

*I Mina'trentai Singko 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
90-35 (COR)	Sabina Flores Perez Kelly Marsh (Taitano), PhD Amanda L. Shelton	AN ACT TO REPEAL AND REENACT § 5215 OF SUBARTICLE B, ARTICLE 3, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING FOR EMERGENCY PROCUREMENT FOR THREATS TO THE ENVIRONMENT, INCREASING TRANSPARENCY AND OTHERWISE IMPROVING EMERGENCY PROCUREMENT.	4/12/19 4:46 p.m.	5/2/19	Committee on Environment, Revenue and Taxation, and Procurement	6/5/19 9:00 a.m.	2/26/20 1:10 p.m.	Waiver: 4/24/19	9/4/19 5:57 p.m. As substituted by the Committee on Environment, Revenue and Taxation, and Procurement



**OFFICE OF SENATOR SABINA FLORES PEREZ**

Chairperson

Committee on Environment, Revenue and Taxation, and Procurement

*I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÁHAN*

35<sup>TH</sup> GUAM LEGISLATURE

February 21, 2020

**The Honorable Tina Rose Muña Barnes**

Speaker

*I Mina'trentai Singko Na Liheslaturan Guáhan*

163 Chalan Santo Papa

Hagåtña, Guam 96910

*For Janet*

**VIA: The Honorable Regine Biscoe Lee**

Chairperson, Committee on Rules

**RE: Committee Report on Bill No. 90-35 (COR), As Substituted; and amended**

*Håfa adai* Speaker Muña Barnes,

Transmitted herewith is the Committee Report on Bill No. 90-35 (COR), As Substituted; and amended by the Committee on Environment, Revenue and Taxation, and Procurement – “AN ACT TO REPEAL AND REENACT § 5215 OF SUBARTICLE B, ARTICLE 3, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING FOR EMERGENCY PROCUREMENT FOR THREATS TO THE ENVIRONMENT, INCREASING TRANSPARENCY AND OTHERWISE IMPROVING EMERGENCY PROCUREMENT.”

Committee votes are as follows:

- 2   TO DO PASS
- 0   TO NOT PASS
- 2   TO REPORT OUT ONLY
- 0   TO ABSTAIN
- 0   TO PLACE IN INACTIVE FILE

RECEIVED  
FEB 21 2020  
1:30pm  
COMMITTEE ON RULES

*[Handwritten signature]*

*Si Yu'os ma'åse',*

*Sabina Flores Perez*

Sabina Flores Perez

Revisions Rec'd 02/26/20  
@ 10:29 a.m

*Stephanie Joemy*

2020 FEB 26 PM 1:10



**OFFICE OF SENATOR SABINA FLORES PEREZ**

Chairperson

Committee on Environment, Revenue and Taxation, and Procurement

*I MINA TRENTAI SINGKO NA LIHESLATURAN GUAHAN*

35<sup>TH</sup> GUAM LEGISLATURE

**COMMITTEE REPORT**

**Bill No. 90-35 (COR)**

**As Substituted; and amended by the Committee  
on Environment, Revenue and Taxation, and  
Procurement**

**Introduced by Senator Sabina Flores Perez, Kelly  
Marsh (Taitano), PhD, Amanda L. Shelton**

**“AN ACT TO *REPEAL* AND *REENACT* § 5215 OF  
SUBARTICLE B, ARTICLE 3, CHAPTER 5, TITLE  
5, GUAM CODE ANNOTATED, RELATIVE TO  
PROVIDING FOR EMERGENCY PROCUREMENT  
FOR THREATS TO THE ENVIRONMENT,  
INCREASING TRANSPARENCY AND  
OTHERWISE IMPROVING EMERGENCY  
PROCUREMENT.”**



**OFFICE OF SENATOR SABINA FLORES PEREZ**

Chairperson

Committee on Environment, Revenue and Taxation, and Procurement  
*I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN*  
35<sup>TH</sup> GUAM LEGISLATURE

February 21, 2020

MEMORANDUM

To: **All Members**  
Committee on Environment, Revenue and Taxation, and Procurement

From: **Senator Sabina Flores Perez** *SFP*  
Committee Chairperson

Subject: **Committee Report on Bill No. 90-35 (COR), As Substituted; and amended by the Committee on Environment, Revenue and Taxation, and Procurement**

*Håfa Adai,*

Transmitted herewith for your consideration is the Committee Report on Bill No. 90-35 (COR), Substituted; and amended – “**AN ACT TO REPEAL AND REENACT § 5215 OF SUBARTICLE B, ARTICLE 3, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING FOR EMERGENCY PROCUREMENT FOR THREATS TO THE ENVIRONMENT, INCREASING TRANSPARENCY AND OTHERWISE IMPROVING EMERGENCY PROCUREMENT.**”

This report includes the following:

- Copy of COR Referral of Bill No. 90-35 (COR)
- Notices of Public Hearing
- Copy of Public Hearing Agenda
- Public Hearing Sign-in Sheet
- Submitted Testimonies and Supporting Documents
- Committee Report Digest
- Copy of Bill No. 90-35 (COR)
- Copy of Bill No. 90-35 (COR), *As Substituted by the Committee on Environment, Revenue and Taxation and Procurement.*
- Copy of Bill No. 90-35 (COR), *As Substituted; and amended by the Committee on Environment, Revenue and Taxation and Procurement.*
- Substituted; and amended Mark-up Version
- Copy of Fiscal Note Waiver from Bureau of Budget and Management Research
- Committee Vote Sheet
- Related News Report

Please take the appropriate action on the attached vote sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

Senator Amanda L. Shelton,  
Vice Chairperson

Speaker Tina Rose Mufia Barnes,  
Member

Vice Speaker Telena Cruz Nelson,  
Member

Senator Kelly Marsh (Taitano), Ph.D.,  
Member

Senator Sabina Flores Perez  
Member

Senator Clynton E. Ridgell  
Member



**COMMITTEE ON RULES**  
**SENATOR RÉGINE BISCOE LEE, CHAIR**

*I MINA 'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN*  
**35<sup>TH</sup> GUAM LEGISLATURE**

Senator Joe S. San Agustin,  
Member

Senator Jose T. Terlaje,  
Member

Senator Therese M. Terlaje,  
Member

Senator James C. Moylan,  
Member

Senator Mary Camacho Torres,  
Member and  
Chair, Subcommittee on Protocol

May 2, 2019

## MEMO

**To:** **Rennae Meno**  
Clerk of the Legislature  
**Attorney Julian Aguon**  
Legislative Legal Counsel

**From:** **Senator Régine Biscoe Lee**  
Chairperson, Committee on Rules

**Re:** **Referral of Bill No. 90-35 (COR)**

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*Buenas yan Håfa adai.*

As per my authority as Chairperson of the Committee on Rules and subject to §6.01(d), Rule VI of our Standing Rules, I am forwarding the referral of **Bill No. 90-35 (COR)**.

Please ensure that the subject bill is referred to the **Committee on Environment, Revenue and Taxation, and Procurement**, chaired by Senator Sabina Flores Perez.

I also request that the same be forwarded to the prime sponsor of the subject bill.

If you have any questions or concerns, please feel free to contact Mary Maravilla, Committee on Rules Director at 472-2461.

Thank you for your attention to this important matter.

Respectfully,

  
**Senator Régine Biscoe Lee**  
Chairperson, Committee on Rules

*I Mina'trentai Singko Na Lihelaturan Guahan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE RECALLED	COMMITTEE ASSIGNED	PUBLIC HEARINGS DATE	DATE COMMITTEE RECALLED	RECALLED DATE	STATUS
90-35 (COR)	Sabina Flores Perez Kelly Marsh (Taitano), PhD Amanda L. Shelton	AN ACT TO AMEND §5215 OF CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO STRENGTHENING EMERGENCY PROCUREMENT PROVISIONS AND TRANSPARENCY, AND PROVIDING FOR EMERGENCY PROCUREMENT FOR THREATS TO THE ENVIRONMENT.	4/12/19 4:46 p.m.	5/2/19	Committee on Environment, Revenue and Taxation, and Procurement			Fiscal Note Waiver: 4/24/19	



**OFFICE OF SENATOR SABINA FLORES PEREZ**  
Chairperson  
Committee on Environment, Revenue and Taxation, and Procurement  
*I MINA TRENTAI SINGKO NA LIHESLATURAN GUÅHAN*  
35<sup>TH</sup> GUAM LEGISLATURE

**1<sup>st</sup> Hearing**  
**Wednesday, June 5, 2019 at 9am**

**Bill No. 90-35 (COR)**

**Introduced by: Sabina Flores Perez, Kelly Marsh (Taitano),  
PhD, and Amanda L. Shelton**

**“AN ACT TO AMEND §5215 OF CHAPTER 5,  
TITLE 5, GUAM CODE ANNOTATED,  
RELATIVE TO STRENGTHENING  
EMERGENCY PROCUREMENT PROVISIONS  
AND TRANSPARENCY, AND PROVIDING FOR  
EMERGENCY PROCUREMENT FOR THREATS  
TO THE ENVIRONMENT.”**



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## 1st Notice of Public Hearing: Wednesday, June 5, 2019 at 9:00 a.m.

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Office of Senator Sabina Perez <office@senatorperez.org>

Wed, May 29, 2019 at 9:20 AM

To: lpalomo@guampuc.com, mel.mendiola@investguam.com, a.hernandez@investguam.com, larry.toves@investguam.com, "Dafne M. Shimizu" <Dafne.Shimizu@revtax.guam.gov>, "Michele B. Santos" <Michele.Santos@revtax.guam.gov>, frank.lujan@otech.guam.gov, bjcruz@guamopa.com, claudia.acfalle@gsa.guam.gov, Robert Kono <robert.kono@gsa.guam.gov>, Chelsa Muna-Brecht <chelsa.munabrecht@agriculture.guam.gov>, "Walter S. Leon Guerrero" <walter.leonguerrero@epa.guam.gov>, "John Thos. Brown" <jngo@ozemail.com.au>, dlmdir@land.guam.gov, joseph.borja@land.guam.gov, rstopasna@ghura.org, efnapoli@ghura.org, linda.denorcey@dphss.guam.gov, laurent.duenas@dphss.guam.gov, Sarah Thomas-Nededog <sarah.thomasnededog@westcare.com>, Samantha Eliptico <samantha.eliptico@westcare.com>, amscruz@gdoe.net, amsay@ghura.org, info@guamchamber.com.gu, law@guamag.org, Lester Carlson <lester.carlson@bbmr.guam.gov>, vince.arriola@dpw.guam.gov, edward.birn@doa.guam.gov, Tyrone Taitano <tyrone.taitano@bsp.guam.gov>, theresa.arriola@gbhwc.guam.gov, Mary Okada <mary.okada@guamcc.edu>, tkrise@triton.uog.edu, jonfernandez@gdoe.net, mdr@gdoe.net, Richard Ybanez <richard.ybanez@dpr.guam.gov>, sjbrennan@doc.guam.gov, rjrespicio@portguam.com, tom.ada@guamairport.net, Ignacio.peredo@cqa.guam.gov, director@cqa.guam.gov, gpls@gpls.guam.gov, david.dellisola@dol.guam.gov, Jayne Therese Flores <jayne.flores@guam.gov>, "Stephanie G. Flores" <stephanie.flores@guam.gov>, jack.hattig@cltc.guam.gov, melvin.borja@guam.gov, jermaine.alerta@gddc.guam.gov, fred.bordallo@gvao.guam.gov, lasia.casil@hrra.guam.gov, daniel.leonguerrero@csc.guam.gov, annmarie.arceo@dca.guam.gov, joseph.angoco@galc.guam.gov, melanie.brennan@dya.guam.gov, pmbblas@ite.net, vote@gec.guam.gov, rebecca.respicio@energy.guam.gov, daniel.stone@gfd.guam.gov, alice.taijeron@ghc.guam.gov, lillan.perez-posadas@gmha.org, stephen.ignacio@gpd.guam.gov, jbenavente@gpagwa.com, celestin.babauta@grta.guam.gov, pilar.laguana@visitguam.org, Miguel Bordallo <mcbordallo@guamwaterworks.org>, mcogadmin@teleguam.net, John Lizama <jqlizama@guamcourts.org>, Sabrina Salas Matanane <sabrina@kuam.com>, nestor@kuam.com, Chris Barnett <malafunkshun@kuam.com>, carmen@kuam.com, joan@kuam.com, news@sorensenmediagroup.com, reporters@postguam.com, news@guampdn.com, news@k57.com, phill@k57.com, rlimtiaco@guampdn.com, heugenio@guampdn.com, John O'Connor <johntaoconnor@gmail.com>, kstokish@gmail.com, editor@pacificislandtimes.com, Maureen Maratita <publisher@glimpsesofofguam.com>, businesseditor@glimpsesofofguam.com, reporter2@glimpsesofofguam.com, Joy White <reporter4@glimpsesofofguam.com>, Guam Progress <guamprogress@yahoo.com>, colinperez@gmail.com, Gabejereza@gmail.com, phnotice@guamlegislature.org

May 29, 2019

### MEMORANDUM

To: All Senators, Stakeholders and Media

Fr: Senator Sabina Flores Perez, *Chairperson*

Subject: **1<sup>st</sup> Notice of Public Hearing: Wednesday, June 5, 2019 at 9:00 a.m.**

The Committee on Environment, Revenue and Taxation, and Procurement will be conducting a public hearing on **Wednesday, June 5, 2019 at 9:00 a.m.** This public hearing will take place in *Liheslaturan Guahan*, Public Hearing Room. The agenda is as follows:

9:00 a.m.

