the provisions of this law are severable.