Bill No. 56-35 (COR) - Telo T. Taitague / William M. Castro -An act to add a new § 12130 to



Article 1, Chapter 12, Division 1, Title 12, Guam Code Annotated, relative to requiring the completion of an independent economic impact statement relative to fiber-optic undersea cable landing stations.

**Bill No. 69-35 (LS) - Sabina Flores Perez** -An act to amend §7102(q) of Chapter 7, Title 3, Guam Administrative Rules and Regulations, relative to correcting the definition of gross receipts.

**Bill No. 90-35 (COR) - Sabina Flores Perez / Kelly Marsh (Taitano), PhD / Amanda L. Shelton** -An act to amend §5215 of Chapter 5, Title 5, Guam Code Annotated, relative to strengthening emergency procurement provisions and transparency, and providing for emergency procurement for threats to the environment.

**Bill No. 126-35 (LS) - Mary Camacho Torres** -An act to add a new § 57107 to Chapter 57, Title 10 of the Guam Code Annotated, relative to requiring the department of revenue and taxation to establish an exceptions process for homeless individuals and unaccompanied homeless youth obtaining a Guam identification card; and to further citing this act as the “Homeless Youth and Families Identification Act.”

Testimony on **Bill No. 56-35 (COR), Bill No. 69-35 (LS), Bill No. 90-35 (COR) and Bill No. 126-35 (LS)** should be addressed to Senator Sabina Flores Perez, Chairperson, and will be accepted via hand delivery to our office, our mailbox at the Guam Congress Building at 163 *Chalan Santo Papa, Hagåtña*, Guam 96910, via email to [office@senatorperez.org](mailto:office@senatorperez.org), no later than 4pm, June 10, 2019.

In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Senator Sabina Flores Perez at 989-2968.

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 **1st Notice.pdf**  
77K



**OFFICE OF SENATOR SABINA FLORES PEREZ**

Chairperson

Committee on Environment, Revenue and Taxation, and Procurement  
*I MINA TRENTAI SINGKO NA LIHESLATURAN GUAHAN*  
35<sup>TH</sup> GUAM LEGISLATURE

May 29, 2019

**MEMORANDUM**

To: All Senators, Stakeholders and Media

Fr: Senator Sabina Flores Perez, *Chairperson* *SFP*

Subject: **1<sup>st</sup> Notice of Public Hearing: Wednesday, June 5, 2019 at 9:00 a.m.**

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**9:00 a.m.**

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In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Senator Sabina Flores Perez at 989-2968.



Richard Salas &lt;richard@senatorperez.org&gt;

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## 2nd Notice of Public Hearing: Wednesday, June 5, 2019 at 9:00 a.m.

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Office of Senator Sabina Perez &lt;office@senatorperez.org&gt;

Mon, Jun 3, 2019 at 8:56 AM

To: lpalomo@guampuc.com, mel.mendiola@investguam.com, a.hernandez@investguam.com, larry.toves@investguam.com, "Dafne M. Shimizu" <Dafne.Shimizu@revtax.guam.gov>, "Michele B. Santos" <Michele.Santos@revtax.guam.gov>, frank.lujan@otech.guam.gov, bjcruz@guamopa.com, claudia.acfalle@gsa.guam.gov, Robert Kono <robert.kono@gsa.guam.gov>, Chelsa Muna-Brecht <chelsa.munabrecht@agriculture.guam.gov>, "Walter S. Leon Guerrero" <walter.leonguerrero@epa.guam.gov>, "John Thos. Brown" <jngoz@ozemail.com.au>, dlmdir@land.guam.gov, joseph.borja@land.guam.gov, rstopasna@ghura.org, efnapoli@ghura.org, linda.denorcey@dphss.guam.gov, laurent.duenas@dphss.guam.gov, Sarah Thomas-Nededog <sarah.thomasnededog@westcare.com>, Samantha Eliptico <samantha.eliptico@westcare.com>, Angelina Marie Cruz <amscruz@gdoe.net>, Amor Say <amsay@ghura.org>, info@guamchamber.com.gu, law@guamag.org, Lester Carlson <lester.carlson@bbmr.guam.gov>, vince.arriola@dpw.guam.gov, edward.birn@doa.guam.gov, Tyrone Taitano <tyrone.taitano@bsp.guam.gov>, theresa.arriola@gbhwc.guam.gov, Mary Okada <mary.okada@guamcc.edu>, tkrise@triton.uog.edu, jonfernandez@gdoe.net, mdr@gdoe.net, Richard Ybanez <richard.ybanez@dpr.guam.gov>, sjbrennan@doc.guam.gov, rjrespicio@portguam.com, tom.ada@guamairport.net, Ignacio.peredo@cqa.guam.gov, director@cqa.guam.gov, gpls@gpls.guam.gov, david.dellisola@dol.guam.gov, Jayne Therese Flores <jayne.flores@guam.gov>, "Stephanie G. Flores" <stephanie.flores@guam.gov>, jack.hattig@cltc.guam.gov, melvin.borja@guam.gov, jermaine.alerta@gddc.guam.gov, fred.bordallo@gvao.guam.gov, lasia.casil@hrra.guam.gov, daniel.leonguerrero@csc.guam.gov, annmarie.arceo@dca.guam.gov, joseph.angoco@galc.guam.gov, melanie.brennan@dya.guam.gov, pmbblas@ite.net, vote@gec.guam.gov, rebecca.respicio@energy.guam.gov, daniel.stone@gfd.guam.gov, alice.taijeron@ghc.guam.gov, lillian.perez-posadas@gmha.org, stephen.ignacio@gpd.guam.gov, jbenavente@gpagwa.com, celestin.babauta@grta.guam.gov, pilar.laguana@visitguam.org, Miguel Bordallo <mcbordallo@guamwaterworks.org>, mcogadmin@teleguam.net, John Lizama <jqlizama@guamcourts.org>, rcruz@guamcourts.org, Sabrina Salas Matanane <sabrina@kuam.com>, nestor@kuam.com, Chris Barnett <malafunkshun@kuam.com>, carmen@kuam.com, joan@kuam.com, news@sorensenmediagroup.com, reporters@postguam.com, news@guampdn.com, news@k57.com, phill@k57.com, rlimtiaco@guampdn.com, heugenio@guampdn.com, John O'Connor <johntaoconnor@gmail.com>, kstokish@gmail.com, editor@pacificislandtimes.com, Maureen Maratita <publisher@glimpsesofguam.com>, businesseditor@glimpsesofguam.com, reporter2@glimpsesofguam.com, Joy White <reporter4@glimpsesofguam.com>, Guam Progress <guamprogress@yahoo.com>, colinperez@gmail.com, Gabejereza@gmail.com, aebenavente@gdoe.net, phnotice@guamlegislature.org

June 3, 2019

**MEMORANDUM**

To: All Senators, Stakeholders and Media

Fr: Senator Sabina Flores Perez, *Chairperson*Subject: **2<sup>nd</sup> Notice of Public Hearing: Wednesday, June 5, 2019 at 9:00 a.m.**

The Committee on Environment, Revenue and Taxation, and Procurement will be conducting a public hearing on **Wednesday, June 5, 2019 at 9:00 a.m.** This public hearing will take place in *I*

*Liheslaturan Guahan*, Public Hearing Room. The agenda is as follows:

- **9:00 a.m.**

- **Bill No. 56-35 (COR) - Telo T. Taitague / William M. Castro** -An act to add a new § 12130 to Article 1, Chapter 12, Division 1, Title 12, Guam Code Annotated, relative to requiring the completion of an independent economic impact statement relative to fiber-optic undersea cable landing stations.

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Testimony on **Bill No. 56-35 (COR)**, **Bill No. 69-35 (LS)**, **Bill No. 90-35 (COR)** and **Bill No. 126-35 (LS)** should be addressed to Senator Sabina Flores Perez, Chairperson, and will be accepted via hand delivery to our office, our mailbox at the Guam Congress Building at 163 *Chalan Santo Papa, Hagåtña*, Guam 96910, via email to [office@senatorperez.org](mailto:office@senatorperez.org), no later than 4pm, June 10, 2019.

In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Senator Sabina Flores Perez at 989-2968.

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 **2nd Notice.pdf**  
78K



**OFFICE OF SENATOR SABINA FLORES PEREZ**

Chairperson

Committee on Environment, Revenue and Taxation, and Procurement

*I MINA TRENTAI SINGKO NA LIHESLATURAN GUAHAN*

35<sup>TH</sup> GUAM LEGISLATURE

June 3, 2019

**MEMORANDUM**

To: All Senators, Stakeholders and Media

Fr: Senator Sabina Flores Perez, *Chairperson* *SFP*

Subject: **2<sup>nd</sup> Notice of Public Hearing: Wednesday, June 5, 2019 at 9:00 a.m.**

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GUAM DAILY POST • MONDAY, JUNE 3, 2019

# Indonesia in chaos after vote

SINGAPORE (Tribune News Service) — It's been six weeks since Indonesian President Joko Widodo, better known as Jokowi, appeared to comfortably secure a second term against challenger Prabowo Subianto, a former special forces general.

But the aftermath of one of the world's largest democratic elections has been anything but stable.

Prabowo, who also lost to Jokowi in the last presidential election in 2014, has rejected the results of the April 17 contest, claiming rampant election fraud.

Blood flowed when several thousand of his supporters took to the streets of the Indonesian capital of Jakarta last week after the country's General Elections Commission officially declared Jokowi the winner with 55.5% of the 154 million ballots cast, a record turnout.

Two days of violent riots resulted in the deaths of eight demonstrators. Hundreds more were injured as police fired rubber bullets, tear gas and water cannons at protesters hurling rocks and Molotov cocktails. More than 400 people were arrested.

This week, police accused Prabowo

supporters, including a retired two-star general, of plotting to assassinate four of the president's top security officials — his chief security minister, the head of the nation's intelligence agency, the presidential intelligence adviser and a minister for maritime affairs.

Authorities said the plot was aimed at sowing chaos to undermine Jokowi as he embarked on a second five-year term.

The president will preside over a country that's been divided over religious identity. Prabowo, who is not particularly religious himself, represents hard-line Muslim conservatives. Jokowi, the former mayor of Jakarta, champions a more inclusive and progressive Indonesia — though he selected a conservative cleric as his running mate to boost his religious credentials.

Questions abound about how quickly the Southeast Asian nation of 250 million, the world's fourth most populous, will rebound. Here are four:

**Question: Why is Prabowo contesting?**

**Answer:** Prabowo, the former son-in-law of Indonesian dictator Suharto, has accused the election commission of "fraudulent tabulations," alleging vote-rigging in favor of Jokowi. Prabowo



**RALLY:** A supporter of Prabowo Subianto, an Indonesian presidential candidate, cries outside the Elections Supervisory Agency after official government election results were announced on May 24 in Jakarta, Indonesia. Joko Widodo was reelected as president, beating Subianto. Ulet Ifansasti/Getty Images/Tribune News Service

filed a lawsuit with the Constitutional Court, which will decide the case in June.

Experts say Prabowo, 67, is contesting the election results largely because he can and has nothing to lose. He's also making a tradition of it. Prabowo rejected the outcome of the 2014 election when he lost to Jokowi by a slimmer official margin.

In putting up a fight, Prabowo can maintain his coalition of conservative Muslims, extract more concessions from Jokowi and maintain some semblance of face after losing an election by 17 million votes.

**Q: Is there evidence of voter fraud?**

**A:** Yes, but nothing on a scale that could explain the lopsided election outcome. Analysts say there will always

be isolated examples of vote-buying and voter roll chicanery in a developing country as large as Indonesia.

In one such case, thousands of ballot papers destined for Indonesians living in Malaysia were discovered to have already been checked in favor of Jokowi.

However, the claims by the Prabowo camp of massive irregularities that would have swayed the overall results appear to be unfounded. Indonesia's election watchdog dismissed complaints by Prabowo supporters of cheating, citing insufficient evidence.

"There was very, very little evidence in 2014 and there's very little evidence now," said Made Supriatna, a visiting fellow at the Institute of Southeast Asian Studies in Singapore. "The claims are baseless."

**Q: Will Indonesia plunge further into violence?**

**A:** The riots naturally sparked fears of a repeat of 1998 mass unrest that resulted in more than 1,000 deaths of mostly Chinese-heritage Indonesians and the toppling of President Suharto after three decades of rule.

But conditions were far different back then. Discontent in Indonesia at the time was widespread and hinged on deep-rooted economic problems. Jokowi remains a popular president stewarding an economy that's growing at a clip of 5% or more the last five years.

Analysts say the recent riots were contained to hardcore Prabowo supporters and didn't suggest a much wider popular movement against the president that could trigger further bloodshed.

**Kumision I Tano Saina'ta  
Guam Ancestral Lands Commission**

The Guam Ancestral Lands Commission Board Meeting will be held on **Wednesday, June 5, 2019 at 2:00 p.m.**, Department of Land Management conference room, 3<sup>rd</sup> Floor of the ITC Building 590 S. Marine Corps Drive, Tamuning. The agenda may be viewed at the following link:

<http://dlm.guam.gov/announcements-2/>

Individuals requiring special accommodations, auxiliary aids or services, please call Liza Camacho at 649-5263 ext. 440.

This ad paid for by Government funds.

**GUAM ENVIRONMENTAL PROTECTION AGENCY  
AHEÑSIAN PROTEKSIÓN LINA'LA GUAHAN**

**REMINDER NOTICE**  
ABOVEGROUND STORAGE TANK ANNUAL PERMIT

The Guam Environmental Protection Agency (Guam EPA) reminds owners of Aboveground Storage Tanks (AST) containing Regulated Substances that they are required to apply for an AST Permit with the Agency by February 10, 2019, in accordance with Guam Public Law 34-140 - the Aboveground Storage of Regulated Substances Act, and codified in Title 10 Guam Code Annotated Chapter 76A, Division 3.

**Guam EPA is currently extending the permitting period to June 30, 2019 in an effort to have all owners of ASTs to come into compliance with Guam Public Law 34-140**

The AST Permit Application Form and the Aboveground Storage of Regulated Substances Act are available online at [www.epa.guam.gov](http://www.epa.guam.gov).

**FAILURE TO OBTAIN A PERMIT FOR YOUR FACILITY OR BUILDING MAY RESULT IN A FINE OF UP TO TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00), OR A DAILY FINE OF ONE HUNDRED DOLLARS (\$100.00) PER 500 GALLONS OR GREATER, FOR ASTs OR CONTAINERS WITH AN AGGREGATE EQUAL TO, OR GREATER THAN 500 GALLONS CONTAINING REGULATED SUBSTANCES.**

Should you have any questions or need further clarification, please contact the Hazardous Waste Management Program at (671) 300-4751/52 or by email at [astpermits@epa.guam.gov](mailto:astpermits@epa.guam.gov).

/s/ WALTER S. LEON GUERRERO, Administrator

GUAM EPA | 1730A Maricao Avenue Tandanor Building, Guam 96919 | Tel: (671) 300-4751/52 | Fax: (671) 300-4753 | [www.epa.guam.gov](http://www.epa.guam.gov)  
TANANOR BILAJA Y TANGI MANA'ONG • ALL LIVING THINGS ARE ONE  
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**PUBLICATION NOTICE**

In accordance with the provisions of Guam Code Annotated, Title XI, Chapter III, Section 3315, notice is hereby given that:

**GREENPA'S CORPORATION  
DBA: UNCLE PARK BISTRO**

has applied for a Class: **4/ General On-Sale Alcoholic Beverage License**. Said premises being marked as Lot: **5076-3-4-1 R1 NEW A-3 JDK BLDG. 1<sup>st</sup> FLR. 1206 PALE SAN VITORES RD. TUMON, GUAM 96913.**

**Senator Sabina Flores Perez**  
Committee on Environment, Revenue and Taxation, and Procurement

**Public Hearing Notice**  
Wednesday, June 5, 2019  
I Liheshaturan Guahan, Public Hearing Room

**AGENDA**

**9:00am**

**Bill No. 56-35 (COR) - Telo T. Taitague / William M. Castro** - An act to add a new §12130 to Article I, Chapter 12, Division 1, Title 12, Guam Code Annotated, relative to requiring the completion of an independent economic impact statement relative to fiber-optic undersea cable landing stations.

**Bill No. 69-35 (LS) - Sabina Flores Perez** - An act to amend §7102(g) of Chapter 7, Title 3, Guam Administrative Rules and Regulations, relative to correcting the definition of gross receipts.

**Bill No. 90-35 (COR) - Sabina Flores Perez / Kelly Marsh (Taitano), PhD / Amanda L. Shelton** - An act to amend §5215 of Chapter 5, Title 5, Guam Code Annotated, relative to strengthening emergency procurement provisions and transparency, and providing for emergency procurement for threats to the environment.

**Bill No. 126-35 (LS) - Mary Camacho Torres** - An act to add a new §57107 to Chapter 57, Title 10 of the Guam Code Annotated, relative to requiring the Department of Revenue and Taxation to establish an exceptions process for homeless individuals and unaccompanied homeless youth obtaining a Guam identification card; and to further citing this act as the "Homeless Youth and Families Identification Act."

Testimonies can be delivered to the Legislative Mailbox at the Guam Congress Building at 163 Chalan Santa Papa, Hagåtña, Guam 96910, or via email to [office@senatorfperez.org](mailto:office@senatorfperez.org), no later than 4pm June 10, 2019. Individuals requiring special accommodations should submit request to Office of Senator Sabina Flores Perez at 989-2968. Paid for by committee funds.



**OFFICE OF SENATOR SABINA FLORES PEREZ**

Chairperson

Committee on Environment, Revenue and Taxation, and Procurement

*I MINA'TRENTAI SINGKO NA LIHESLATURAN GUAHAN*

35<sup>TH</sup> GUAM LEGISLATURE

**AGENDA**

**PUBLIC HEARING**

**Wednesday, June 5, 2019**

***I Liheslaturan Guahan, Public Hearing Room***

The agenda is as follows:

**9:00 am**

**Bill No. 56-35 (COR) - Telo T. Taitague / William M. Castro** - An act to add a new § 12130 to Article 1, Chapter 12, Division 1, Title 12, Guam Code Annotated, relative to requiring the completion of an independent economic impact statement relative to fiber-optic undersea cable landing stations.

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**OFFICE OF SENATOR SABINA FLORES PEREZ**

Chairperson

Committee on Environment, Revenue and Taxation, and Procurement

*I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÁHAN*

35<sup>TH</sup> GUAM LEGISLATURE

Public Hearing

Wednesday, June 5, 2019, 9:00am

*I Liheslaturan Guahan, Public Hearing Room*

**Bill No. 90-35 (COR) - Sabina Flores Perez / Kelly Marsh (Taitano), PhD / Amanda L. Shelton** - An act to amend §5215 of Chapter 5, Title 5, Guam Code Annotated, relative to strengthening emergency procurement provisions and transparency, and providing for emergency procurement for threats to the environment.

NAME (please print)	AGENCY/ ORGANIZATION	ORAL TESTIMONY	WRITTEN TESTIMONY	IN FAVOR	NOT IN FAVOR	CONTACT INFORMATION
John H. Brown	SEAT	✓	✓	✓		
Edward B. B...	DOT	✓	✓	✓		



JOHN THOS. BROWN  
ATTORNEY AT LAW \*

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188 East Marine Corp Dr.  
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Mobile/Cell phone: +1-671-483-5960

4 June, 2019

Hon. Senator Sabina Flores Perez, Chairperson  
Committee on Environment, Revenue and Taxation, and Procurement  
35<sup>th</sup> Guam Legislature

RE: Bill No. 90-35 (COR), An act to amend §5215 of Chapter 5, Title 5, Guam Code Annotated

Dear Chairperson Perez,

This bill not only recognizes that environmental events or conditions can also constitute “a condition posing an imminent threat to public health, welfare, or safety which could not have been foreseen through the use of reasonable and prudent management procedures, and which cannot be addressed by other procurement methods of source selection” (as the term “emergency” is defined in 5 GCA § 5030(x)), but that the duration of an event requiring emergency procurement may require acquisition of supplies and services to last longer than the thirty days supply under existing law, to allow ninety days – an adequate and reasonable time to coordinate emergency procurement with other procurement methods by means of more competitive processes.

Emergency procurement has long been misunderstood, misapplied and abused even when understood. This bill makes clarifying amendments and adds teeth to enforcement of its strictures.

One of the enduring controversies of emergency procurement comes from the Governor’s Organic Act power to recognize emergencies by use of an Executive “Declaration of Emergency”. There is no doubt that emergencies exist outside the realm of procurement, such as the need to marshal the National Guard or quarantine the public from infectious carriers. It has been suggested that this is an authority that cannot be encroached upon by the Legislature, and that is not contested by me. Yet, the legislative authority to control the purse and provide safeguards for prudent government spending has long been given heed.

For instance, PL 17-9 was adopted in the context of a typhoon occurring in June 1983 which had caused significant damages necessitating emergency repairs. PL 16-124, which adopted our first comprehensive law of procurement in December 1982, had an October 1983 implementation date. Prior to implementation of PL 16-124, all procurement was conducted by regulations promulgated by Executive Order. PL 17-9 was adopted to specifically advance the effective date of the emergency procurement provision in PL 16-124, but nothing else. It was felt that the Emergency Procurement statute was needed to give more immediate attention to repairs than was available under then existing GC § 10001.6, which required a bid process for construction in excess of \$2,500. PL 17-9 gave the Governor specific and temporary (“until creation of the Policy Office”) authority to adopt a regulation implementing that specific emergency procurement provision in light of that particular emergency. This represents a “whole of government” acknowledgement that PL 16-124 was intended to circumscribe Executive emergency procurement even when accomplished by Executive Order.

I reiterate that the emergency procurement provision does not in any way circumscribe the Governor’s authority to make an Emergency Declaration for any event or cause deemed appropriate. What the emergency procurement law does do, however, is place limits on the governor’s *expenditure of public funds* to acquire supplies and services (see, 5 GCA § 5004(b)) unless there is a particular emergency, particularly defined by the Procurement Act, as cited above.

I am not sure that the procurement law ever unambiguously expressed that distinction between an “emergency situation”, necessarily writ large, and an “emergency procurement” with clarity. And this bill continues that same ambiguous language:

“A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. The requirements for a written determination for the emergency shall be met if the procurements are being made on the basis of the Governor's declaration of an emergency situation by Executive Order if such Order states that emergency procurement may be resorted to for the purposes of the Order. Unless authorized by an Executive Order declaring an emergency, no emergency procurement may be made except on a certificate made under penalty of perjury by the Chief Procurement Officer, Director of Public Works or the head of a purchasing agency, as the case may be.”

It is clear from this language that the basis of an “emergency” (as defined “in this Chapter” has been helpfully inserted by this bill) must be articulated in a determination which is made part of the procurement file. But, it does not unambiguously appear that the Governor must make *that* determination when “resorting to” the procedures for emergency procurements:

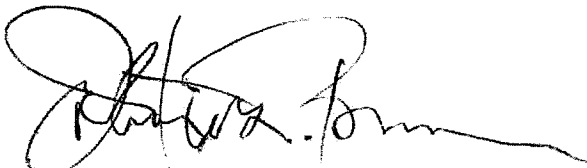
“The requirements for a written determination for the emergency shall be met if the procurements are being made on the basis of the Governor's declaration of an emergency situation by Executive Order if such Order states that emergency procurement may be resorted to for the purposes of the Order.”

On thoughtful re-examination of the language emphasized above, and with due respect, I think the opportunity here should be taken to reiterate that the emergency *procurement* resorted to by Executive Order to acquire supplies and services must be pursuant to the “emergency” as defined in the procurement law. I would suggest that changes be made to that part of the existing law, carried forward in this bill, as follows:

~~The requirements for a written determination for the emergency shall be met if the p~~ Procurements are being made on the basis of the Governor's declaration of an emergency situation by Executive Order if such Order states that an emergency exists as defined in this Chapter, and the emergency procurement specified in this Section may be resorted to for the purposes of the Order.

Thank you for bringing forward this legislation, and I look forward to more efforts to make further improvements to the Procurement Law. If I may be of assistance, I am happy to oblige.

With respect,



John Thos. Brown



LOURDES A. LEON GUERRERO, *Governor (Maga'håga)*  
JOSHUA F. TENORIO, *Lt. Governor (Sigundo Maga'låhi)*



EDWARD M. BIRN  
*Director (Direktot)*  
EDITH C. PANGELINAN  
*Deputy Director (Sigundo Direktot)*

DIRECTOR'S OFFICE (*Ufisinan Direktot*)

June 05, 2019

Senator Sabina Flores Perez  
Chairperson, Committee on Environmental, Revenue & Taxation and Procurement  
*I Mina Trentai Singko Na Liheslaturan Guahan*  
35<sup>th</sup> Guam Legislature  
194 Herman Cortez Avenue  
Hagatna, Guam 96910

**RE: Testimony on Bill No. 90-35 (COR)**

Buenas yan Hafa Adai Senator Sabina Flores Perez and Senators,

Thank you for the opportunity to testify on Bill No. 90-45 (COR).

Department of Administration (DOA) supports the proposal to define more closely the conditions which warrant an Emergency Procurement. This Bill achieves that objective.

DOA agrees that such a process should be utilized when there is, or maybe, a threat to public health, welfare or safety. It also agrees that the procurement should be limited to purchases which meet the identified emergency for a period which does not exceed ninety (90) days.

It should not be considered an emergency when the procurement process has simply stalled or failed because of an administrative process. This has happened in the past and the result persists as a problem.

An incomplete procurement process is always a challenge for DOA, as we have to deal with the vendor and its concern when payment for the goods and services which the vendor has provided. DOA therefore, believes that the Chief Procurement Officer (CPO) should obtain the consent of the Director of Administration when making an emergency procurement and that §5215 as amended should so state. Whichever procedures are available to the CPO through this Bill should be equally available to the Director of the Department of Public Works (DPW) and the Head of any Purchasing Agency.

Senator Sabina Flores Perez, 35<sup>th</sup> Guam Legislature  
Re: Testimony on Bill No. 90-35 (COR)  
June 05, 2019  
Page 2 of 2

DOA has a concern about the wording in the Bill which voids contracts as this may be interpreted to the disadvantage of a bona fide vendor which has performed. It is suggested that the solicitation, not the contract should be voided. Equally, the working suggests that the Governor approve each purchase order under emergency procurement. It is suggested that this requirement be applied to a solicitation.

We agree that that the emergency procurement process should not be a pretext for avoiding the regular practice under approved procurement regulations which are designed to be fair to business and government alike and, when working as intended, subject government procurement regulations to fair competition. It is vital, however, to update Procurement regulations constantly to maintain that fairness and equity. This Bill helps to do this.

Thank you for the opportunity to offer testimony on Bill 90-35.

*Senseramente,*



**EDWARD M. BIRN**

Director

Department of Administration

cc: Edith Pangelinan, Deputy Director, DOA  
Claudia Acfalle, Chief Procurement Officer, GSA  
Robert Kono, Acting Chief Procurement Officer, GSA





**Lourdes A. Leon Guerrero**  
Governor

**Joshua F. Tenorio**  
Lieutenant Governor

DEPARTMENT OF ADMINISTRATION  
(DIPATTAMENTON ATMENESTRASION)  
**GENERAL SERVICES AGENCY**  
(*Ahensian Setbision Hinirat*)

148 Route 1 Marine Corp Drive, Piti Guam 96915  
TEL: (671) 475-1707/475-1700 \* FAX: (671) 475-1727/472-4217



**Edward M. Birn**  
Director

**Edith C. Pangelinan**  
Deputy Director

April 17, 2019

Memorandum

The Honorable Sabina Perez  
35<sup>th</sup> Guam Legislature  
Chairman  
Committee on Environment, Revenue and Taxation, and Procurement  
Terlaje Professional Building  
194 Hernan Cortes Avenue, 1st Fl.  
Hagatna, GU 96910

Re: Comments on Bill 90-35

Dear Honorable Perez:

I have reviewed your Bill 90-35, relating to "An Act to Amend Section 5215 of Chapter 5, Title 5 Guam Code Annotated, Relative to Strengthening Emergency Procurement Provisions and Transparency, and Providing for Emergency Procurement for Threats to the Environment" and have the following comments:

In Section 5215, on lines 8 and 9, what is different about including "...an event or status substantially constituting or causing..." and "... or the health and safety of the environment..." from the original language? What does it add to this section? Is not the environment also something that currently could be a public safety, health or welfare matter?

In Section 5215, on page 2, line 4, what is meant by "...product delivery capability....?" And how does that differ from determining availability of the needed item that is currently practiced?

We ask that "services" be included in after "goods and supplies on page 2, line 7.

We agree to increase the time for procurement on an emergency from 30 to 90 days.

The phrase that is added

"... and no other procurement contract shall be solicited or awarded under authority of this Section except for another event of emergency. Any subsequent contract issued for the same event of emergency, or any change or modification of contract beyond the scope of the original contract for the same event of emergency shall be void ab initio. The amounts of goods and supplies deemed necessary to meet an event of an emergency, by a Declaration of Emergency authorized by an executive order of the Governor. The

**COMMITTED TO EXCELLENCE**

amount of goods and supplies deemed necessary to meet an event of an emergency may be increased to cover a duration beyond the ninety (90) day period, but not beyond the event of emergency, by a Declaration of Emergency authorized by an Executive Order of the Governor "is unclear.

On one hand you state that only an initial declaration of emergency is authorized and a subsequent one is void, and then state in the next sentence that the goods and supplies necessary to cover beyond the initial 90 day period may be done. The government does this now, when the agency or department is unable to bring forth a bid in a timely manner, then another Emergency is declared. This restricts the government to only allow the governor to declare an emergency by Executive Order and appears to conflict with your revision in line 6 on page 3, which allows for a Certificate by the Chief Procurement Officer.

On Page 2, line 22, the phrase "...a determination describing the process and justification..." is unnecessary as using the Emergency Procurement section in 5 GCA Section 5215 is the process and its justification for its use.7)

Finally, we request that you add the phrase: "The start date of the ninety (90) days begins after the Declaration of Emergency, or Executive Order is signed or approved by the Governor, and seven (7) days after submission to the General Services Agency for processing." This would allow General Services Agency time to process a purchase order to fulfill the emergency without any loss of time.

Thank you for allowing us to comment on this bill.

  
CLAUDIA S. ACFALLE  
Chief Procurement Officer



# Department of Agriculture Dipattamenton Agrikottura

163 Dairy Road, Mangilao, Guam 96913



**Lourdes A. Leon Guerrero**  
Governor

**Joshua F. Tenorio**  
Lt. Governor

Director's Office  
Agricultural Dev. Services  
Animal Health  
Aquatic & Wildlife Resources  
Forestry & Soil Resources  
Plant Nursery  
Biosecurity Division  
Pest Hotline

300-7965/7966; Fax 734-6569  
300-7973/7972; Fax 734-8096  
300-7965  
735-0294/0281; Fax 734-3154  
300-7976; Fax 734-0111  
300-7974  
475-1427; Fax 477-9487  
475-7378

**Chelsa Muña-Brecht**  
Director

June 10, 2019

Honorable Senator Sabina Perez  
Chairperson  
Committee on Environment, Revenue &  
Taxation, and Procurement  
35<sup>th</sup> Guam Legislature  
194 Hernan Cortes Avenue  
Terlaje Professional Building  
1<sup>st</sup> Floor  
Hagåtña, GU 96910

*Håfa Ådai!* Senator Perez.

Below is testimony on Bill 90-35 (COR) concerning modifications to emergency procurement procedures. This testimony is from the Department of Agriculture:

The Department of Agriculture is in favor of the passage of Bill 90-35 (COR). The Bill would revise the current procurement law to add specific language to address threats to the environment, in addition to threats to public safety, thereby improving the general recognition that such environmental threats are of equal importance to the government, the public and for the health of our society. The Bill also adds a new mechanism to proceed with any necessary emergency procurement in lieu of a Governor's Emergency Declaration, a "Certificate of Emergency". These modifications will help to provide the Department of Agriculture with increased capabilities to respond to environmental emergencies as rapidly as possible. One example of such a case is that it is crucial in mounting rapid responses to new invasive species incursions.

An effective response to a new pest invasion requires immediate access to funding and the ability to put such funds to use without bureaucratic delay. Response personnel must be able to immediately purchase supplies, safety equipment, pesticides, traps or



other types of specialized items necessary to mount an effective response. There can be no delays in procurement.

Numerous experiences worldwide have shown that any delay in dealing with a new invasive species greatly reduces the chances of eradicating the pest. Eradication means getting rid of it completely from the island. If it is not eradicated very soon after its initial invasion, then the invasive species is allowed to spread at will, and likely will become a costly burden on society; a burden that could last forever.

Thank you for allowing the Department to comment on this important legislation.

Respectfully,

A handwritten signature in black ink, appearing to read "Chelsa Muña-Brecht". The signature is fluid and cursive, with a large loop at the beginning and a long horizontal stroke extending to the right.

Chelsa Muña-Brecht  
Director



**OFFICE OF SENATOR SABINA FLORES PEREZ**

Chairperson

Committee on Environment, Revenue and Taxation, and Procurement

*I MINA TRENDAI SINGKO NA LIHESLATURAN GUÁHAN*

35<sup>TH</sup> GUAM LEGISLATURE

**2<sup>nd</sup> Hearing**

**Wednesday, September 11, 2019 at 10:30am**

**Bill No. 90-35 (COR), As Substituted by the Committee on  
Environment, Revenue and Taxation, and Procurement.**

**Introduced by: Sabina Flores Perez, Kelly Marsh (Taitano),  
PhD, and Amanda L. Shelton**

**“AN ACT TO AMEND §5215 OF CHAPTER 5,  
TITLE 5, GUAM CODE ANNOTATED,  
RELATIVE TO STRENGTHENING  
EMERGENCY PROCUREMENT PROVISIONS  
AND TRANSPARENCY, AND PROVIDING FOR  
EMERGENCY PROCUREMENT FOR THREATS  
TO THE ENVIRONMENT.”**



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## 1st Notice of Public Hearing: Wednesday, September 11, 2019 at 10:30 a.m.

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Office of Senator Sabina Perez <office@senatorperez.org>

Wed, Sep 4, 2019 at 4:57 PM

To: johnm@bankpacific.com, michael@guamparadisefitness.com, lpalomo@guampuc.com, mel.mendiola@investguam.com, a.hernandez@investguam.com, larry.toves@investguam.com, "Dafne M. Shimizu" <Dafne.Shimizu@revtax.guam.gov>, "Michele B. Santos" <Michele.Santos@revtax.guam.gov>, frank.lujan@otech.guam.gov, bjrcruz@guamopa.com, "Claudia S. Acfalle" <claudia.acfalle@gsa.guam.gov>, Robert Kono <robert.kono@gsa.guam.gov>, Chelsa Muna-Brecht <chelsa.munabrecht@agriculture.guam.gov>, "Walter S. Leon Guerrero" <walter.leonguerrero@epa.guam.gov>, "John Thos. Brown" <jngo@ozemail.com.au>, dlmdir@land.guam.gov, joseph.borja@land.guam.gov, rstopasna@ghura.org, efnapoli@ghura.org, linda.denorcey@dphss.guam.gov, laurent.duenas@dphss.guam.gov, Sarah Thomas-Nededog <sarah.thomasnededog@westcare.com>, Samantha Eliptico <samantha.eliptico@westcare.com>, Angelina Marie Cruz <amscruz@gdoe.net>, Amor Say <amsay@ghura.org>, info@guamchamber.com.gu, "Leevin T. Camacho" <law@guamag.org>, Lester Carlson <lester.carlson@bbmr.guam.gov>, vince.arriola@dpw.guam.gov, edward.birn@doa.guam.gov, Tyrone Taitano <tyrone.taitano@bsp.guam.gov>, theresa.arriola@gbhwc.guam.gov, Mary Okada <mary.okada@guamcc.edu>, tkrise@triton.uog.edu, jonfernandez@gdoe.net, mdr@gdoe.net, Richard Ybanez <richard.ybanez@dpr.guam.gov>, sjbrennan@doc.guam.gov, rjrespicio@portguam.com, tom.ada@guamairport.net, Ignacio.peredo@cqa.guam.gov, director@cqa.guam.gov, gpls@gpls.guam.gov, david.dellisola@dol.guam.gov, Jayne Therese Flores <jayne.flores@guam.gov>, "Stephanie G. Flores" <stephanie.flores@guam.gov>, jack.hattig@cltc.guam.gov, melvin.borja@guam.gov, jermaine.alerta@gddc.guam.gov, fred.bordallo@gvao.guam.gov, lasia.casil@hrra.guam.gov, daniel.leonguerrero@csc.guam.gov, annmarie.arceo@dca.guam.gov, joseph.angoco@galc.guam.gov, melanie.brennan@dya.guam.gov, pmbblas@ite.net, vote@gec.guam.gov, rebecca.respicio@energy.guam.gov, daniel.stone@gfd.guam.gov, alice.taijeron@ghc.guam.gov, lillian.perez-posadas@gmha.org, stephen.ignacio@gpd.guam.gov, jbenavente@gpagwa.com, celestin.babauta@grta.guam.gov, pilar.laguana@visitguam.org, Miguel Bordallo <mcbordallo@guamwaterworks.org>, mcogadmin@teleguam.net, John Lizama <jqlizama@guamcourts.org>, rcruz@guamcourts.org, djtydingco@gta.net  
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September 4, 2019

### MEMORANDUM

To: All Senators, Stakeholders and Media

Fr: Senator Sabina Flores Perez, *Chairperson*

Subject: **1<sup>st</sup> Notice of Public Hearing: Wednesday, September 11, 2019 at 10:30 a.m.**

The Committee on Environment, Revenue and Taxation, and Procurement will be conducting a public hearing on **Wednesday, September 11, 2019 at 10:30 a.m.** This public hearing will take place in *Liheslaturan Guahan*, Public Hearing Room. The agenda is as follows:

- **10:30 a.m.**

**Executive Appointment of Mr. Michael A. Sgro to serve as a Member of the Guam Banking & Insurance Board.**

**Executive Appointment of Mr. John McKinnon to serve as a Member (Bank Industry) of the Guam Banking & Insurance Board.**

**Bill No. 56-35 (COR), As Substituted - Telo T. Taitague/ William M. Castro** -An act to add a new Article 4 to Chapter 12, Division 1, Title 12, Guam Code Annotated, relative to creating a task force to review information, conduct a feasibility study, and develop policy concerning submarine cables.

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Testimonies should be addressed to Senator Sabina Flores Perez, Chairperson, and will be accepted via hand delivery to our office, our mailbox at the Guam Congress Building at 163 *Chalan Santo Papa, Hagåtña*, Guam 96910, via email to [office@senatorperez.org](mailto:office@senatorperez.org), no later than 4pm, September 16, 2019.

In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Senator Sabina Flores Perez at 989-2968.

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 **9.11 1st Notice.pdf**  
65K



**OFFICE OF SENATOR SABINA FLORES PEREZ**

Chairperson

Committee on Environment, Revenue and Taxation, and Procurement  
*I MINA TRENDAI SINGKO NA LIHESLATURAN GUAHAN*  
35<sup>TH</sup> GUAM LEGISLATURE

September 4, 2019

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Fr: Senator Sabina Flores Perez, *Chairperson* *SFP*

Subject: **1<sup>st</sup> Notice of Public Hearing: Wednesday, September 11, 2019 at 10:30 a.m.**

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## 2nd Notice of Public Hearing: Wednesday, September 11, 2019 at 10:30 a.m.

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Office of Senator Sabina Perez <office@senatorperez.org>

Mon, Sep 9, 2019 at 9:19 AM

To: johnm@bankpacific.com, michael@guamparadisefitness.com, lpalomo@guampuc.com, mel.mendiola@investguam.com, a.hernandez@investguam.com, larry.toves@investguam.com, "Dafne M. Shimizu" <Dafne.Shimizu@revtax.guam.gov>, "Michele B. Santos" <Michele.Santos@revtax.guam.gov>, frank.lujan@otech.guam.gov, bjacruz@guamopa.com, "Claudia S. Acfalle" <claudia.acfalle@gsa.guam.gov>, Robert Kono <robert.kono@gsa.guam.gov>, Chelsa Muna-Brecht <chelsa.munabrecht@agriculture.guam.gov>, "Walter S. Leon Guerrero" <walter.leonguerrero@epa.guam.gov>, "John Thos. Brown" <jngo@ozemail.com.au>, dlmdir@land.guam.gov, joseph.borja@land.guam.gov, rstopasna@ghura.org, efnapoli@ghura.org, linda.denorcey@dphss.guam.gov, laurent.duenas@dphss.guam.gov, Sarah Thomas-Nededog <sarah.thomasnededog@westcare.com>, Samantha Eliptico <samantha.eliptico@westcare.com>, Angelina Marie Cruz <amscruz@gdoe.net>, Amor Say <amsay@ghura.org>, info@guamchamber.com.gu, "Leevin T. Camacho" <law@guamag.org>, Lester Carlson <lester.carlson@bbmr.guam.gov>, vince.arriola@dpw.guam.gov, edward.birn@doa.guam.gov, Tyrone Taitano <tyrone.taitano@bsp.guam.gov>, theresa.arriola@gbhwc.guam.gov, Mary Okada <mary.okada@guamcc.edu>, tkrise@triton.uog.edu, jonfernandez@gdoe.net, mdr@gdoe.net, Richard Ybanez <richard.ybanez@dpr.guam.gov>, sjbrennan@doc.guam.gov, rjrespicio@portguam.com, tom.ada@guamairport.net, Ignacio.peredo@cqa.guam.gov, director@cqa.guam.gov, gpls@gpls.guam.gov, david.dellisola@dol.guam.gov, Jayne Therese Flores <jayne.flores@guam.gov>, "Stephanie G. Flores" <stephanie.flores@guam.gov>, jack.hattig@cltc.guam.gov, melvin.borja@guam.gov, jermaine.alerta@gddc.guam.gov, fred.bordallo@gvao.guam.gov, lasia.casil@hrra.guam.gov, daniel.leonguerrero@csc.guam.gov, annmarie.arceo@dca.guam.gov, joseph.angoco@galc.guam.gov, melanie.brennan@dya.guam.gov, pmbias@ite.net, vote@gec.guam.gov, rebecca.respicio@energy.guam.gov, daniel.stone@gfd.guam.gov, alice.taijeron@ghc.guam.gov, lillian.perez-posadas@gmha.org, stephen.ignacio@gpd.guam.gov, jbenavente@gpagwa.com, celestin.babauta@grta.guam.gov, pilar.laguana@visitguam.org, Miguel Bordallo <mcbordallo@guamwaterworks.org>, mcogadmin@teleguam.net, John Lizama <jqlizama@guamcourts.org>, rcruz@guamcourts.org, djtydingco@gta.net  
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September 9, 2019

### MEMORANDUM

To: All Senators, Stakeholders and Media

Fr: Senator Sabina Flores Perez, *Chairperson*

Subject: **2<sup>nd</sup> Notice of Public Hearing: Wednesday, September 11, 2019 at 10:30 a.m.**

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 **2nd Notice.pdf**  
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**OFFICE OF SENATOR SABINA FLORES PEREZ**

Chairperson

Committee on Environment, Revenue and Taxation, and Procurement

*I MINA TRENDAI SINGKO NA LIHESLATURAN GUAHAN*

35<sup>TH</sup> GUAM LEGISLATURE

September 9, 2019

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GUAM DAILY POST • MONDAY, SEPTEMBER 9, 2019

# Dorian heads north after swiping NC

KITTY HAWK, N.C. (Reuters) - Hurricane Dorian briefly made landfall on the Outer Banks of North Carolina on Friday, hitting the beach-fringed barrier islands with powerful winds and battering waves days after reducing parts of the Bahamas to rubble.

The storm made landfall at Cape Hatteras about 9 a.m. with maximum sustained winds of 90 mph, according to the National Hurricane Center. That was far weaker than its slow, deadly tour through the Bahamas earlier in the week that caused at least 43 deaths, according to news media accounts late Friday, and likely many more.

By late afternoon, Dorian was moving away from the mid-Atlantic states and headed toward Canada where it was expected to bring hurricane-force winds to parts of Nova Scotia by Saturday evening, the National Hurricane Center said.

The storm surge inundated the Outer Banks' Ocracoke Island, cutting off power and submerging many homes and buildings, North Carolina Gov. Roy Cooper told reporters.

Floodwaters came halfway up to kitchen countertops and battered fences and boardwalks, according to images on social media. One island resident uploaded a video on social media showing people driving a speedboat down a flooded street.

"We estimate about 800 people remained on the island during the storm and have heard reports from residents who say the flooding there was catastrophic," Cooper said. "We're thankful not to have reports of serious injury or death since the storm arrived."

One resident in need of immediate medical attention was airlifted off



**CLEANUP** A girl removes belongings from her home after a tornado spawned by Hurricane Dorian ripped off her roof in Carolina Shores, N.C., Sept. 6. Jonathan Drake/Reuters

## More inside

Hurricane leaves devastation in Bahamas, Page 16.

Ocracoke, and helicopters will fly in food and water, the governor added.

The Outer Banks are a picturesque series of narrow islands known for their beaches, lighthouses and natural beauty.

The Kitty Hawk area, on the northern end of the Outer Banks, emerged from the storm with little damage. Many houses near the ocean lost power on Friday, but houses on higher ground continued to have power and cable television.

### Storm surge

Stacy and Ryan Marshall said their home, which is not oceanfront, came through unscathed. They drove to the beach on Friday afternoon to view the storm surge. "We got lucky, just lost a couple of boards on the fence," Stacy Marshall said.

South Carolina Gov. Henry McMaster held a news conference with smiling officials, saying that the storm had not been as bad as had been feared and floodwaters had ebbed in coastal areas.

# Ryan, Booker temper attacks on Biden

MANCHESTER, N.H. (Tribune News Service) — Two Democratic presidential hopefuls walked back their attacks on front-runner Joe Biden as they faced questions Saturday about their previous statements on the former vice president.

Rep. Tim Ryan of Ohio, who this week said he's lost faith in the front-runner's ability to beat Donald Trump, and New Jersey Sen. Cory Booker, who spent weeks criticizing Biden's record on race, both said their goal is to win back the White House.

"I have some concerns with a lot of the candidates," Ryan said at the New Hampshire state Democratic Convention in Manchester. "It was a comment that I made and I'm not backtracking from it; it is a concern you're hearing from a lot of people."

But Ryan, who has languished in the low single digits in polls and failed to qualify for the third debate next week, said to reporters at the event that he isn't concerned about Biden's age, after telling Bloomberg on Thursday that he doesn't have faith that a "declining" Biden can defeat Trump.

When pressed to explain, Ryan cited "a lack of clarity" when Biden articulates his positions. Asked about whether such attacks threaten Democratic unity, Ryan said the party has a common goal.

"There is a very unifying force in this world for Democrats and he is the current occupant of the White House," Ryan said.

In his call for unity in Manchester, Booker offered up a veiled swipe against rival Bernie Sanders of Vermont.

"We Democrats have to be careful," Booker said in prepared remarks. "I don't care who our nominee is, but we cannot tolerate Democrats who



**DEMOCRATIC UNITY** Democratic presidential candidate Sen. Cory Booker of New Jersey speaks in front of supporters outside the New Hampshire Democratic Party Convention on Sept. 7 in Manchester, N.H. Scott Eisen/Getty Images/Tribune News Service

turn against other Democrats and try to tear us down."

Booker's remarks were seen as directed at Sanders, who refused to wholeheartedly back Hillary Clinton after she won the nomination in 2016.

Booker, who trails the top-tier candidates at 2.5% in a recent average of polls by RealClearPolitics, was asked later by reporters to explain his call for unity after repeatedly faulting Biden on race issues, including calling him "an architect of mass incarceration" for working on the 1994 tough-on-crime legislation.

"I think pointing out differences is OK," Booker said. "I'm talking about what we've seen in the past election where you had Democrats literally, even after the primary was over, trying to tear down the nominee of our party."

Sanders was widely criticized by Democrats in 2016 for not being sufficiently supportive of Clinton after she won the nomination. While Sanders eventually backed her, aides and allies complained his tone was begrudging and didn't help bring his supporters on board.

**Senator Sabina Flores Perez**  
Committee on Environment, Revenue and Taxation, and Procurement

**Public Hearing Notice**  
Wednesday, September 11, 2019  
I Liheslaturan Guahan, Public Hearing Room

**AGENDA**

**10:30am**

Executive Appointment of Mr. Michael A. Sgro to serve as a Member of the Guam Banking & Insurance Board.

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**OFFICE OF PUBLIC ACCOUNTABILITY**  
GUAM

**REQUEST FOR PROPOSAL**  
OPA-RFP-19-001

**HUMAN RESOURCES CONSULTING SERVICES**  
FOR FISCAL YEARS 2020, 2021, and 2022

The Office of Public Accountability (OPA) is soliciting written proposals for Human Resources (HR) Consulting Services on an as-needed basis. The OPA requires the services of qualified individuals with general knowledge, skill, and experience in providing consultation on HR-related matters and training. Such individuals shall have a minimum of 10 years of HR consulting experience.

RFPs may be downloaded from [www.opaguam.org](http://www.opaguam.org) or picked-up from the address below. Proposals should be prepared simply and economically, providing a straightforward, concise description of the offeror's ability to fulfill the requirements of the proposal. In order to ensure a uniform review process and to obtain the maximum degree of comparability, it is required that proposals be organized and submitted in the manner and format specified in the RFP, and each offeror agrees to be bound by all specified terms and conditions.

**Issued by:** Office of Public Accountability  
Suite 401, DNA Building  
238 Archbishop Flores Street  
Hagåtña, Guam 96910

**Date Issued:** Monday, September 9, 2019

**RFP Deadline:** Friday, October 4, 2019 at 12:00 p.m. (Guam Time)

To be considered, all proposals must be written and submitted with one (1) original and three (3) copies by 12:00 p.m. (Guam Time), Friday, October 4, 2019 to OPA. Proposals must be mailed or hand-delivered to the address above and proposals submitted after the deadline will not be accepted.

//s//  
**Benjamin J.F. Cruz**  
Public Auditor



**OFFICE OF SENATOR SABINA FLORES PEREZ**

Chairperson

Committee on Environment, Revenue and Taxation, and Procurement

*I MINA TRENDAI SINGKO NA LIHESLATURAN GUAHAN*

35<sup>TH</sup> GUAM LEGISLATURE

**AGENDA**

**PUBLIC HEARING**

**Wednesday, September 11, 2019**

***I Liheslaturan Guahan, Public Hearing Room***

The agenda is as follows:

**10:30 am**

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**OFFICE OF SENATOR SABINA FLORES PEREZ**

Chairperson

Committee on Environment, Revenue and Taxation, and Procurement

*I MINA TRENDAI SINGKO NA LIHESLATURAN GUAHAN*

35<sup>TH</sup> GUAM LEGISLATURE

Public Hearing

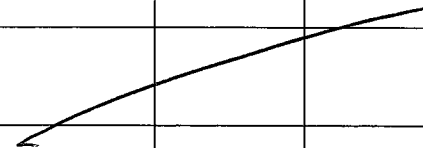
Wednesday, September 11, 2019, 10:30am

*I Liheslaturan Guahan, Public Hearing Room*

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NAME (please print)	AGENCY/ ORGANIZATION	ORAL TESTIMONY	WRITTEN TESTIMONY	IN FAVOR	NOT IN FAVOR	CONTACT INFORMATION

NONE





EDWARD M. BIRN  
Director (Direktot)

EDITH C. PANGELINAN  
Deputy Director (Sigundo Direktot)

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DIPATTAMENTON ATMENESTRASION  
GENERAL SERVICES AGENCY  
(Ahensian Setbision Hinirat)

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LOURDES A. LEON GUERRERO  
Governor (Maga'håga)

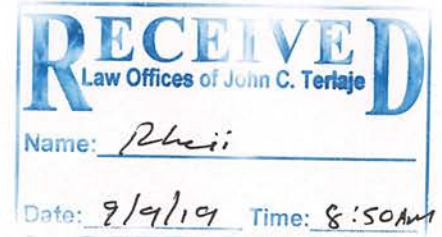
JOSHUA F. TENORIO  
Lt. Governor (Sigundo Maga'låhi)



September 9, 2019

Memorandum

The Honorable Sabina Perez  
35<sup>th</sup> Guam Legislature  
Chairman  
Committee on Environment, Revenue and Taxation, and Procurement  
Terlaje Professional Building  
194 Hernan Cortes Avenue, 1st Fl.  
Hagatna, GU 96910



Re: Comments on Amended Bill 90-35

Dear Senator Perez:

Thank you for the opportunity to comment on the amended bill 90-35 "An Act to Repeal and Reenact Section 5215 of SubArticle B, Article 3, Chapter 5, Title 5, Guam Code Annotated, Relative to Providing for Emergency Procurement for Threats to the Environment, Increasing Transparency and Otherwise Improving Emergency Procurement".

As I understand this bill, should it become law, the Chief Procurement Officer, or head of a purchasing agency may make an emergency declaration by following the stated sections, without getting the Governor's approval. If so, I have the following comments:

Does the statement at the end of Section 5215(b)(2) "...unrestricted by the qualified bidders list" conflict with the Section 5215(b)(1) which states that notices of indication of interest to any contractor on a qualified bidders list..."

In Section 5215(c), it states in part: "...During said ninety (90) day period, the responsible government agencies shall promptly begin and expeditiously take all steps to determine if there will be ongoing needs arising from the event of the emergency beyond ninety (90) day period, and make execute plans for the solicitation of supplies, and construction for such ongoing needs under any other method other than emergency procurement authorized in this Chapter."

- a. Who is the responsible government agency that will determine if there will be ongoing needs arising beyond the ninety (90) day period?


- b. If there is a protest, appeal the Office of Public Accountability, or a court filed case on a bid, which prevents any action, what other method is authorized to allow for such procurement other than emergency procurement? If you look at the current law, there is no other method to address issues like this.

Because of the issues raised by subsection (b) above, I believe that Section 5215(c)(2), should be stricken, as there be events where additional emergency procurement for the same matter may be necessary.

In the same line, Section 5 GCA Section 5215(d)(2) should be deleted if Section 5215(c)(2) is deleted.

Under 5 GCA Section 5215(d)(6), it requires that the Necessity of a Determination for Emergency Procurement .....be copied and made part of any contract, purchase order, or notice of Award made or given....". I am unclear as to why these additional documents should be made a part of the purchase order or contract given to the bidder(s). These are documents relating to do a procurement, but does not provide, the specifications that are necessary to do the procurement. The Determination for Emergency would be a discussion on the problem and the need for emergency, which would be different from the request for quotation. I would recommend that this section be deleted.

Thank you for allowing me to comment on this bill.



ROBERT H. KONO, Acting  
Chief Procurement Officer



## OFFICE OF PUBLIC ACCOUNTABILITY

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September 18, 2019

The Honorable Sabina Perez  
Chairwoman of the Committee on Environment, Revenue and Taxation, and Procurement  
I Mina'Trentai Singko Na Liheslaturan Guåhan  
Terlaje Professional Building  
194 Hernan Cortes Avenue, 1<sup>st</sup> Floor  
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RE: Comments on Amended Bill 90-35

Hafa Adai Senator Perez:

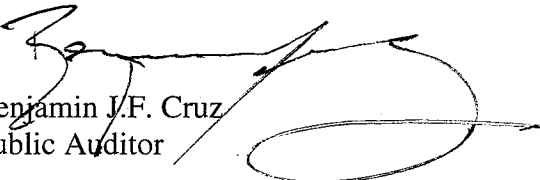
The Office of Public Accountability (OPA) is generally supportive of the Amended Bill 90-35 as it provides more guidance on the use of Emergency Procurement, which has been needed. One particular area that could be added is to provide guidance on protest or appeals made on emergency procurement. We would suggest considering adding language for protests or appeals on emergency procurement similar to the same way protest related to American Recovery and Reinvestment Act (ARRA) funded projects at GDOE were addressed, in that the protest was made directly to the OPA, rather than the agency, and had to be resolved within a more expedited timeline, as defined in the now repealed § 5425.1.

We also have some points for clarification needed:

- a. Does the Declaration of Emergency Procurement need a Declaration of Emergency by Executive Order? In reading Part (a), it would appear the Declaration of Emergency Procurement doesn't need Declaration of Emergency by Executive Order, but then until you read Part (d)(6) which says to attach the Declaration of Emergency by Executive Order.
- b. What is §3114 (b) qualifications as stated in Part (a): "the designee of any such officer is subject to the qualifications of §3114 (b)"? Should it be § 5114 (b) instead?

Please contact Auditor Jerrick Hernández at 475-0390 ext. 208 or [jhernandez@guamopa.com](mailto:jhernandez@guamopa.com) if you have any questions or concerns.

*Senseramente,*

  
Benjamin J.F. Cruz  
Public Auditor



**OFFICE OF SENATOR SABINA FLORES PEREZ**

Chairperson

Committee on Environment, Revenue and Taxation, and Procurement

*I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN*

35<sup>TH</sup> GUAM LEGISLATURE

**COMMITTEE REPORT DIGEST – 1<sup>ST</sup> HEARING**

**I. OVERVIEW**

Bill No. 90-35 (COR) was introduced on April 12, 2019 by Senators Sabina Flores Perez, Kelly Marsh (Taitano), PhD, and Amanda L. Shelton and was subsequently referred by the Committee on Rules to the Committee on Environment, Revenue and Taxation, and Procurement on May 2, 2019.

The Committee on Environment, Revenue and Taxation, and Procurement convened a public hearing on Bill No. 90-35 (COR) on Wednesday, June 5, 2019 at 9:00 AM in *I Liheslatura's* Public Hearing Room.

**Public Notice Requirements**

Public Hearing notices were disseminated via email to all Senators and all main media broadcasting outlets on May 29, 2019 and again on June 3, 2019. Publication was conducted in the **Guam Daily Post**, a newspaper of general circulation, fulfilling the 5-Day Notice and 48 Hour Notice of the Open Government Law requirements respectively.

**Senators Present**

Senator Sabina Flores Perez	<i>Committee Chairperson</i>
Senator Telena Cruz Nelson	<i>Committee Vice Chairperson</i>
Senator Therese M. Terlaje	<i>Committee Member</i>
Senator Telo Taitague	<i>Committee Member</i>
Senator Mary Camacho Torres	<i>Committee Member</i>
Senator Amanda L. Shelton	Legislative Member
Senator Louise Borja Muña	Legislative Member
Senator James C. Moylan	Legislative Member

**II. SUMMARY OF TESTIMONY AND DISCUSSION**

The public hearing was Called-to-Order at 9:00AM.

Chairperson Perez gave an introduction of the bill.

**Chairperson Perez:** This bill is also an important bill that would extend the clause of emergency procurement to include the health and safety of our environment, which will allow the Governor to authorize emergency procurement when facing imminent and unforeseen threats to our environment. Upon enactment the Governor may now act sooner when facing serious environmental threats rather than waiting and having to justify that environmental threat poses public health and safety risks. Alternately it could be used to halting the spread of invasive species. In looking at our recent history this need is apparent. On September 11, 2007, the coconut rhinoceros beetle was first discovered on Guam, where it was confined to lower *Tumon*. Attempts were made to quarantine and completely eradicate it before it spread further. The Guam

Department of Agriculture reacted swiftly requesting to purchase traps and equipment to eradicate the invasive species. However, due to the slowness of GovGuam procurement process six months passed before the department's purchasing requests were complete and during the six-month delay CRB spread far beyond its initial location, making it impossible to isolate invasive species. By 2010 CRB had spread to all parts of the island and today it is responsible for the death of countless coconut trees around the island, severely damaging Guam's ecosystem. Another case in November 2011, little fire ant was first found in Guam in a landfill in *Yigo*, in an echo of the CRB response, the Guam Department of Agriculture immediately requested access to funds to purchase pesticides and application equipment to isolate and possibly eradicate it. However, it took until June 2013 before the Governor issued an Executive Order declaring a state of emergency in allowing for the purchase to move forward. During that time little fire ants spread to over a dozen different locations around the island. This invasive ant kills all animals in its proximity leaving ecological dead zones in its wake. The influx of introduced and potentially invasive species continues to this day.

In addition to responding expeditiously to invasive species, this bill can increase the government's capacity to respond to other environmental disasters. Our environment should be afforded the same protections as public health and safety. It is something that we all rely on but often take for granted. We need to protect our ecosystem against threats. Our people deserve a natural habitat that is rich and sustainable for us to enjoy and share with future generations. The only way to ensure that is to place these types of protections for our environment now.

Bill 90-35 also improves transparency and accountability in the emergency procurement process. Current emergency procurement provisions do not provide enough transparency and leaves room for potential abuse. Bill 90-35 authorizes emergency procurement upon declaration of an emergency by the executive order of the Governor or through a certificate of emergency made under penalty of perjury by the Chief Procurement Officer or head of the purchasing agency that must be sent to the Governor and Speaker prior to award. It also extends emergency procurement from 30 to 90 days and this extension would provide the needed amount of time to set a procurement using competitive bidding process thus reducing government costs. Furthermore, additional contracts for the same event shall be void thus providing greater safeguards to protect the public trust by making sure that government funds are used accountable.

Chairperson Perez called up those who signed up to testify.

**John Thos. Brown, Attorney:** Thank you, Chairperson Perez, my name is John Brown. I'm here representing myself and I thoroughly support the bill. You've explained in your reasons for the bill very adequately that it does a couple of, two or three good things. Particularly it adds environment perspectives to emergency procurement, it extends the time from 30 days which is... Emergency procurement can only be for supplies that are available for a period of time, a short period of time, after the emergency commences. Currently that's a 30-day supply of supplies or services. Emergency procurement only applies to supplies and services, construction is not part of that. 30 days has proved not adequate to both meet the emergency and meet an ongoing need coming from that emergency because of the procurement process. It can take more than 30 days, typically often does. Extending it to 90 days gives the government an opportunity to take a breath and go through the usual methods of procuring supplies and services. The teeth that this gives, which has been lacking all along, any kind of teeth to this, to enforcing this procurement process



is that making the contracts void. That's just a brilliant idea. In the past, emergency procurement has long been misunderstood and it's also been misapplied, and it's quite frankly been abused continuously because it is a non-competitive procurement process. You're encouraged to procure with such competition as available in the circumstances but what does that mean? You're admonished to get three quotes but again what does that mean? We do that through the RFQ process all the time and that has holes in it too. This does a number of really vital things that have long been obvious to me as being necessary of correction.

I want to make clear what an emergency is because this is where we often get misunderstanding and abuse occurs and notwithstanding the definition. An emergency is a condition posing an imminent threat to public health, welfare or safety, which could not have been foreseen through the use of reasonable prudent management procedures. Typically, people think it's an emergency because we need it right now and it's imminent but most of the times when it's being abused is because the government is ignoring their duty to plan, their duty to foresee these things as they come up. I've seen numerous cases where for instance government has a five-year contract, it knows the expiry date of the contract. Therefore, necessary supplies and services, needed, not necessarily emergency but needed supplies and services. The expiration comes and goes, and nobody has planned to make a continuing contract. They try to paste over this dereliction of management malpractice with an emergency procurement. That's not its intent.

There is an opportunity here to correct something and I hadn't thought of this before. I mean I've thought of it before, but I didn't think of in terms of adding it to this provision which I'd like to suggest. There's an ambiguity in the law right now as to how exactly emergency is declared to provide for this procurement. There's talk about a declaration of emergency by an executive order and also by the determination of an emergency by a certificate from a head of the agency. It's very clear that the head of the agency certificate has to be backed by determination that the emergency is as defined in the law, which I just read you. It's not so clear that the government, that the Governor in making an executive order declaration of emergency is bound by that definition. It says a written determination for the basis of the emergency and for the selection of particular contractor shall be included in the procurement file. This is existing language; we've incorporated a lot of this. The requirements for written determination for the emergency shall be met if the procurements are being made on the basis of the declaration of an emergency situation. That adds a different word to it, unless authorized by an executive order declaring an emergency no emergency procurement may be made except upon a certificate made under penalty of perjury that it does meet this emergency definition.

I would think there would be an appropriate time to clarify that the Governor has no authority to procure under an emergency that does not meet the definition of emergency. This does not mean that the Governor has no authority, the Legislature is saying the Governor has no authority to declare an emergency. It is simply saying that the Governor has no authority to procure unless that an emergency as defined in the law. That's been a long-standing rule of the procurement law on Guam. Our procurement law only goes back to 1982, before that it was all done by regulation from 1950 onward. We didn't have a legal procedure until 1982 which didn't become effective until 1983. The procurement provision that we have with us is basically this unaltered form, as originally enacted in 1982 effective in 1983. It took away the prerogative of the Governor to regulate procurement and section 16124 that was the main law it repealed. The powers that the Governor

had to regulate procurement and to show you that the legislature intended that, and the Governor accepted the fact that the Governor had no power to regulate procurement. Between 1982, when the bill was passed in 1983, when it became effective, there was an emergency. There was a typhoon down south and the Legislature stepped in and by law gave the Governor the power to write regulations which they had already repealed but had not yet effective but to write regulations for emergency only. They made the emergency procurement section in the law immediately effective rather than waiting until October and gave the Governor the power to... Plowing new ground to say that the government, Governor cannot regulate procurement even in an emergency.

I would like to suggest some language to rectify that. Where it now says the requirements for written determination for the emergency shall be met if procurements are being made on the basis of the Governor's declaration of an emergency situation. Procurement it's an emergency situation. There's some executive a declaration of emergency. I think we need to make it clear that any emergency procurement has to meet the definition of emergency in the procurement law. Whether it's by taking out part of it. Procurements may be made on the basis of the Governor's declaration of an emergency taking out the word situation because that's ambiguous, by the Governor's declaration of emergency by executive order is sets order states that an emergency exists as defined in this chapter and the emergency procurements specified in this section may be resorted to for the purposes of the order. That's my comment on it and that's to clean up something that wasn't anticipated. I apologize for coming in with a little bit of a variation on the theme but it's an opportunity while we're focused on this emergency procurement situation. Otherwise thank you very much for bringing this idea forward and allowing my testimony.

**Chairperson Perez:** Thank you so much Mr. Brown for your expertise. Mr. Birn.

**Edward Birn, Director, Department of Administration:** Good morning Senator Perez, Senators, my name is Edward Birn, Director of the Department of Administration. Thank you for the opportunity to testify on Bill No. 90-35. Department of Administration supports the proposal to define more closely the conditions which warrant an emergency procurement. This bill achieves that objective. DOA agrees that such a process should be utilized when there is or may be a threat to public health, welfare or safety. It also agrees that procurement should be limited to the purchases which meet the identified emergency for a period which does not exceed 90 days. It should not be considered an emergency when the human process is simply stalled or failed because of an administrative process. This has happened in the past and the result persists as a problem. An incomplete procurement process is always a challenge for DOA as we have to deal with the vendor and its concern over payment for the goods and services when making an emergency procurement and that section 5215 as amended. Whichever procedures are available to the CPO through the bill should equally be available to the Director of Public Works and the head of any purchasing agency.

DOA has a concern about the wording in the bill which void contracts as this may be interpreted to the disadvantage of a bona fide vendor which has performed. It has suggested that the solicitation not the contract be voided. Equally the wording suggests of the Governor approved each purchase order under emergency procurement. It is suggested that this requirement also be applied to a solicitation. We agree that the emergency procurement process should not be a pretext for avoiding a regular practice and approved procurement regulations which are designed to be

fair to the business and government alike and when working as intended. Subject government procurement to fair competition. It is vital however to update procurement regulations constantly to maintain that fairness and equity. This bill helps to do this. Thank you, Senators, for the opportunity to offer testimony on Bill 90-35.

**Chairperson Perez:** Thank you, Director Birn. I would like to open up the floor to my colleagues for questions. Vice Chair Telena Nelson. Senator Therese Terlaje.

**Senator Therese Terlaje:** Yes, I would just like to ask if we could get that in writing Mr. Birn, those are significant comments, hard to follow just verbally but yeah, I'd like to look closer at them. Were you able, were either of you able to take a look at the testimony submitted by GSA? Because when I was looking at the bill, I also had many of the same questions and that I want to be very careful with the language that we're adding, if it's not necessary to add. I guess I would like to well... I'll stop there and let you answer first, if you don't mind.

**Mr. Birn:** Yes, Senator my testimony is only handwritten at the moment. I'm having it typed and we'll submit it for the committee. Yes, I did get the opportunity to look at the GSA testimony.

**Senator Therese Terlaje:** All right and she, the one, the last recommendation that she's suggesting is that in addition to the start of the... She says request, we request you add the phrase, the start date of the 90 days begins after the declaration of emergency or executive order is signed or proof by the Governor and seven days after submission to the GSA for processing. This would allow GSA time to process, to fulfill the emergency without any loss of time. In other words, the 90 days starts counting seven days after GSA receives it. Do you have any objection to that?

**Mr. Birn:** No Senator I have no particular objection to it except know if it's truly an emergency we want to make sure that we don't make it a practice of always being a seven-day delay.

**Senator Therese Terlaje:** Make the practice what?

**Mr. Birn:** Of making sure that there isn't always a seven-day delay. Where we can issue the purchase order more quickly, we do.

**Senator Therese Terlaje:** Sure, I hope so, yes. This actually just extends it to ninety-seven days. Ninety-seven calendar days from when the Governor issues an Executive Order. Is that how you read that?

**Attorney Brown:** I'm a little bit confused. I actually haven't seen this before; it was just given to me now and taking a look at this I'm already seeing some kind of wild statements. One wild statement anyway. This bill says that as the existing law does, is that you can only have one emergency procurement for an event of emergency.

**Senator Therese Terlaje:** Can you look at the last recommendation? The last recommendations what I'm asking about, the last paragraph just about the 90 days and just counting the 90 days beginning. She's asking that it, that we state again that it begins at the declaration or the executive order signed by the Governor and seven days after submission to GSA.

**Attorney Brown:** Right, if it's taken GSA seven days to begin processing an Emergency Order, what kind of an emergency are we talking about? I think that this is again mismanagement of the process by GSA. GSA when it's an emergency should stop what they're doing and work on the emergency because emergencies should not be common occurrences, everyday occurrences. They should be rare like emergencies are and so I think that this is...

**Senator Therese Terlaje:** So, you object to the adding on of the seven days?

**Attorney Brown:** I object to that; I object to the reason for it.

**Senator Therese Terlaje:** All right okay that's fine I just wanted to get your input on the that recommendation. I also wanted to ask one of the reasons for this bill was described as you know the rhinoceros beetle incident; the fire ant and I'm wondering those are very clear to me. I don't know, do you not believe that those are threats to public health, welfare or safety and that...

**Attorney Brown:** In my opinion those are threats to public health, welfare, safety. The question is not that. That's what people think about when they think about emergency. It's a threat to those things. An emergency procurement only allows you to go without any competition and proceed to acquire something which breaches our normal standards and our principles. If it's an imminent threat and so that's really where we have to focus on in terms of environmental things. These kinds of things creep up on us and they're rarely subject to prudent management foresight but at some point, they are. At the point that they're foreseeable, they're not an imminent threat. If it's an imminent threat we don't have time to talk about it, let's get on it. But if you have one colony of fire ants up in *Yigo* and there's nobody else being bothered on the rest of the island is that an environmental threat and it's not imminent to the rest of the island. But all emergencies have that. We have a typhoon coming, we know there's a bad weather coming this way, Chuuk is a mess. Is it going to hit us, we don't know? Is that an imminent threat? Well it's certainly a COR 3. We should start thinking about it but it's not imminent or we would go straight to COR 4 and those are the kinds of things, there's not bright lines. But as requires some fair judgment, some management judgement, about when something is imminent. If a case can be made that this is imminent then it's an emergency and you may turn out to be wrong, but nothing happened. Yutu, the last typhoon but it was something like that, it grazed didn't hit us, but it really smashed up Saipan. It was an imminent threat for them. It was an imminent threat for us but didn't occur that doesn't make it any less an emergency.

**Senator Therese Terlaje:** All right. I guess I'm not really following you because my question is whether adding the language... Right now, it says a threat to public health, welfare or safety but the bill proposes to add the language, or the health or safety of the environment. None of these talks about imminent and you're saying that's the judgment that they're supposed to be using.

**Attorney Brown:** Well the imminent preceded the first threat, health welfare and safety and perhaps...

**Senator Therese Terlaje:** I don't see that. I'm looking on page one.

**Attorney Brown:** Okay I'm sorry actually didn't bring the bill with me.

**Senator Therese Terlaje:** Could be please give him a copy of the bill. I was going to ask about something else in this bill.

**Attorney Brown:** The imminent part of this language is in the, is in a different code section.

**Senator Therese Terlaje:** It's probably in the different code section regarding Governor's declaration or in the procurement code?

**Attorney Brown:** 5030(x), there's a definition in 5030, 5 GCA 5030. There's a list of definitions (x) is for emergency. That's where the definition that I read to you in my testimony. I put in quotes, in the first sentence of my testimony.

**Senator Therese Terlaje:** We may need to take a look at that, make sure they're consistent. I was gonna ask you about this section here, it says on page 3 of the bill, line 21, it adds a provision that the determination describing emergency procurement of specified supplies is particularly necessary without delay to protect substantial interests of the government. Now that substantial interest of the government is different than health, welfare, safety or I'm not sure you know where that language comes from. Substantial interests of the government are that defined somewhere else to be the health, welfare or safety. We want to keep them to the same type of standard.

**Attorney Brown:** Yeah, I agree. I think that protecting substantial interest of this territory is sprinkled throughout the procurement law, automatic stays and other reasons for granting relief comes from substantial interest of the government. When I read that, it was just a little bit more of the same and I didn't stop things but the imminent part of it has picked up because in the legislation at line 11 on page 1, it says where there exists an event or status substantially constituting or causing a threat to public health, safety or the health or safety of the environment under emergency conditions as defined in this chapter. That imminent language comes in the definition as defined in the chapter.

**Senator Therese Terlaje:** All right but do you think then that we should be narrower in saying instead of using an emergency to take care of the substantial interests of the government but to keep it to taking care of what we described on page one.

**Attorney Brown:** I agree.

**Senator Therese Terlaje:** All right thank you. Thank you, Madam Chair.

**Senator Muña:** Thank you I just have a couple of concerns about the bill. I mean, I understand the intent of the bill and I believe in its intent but I'm also wondering if maybe this is kind of limiting the powers of the Governor in an emergency situation. That's the power that the Governor has. That's just one of my concerns but also I'm looking at the testimony the written testimony from Claudia Acfalle, and my concern is that, I mean I could see why we need to extend it because the procurement process can take a little bit longer than 30 days but all the way up to 30 days could that leave an opportunity for abuse. Maybe we may need to add in the language like Claudia says

but not beyond the event of emergency rather than just up to 90 days. I'm just wondering if maybe that's an opportunity for us to include that language in there but not beyond the event of emergency because some of the emergencies can be handled even prior to the 90-day period. That could reduce the amount of abuse that may happen. I'm just wondering if there's any comment on that.

**Attorney Brown:** I think that's a misreading of the current law by saying that we need to stop it at the end of 90 days. Right now, it's stopped at the end of 30 days because it says an emergency procurement shall not be made from for a series of procurements. Which is what we have been seen people try to do and the law says you can't do that, but we still do it. It doesn't do any good to say well you can't do beyond 90 days, if we're not taking heed of when it says you can't have a series of procurements. That's already in the procurement law.

**Senator Muña:** Okay so you're saying then that the 30 days, it's just an extension to take care of the ones that are already doing it beyond the 30?

**Attorney Brown:** Yeah and actually even in the 30 days it was anticipated. I believe its implied that once you have an emergency you have most of your office working on getting, facing that emergency but you ought to have somebody in the office right on the first day of the emergency anticipating how this is going to play out and planning for a procurement. If you have the specs right there, you know what you need, you can put that out in the short time. We would require 15-day notice and you've got 30 days to do it and that 15 days can be shortened by a declaration of explaining why it's necessary to do it. You can even shorten the 15 days to get the procurement out. The means of it are there.

**Mr. Birn:** I think there's also a matter of practicality, Senator. An emergency procurement is probably followed by a regular procurement. I think in practice we're finding that 30 days is insufficient time to achieve that, so that's why we're supporting the extension to 90 days.

**Senator Muña:** Okay my other concern is page 3 of the bill, under letter (b), where it's the procurement of specified supplies and or services. Could that also include like food and water, fuel and equipment? Could that fall under that definition already or do you think it needs to be specified? Because right now specified supplies and/or services could mean one thing or another but maybe not food, water, fuel or equipment.

**Attorney Brown:** Section 5030 as I said has a definition of emergency. There's other definitions as well. The definition of procurement is to acquire supply, services or construction. Supplies are separately defined. Construction is separately defined, and services are separately defined, and supplies are any kind of what the commercial law calls goods, things. It can be firetrucks, it can be food, tangible things.

**Senator Muña:** Okay thank you, I just, I was just a little bit concerned that maybe it was just being a little bit too specific, but you say if it's already defined in a certain section.

**Attorney Brown:** Right I think that you have to wallow around a bit the procurement law for a while to understand that it is very comprehensive and it's also very interconnected.

**Senator Muña:** Okay, thank you. Thank you, Madam Chair.

**Chairperson Perez:** Thank you, Senator Louise Muña. I just want to go back to some of the recommendations by Department Director Edward Birn regarding changing the part in the law where it says that any subsequent contracts issued for the same event shall be considered void. So that the word contract, this is a question for Attorney Brown, would it suffice to replace that with the word solicitation instead of contract. As far as you know, basically nipping it in the bud before it even gets past the point of solicitations.

**Attorney Brown:** I think that.... This understands what emergency procurement allows you to do. It's non-competitive you can go out and complete it in 24 hours. You can complete it in 12 hours. You can make the quotes. I mean you should and in a real emergency you should be able to complete that process on the spot almost. So you solicit by making a quote, if you have the time, if you don't have the time to make a quote you just get them from the last contractor you had, whatever you have at hand, you go that... You've already done the solicitation and you got a contract within minutes. To say that the solicitation is void does you nothing for that contract that's already been awarded. I think that the language is correct to focus on the contract not on the solicitation.

**Chairperson Perez:** Thank you, so I think that's all for the questions. I would like to thank you for being here in regard to this bill. I will definitely work on it together with the different comments coming from all those that have testify didn't provide it written testimony. Thank you for being here.

Chairperson Perez adjourned the public hearing for Bill No. 90-35 (COR).

### **Written Testimonies:**

- John Thos. Brown, *Attorney*
- Edward M. Birn, *Director, Department of Administration*
- Claudia S. Acfalle, *Chief Procurement Officer, General Services Agency*
- Chelsa Muña-Brecht, *Director, Department of Agriculture*

### **III. FINDINGS AND RECOMMENDATION**

The Committee on Environment, Revenue and Taxation, and Procurement finds the following amendments/recommendations for Bill No. 90-35 (COR), based on the testimony submitted at the public hearing:

- Attorney John Brown suggest the following change to reiterate that the emergency procurement resorted to by Executive Order must be pursuant to the emergency as defined in the procurement law:
  - ~~“The requirement for a written determination for the emergency shall be met if the p~~Procurements are being may be made on the basis of the Governor's declaration of an emergency ~~situation~~ by Executive Order if such Order stated that an emergency exists as defined in this Chapter, and the emergency procurement specified in this Section may be resorted to for the purposes of the Order.”

- Department of Administration believes that the Chief Procurement Officer should obtain the consent of the Director of Administration when making an emergency procurement and the §5215 as amended should so state. The Department also has a concern about the wording in the bill which voids contracts as this may be interpreted to the disadvantage of a bona fide vendor which has performed. It is suggested that the solicitation, not the contract should be voided.
- General Services Agency had the following comments:
  - In Section 5215, lines 8 and 9, what is the difference from the amended language and the original language? What does it add to the section? Is not the environment also something that currently could be public safety, health or welfare?
  - In Section 5212, page 2, line 4, what is meant by “product delivery capability?” How does that differ from determining availability of the needed item that is currently practiced?
  - Page 2, line 7, “services” be included after “good and supplies.”
  - They agree to increasing the time for procurement on an emergency from 30 to 90 days.
  - The additional language on page 2, starting on line 10 to line 18, is unclear.
  - Page 2, line 22, the phrase “a determination describing the process and justification” is unnecessary as using the emergency procurement section in 5 GCA Section 5215 is the process and its justification for its use.
  - Addition of the phrase “The start date of the ninety (90) days begins after the Declaration of Emergency, or Executive Order is signed or approved by the Governor, and seven (7) days after submission to the General Service Agency for processing.” This would allow General Services Agency time to process a purchase order to fulfill the emergency without any loss of time.
- Department of Agriculture states modifications to the procurement law would help to provide the Department with increase capabilities to respond to environmental emergencies as rapidly as possible.

The Committee on Environment, Revenue and Taxation, and Procurement recommends amending Bill No. 90-35 (COR) to keep the inclusion of the environment in the list of emergencies, extending the timeframe from 30 to 90 days and removing all other changes. This allows the intent and purpose of the bill to become action without creating further misapprehension of emergency procurement.

Because of the substantial changes in Bill No. 90-35 (COR), the Committee drafted a proposed substitute version and held a secondary hearing required by the 35<sup>th</sup> Guam Legislature’s Standing Rules. The committee report digest, for the subsequent hearing is below.





**OFFICE OF SENATOR SABINA FLORES PEREZ**

Chairperson

Committee on Environment, Revenue and Taxation, and Procurement

*I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÁHAN*

35<sup>TH</sup> GUAM LEGISLATURE

**COMMITTEE REPORT DIGEST – 2<sup>ND</sup> HEARING**

**I. OVERVIEW**

The Committee on Environment, Revenue and Taxation, and Procurement convened a secondary public hearing on Bill No. 90-35 (COR), as Substituted by the Committee on Environment, Revenue and Taxation, and Procurement on Wednesday, September 11, 2019 at 10:30 AM in *I Liheslatura's* Public Hearing Room.

**Public Notice Requirements**

Public Hearing notices were disseminated via email to all Senators and all main media broadcasting outlets on September 4, 2019 and again on September 9, 2019. Publication was conducted in the **Guam Daily Post**, a newspaper of general circulation, fulfilling the 5-Day Notice and 48 Hour Notice of the Open Government Law requirements respectively.

**Senators Present**

Senator Sabina Flores Perez	<i>Committee Chairperson</i>
Senator Kelly Marsh (Taitano), Ph.D	<i>Committee Member</i>
Senator Telo T. Taitague	<i>Committee Member</i>
Senator William M. Castro	Legislative Member

**II. SUMMARY OF TESTIMONY AND DISCUSSION**

The public hearing was Called-to-Order at 11:30 a.m.

**Chairperson Perez:** Bill 90-35 is an important bill that strengthens the current emergency procurement law by increasing accountability and transparency, in addition to extending emergency procurement for circumstances that impact the health and safety of the environment. The substitute version repeals and reenacts the original bill because it retains the content, the original content of the emergency procurement law and reorganizes it into a logical and practical framework in which to implement emergency procurement. It adds new sections that clarifies and reinforces best practices. Some of the features include the following, Bill 90-35 reaffirms emergency procurement so that it can be conducted with such competition as practicable. Under the emergency circumstances, an award of contracts shall take into account price and delivery trade-off specified in law. Bill 90-35 clarifies that emergency procurement applies to supplies, services and construction works. Construction works is not as broad as a definition of construction as defined in Section 5030(g), but it includes the emergency operation, repair, maintenance or demolition of existing structures and real property improvements as well as a building or assembly of temporary structures necessary to address within the time limits of emergency procurement. Though 90-35 increases accountability because it requires that all contractors are prominently warned that any contract or arrangement made to extend or renew emergency procurement or make a new emergency procurement based on the circumstances of the events of the emergency described in the determination of need it shall be void.

In relation to the original bill it retains key reform elements which include extending the clause of emergency procurements to include the health and safety of the environment, which will allow the Governor to authorize emergency procurement when facing imminent unforeseen threats to the environment. Upon enactment the Governor may now act sooner when facing serious environmental threats rather than waiting and having to justify an environmental threat poses public health or safety risks. Alternately it could be used to halt the spread of invasive species and in looking at our recent history this need is apparent. On September 11, 2007, the coconut rhinoceros beetle was first discovered in Guam, where was confined to lower *Tumon*. Attempts were made to quarantine and completely eradicate it before it spread. The Guam Department of Agriculture reacted swiftly requesting the purchase of traps and equipment to eradicate it, however due to the slowness of procurement six months passed before the department's purchasing requests were complete and during that six-month delay coconut rhinoceros beetle spread far beyond its initial location making it impossible to isolate the invasive species. By 2010 the coconut rhinoceros beetle had spread to all parts of the island and today it's responsible for the death of countless of coconut trees and severely damaging our ecosystem.

Another key reform element that Bill 90-35 retains from the original version is the extension of emergency procurement from 30 to 90 days. This extension would provide the time needed to set up procurement using competitive bidding process and thus reducing the government costs and eliminating the use of emergency procurement for foreseen events. Bill 90-35 authorizes this emergency procurement for the duration of the emergency for the 90-day period immediately following the earliest determination for the procurement.

At this time, we do not have anybody signed up to testify in regard to the substitute bill, but we did receive testimony from GSA, and we will seek further testimony from stakeholders and agencies involved. The one testimony that we received was from GSA and we will definitely work with them and to address them. Some of the concerns that they said were, questions that they had was regard to section 5251(b)(2) of the substitute bill, just to refer what does that states, (b) basically states that the determination, so the emergency determination describing the emergency procurement of specified supplies or services that is particularly necessary without delay to protect the substantial interest of the government. With any procurement it's necessary to establish a need for it and in this case for the emergency procurement it's necessary to write in detail why it's needed. According to their statement they have a question regarding unrestricted... let me repeat. I was looking at the original bill, so I'm gonna look at the substitute bill. They're concern was with section (b)(2) requiring, so (b)(2) states that... I think they meant to say (b)(1), okay so with (b)(1) under this substitute bill it says "setting notice is a request for indications of interest to any contractors on a qualified bidders list and others known to the government who have provided responsive supplies, services or construction works to the government within the preceding 12 months of the type expected to be needed to meet the particular emergency needs of the government and requesting prompt expression." As with any procurement there needs to be established a qualified bidders list and in sending out solicitation notices. It's important to notify them as well as any potential bidder who has performed such services for the government in the previous 12 months. Their question is whether there is a conflict between that section and the following section in this substitute bill. The bill on section 2 says that "solicitation of at least three competitive requests for quotations in a matter of making small purchases as prescribed by regulations under Authority." They feel that there is a conflict here and so I would have to talk

with them. I feel that there isn't a conflict so it's just a matter of maybe communicating to them what the issue is.

The other part that they were questioning was 5215(c). This is a new section, and this is basically to clarify some of the previous questions on the original public hearing for this bill, whether procurement meant that one procurement or meant for any procurement during the emergency period. Section (c) states is that "there shall be no limit on the numbers of emergency procurement of supplies, service as a construction works but no emergency procurement shall be made beyond the ninety days or whatever it takes to address the emergency." Some of the questions that they have is so who's responsible, who's "the responsible government agency that would determine if there will be ongoing needs arising beyond the 90-day period." The other concern that they had is if there was a protest appeal or court filed case on a bid, their concern was should that extend beyond the 90-day period, how would that be addressed? These are some of the concerns that I would continue to work with GSA to address them, in the further amendment of this substitute bill.

If there are no further questions or sorry are there any questions for my colleagues, concerns? Thank you so much. We now adjourned this public hearing from the Committee on the Environment, Revenue and Taxation, and Procurement. We will still receive testimonies up until September 16<sup>th</sup>, this Monday at 4:00 p.m. and testimony can be dropped off at the legislature building and it could be emailed to [office@senatorperez.org](mailto:office@senatorperez.org). Thank you so much.

Chairperson Perez adjourned the public hearing for Substitute Bill No. 90-35 (COR) at 12:10 p.m.

#### **Written Testimonies:**

- Robert Kono, *Acting Chief Procurement Officer, General Services Agency*
- Benjamin J.F. Cruz, *Public Auditor*

### **III. FINDINGS AND RECOMMENDATION**

The Committee on Environment, Revenue and Taxation, and Procurement finds the following amendments/recommendations for Substitute Bill No. 90-35 (COR), based on the testimony submitted at the public hearing:

- General Services Agency had the following comments:
  - Does section 5215(b)(2) conflict with section 5215(b)(1)?
  - In section 5215(c), who is the "responsible government agency that will determine if there will be ongoing needs arising beyond the ninety (90) day period? If there is a protest, appeal the Office of Public Accountability, or a court files case on a bid, which prevents any action, what other method is authorized to allow for such procurement other than emergency procurement?
  - Section 5215(c)(2) should be stricken because of the "conflict," as stated above. In the same line, section 5 GCA section 5215(d)(2) should be deleted if section 5215(c)(2) is deleted
  - Under 5 GCA section 5215(d)(6), it is unclear as to why these additional documents should be made a part of the purchase order or contract given to the bidder(s).... The recommendation is to delete the section.

- Office of Public Accountability had the following comments:
  - Consider adding language for protest or appeals on emergency procurement similar to the same way protest related to American Recovery and Reinvestment Act (ARRA) funded projects at GDOE were addressed.
  - Does the declaration of emergency procurement need a declaration of emergency by executive order?
  - What is § 3114(b) qualifications as stated in part (a): “the designee of any such office is subject to the qualifications of § 3114(b)?”

The Committee on Environment, Revenue and Taxation, and Procurement hereby reports out Bill No. 90-35 (COR), **As Substituted; and amended by the Committee, “AN ACT TO REPEAL AND REENACT § 5215 OF SUBARTICLE B, ARTICLE 3, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING FOR EMERGENCY PROCUREMENT FOR THREATS TO THE ENVIRONMENT, INCREASING TRANSPARENCY AND OTHERWISE IMPROVING EMERGENCY PROCUREMENT,”** with the recommendation \_\_\_\_\_.

**I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÁHAN**  
**2019 (FIRST) Regular Session**

Bill No. 90-35(COR)

Introduced by:

Sabina Flores Perez *SFP*  
Kelly Marsh (Taitano), PhD *[Signature]*  
Amanda L. Shelton *[Signature]*

**AN ACT TO AMEND §5215 OF CHAPTER 5, TITLE 5, GUAM  
CODE ANNOTATED, RELATIVE TO STRENGTHENING  
EMERGENCY PROCUREMENT PROVISIONS AND  
TRANSPARENCY, AND PROVIDING FOR EMERGENCY  
PROCUREMENT FOR THREATS TO THE ENVIRONMENT.**

2019 FEB 12 PM 4:56 *[Signature]*

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

**Section 1.** §5215 of Chapter 5, Title 5, Guam Code Annotated is *amended* to  
read:

**“§ 5215. Emergency Procurements.**

Notwithstanding any other provision of this Chapter, the Chief Procurement Officer, the Director of Public Works, the head of a purchasing agency, or a designee of either officer may make or authorize others to make emergency procurements when there exists an event or status substantially constituting or causing a threat to public health, welfare, or safety, or the health or safety of the environment, under emergency conditions as defined in this Chapter and regulations promulgated by the Policy Office; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances, and further provided that the procurement agent must solicit at least three (3) informal price quotations, if

1 time allows must give notice to all contractors from the qualified bid list  
2 who have provided the needed supplies and services to the government  
3 within the preceding twelve (12) months, and must award the procurement  
4 to the firm with the best offer, as determined by product delivery capability,  
5 evaluating cost and delivery time. No emergency procurement ~~or~~  
6 ~~combination of emergency procurements~~ may be made for an amount of  
7 goods or supplies greater than the amount of such goods and supplies which  
8 is necessary to meet an emergency for a specified period of time not  
9 extending beyond the ~~thirty (30) ninety (90)~~ day period immediately  
10 following the procurement, and no other procurement contract shall be  
11 solicited or awarded under authority of this Section except for another event  
12 of emergency. Any subsequent contract issued for the same event of  
13 emergency, or any change or other modification of a contract beyond the  
14 scope of the original contract for the same event of emergency, shall be void  
15 ab initio. The amounts of goods and supplies deemed necessary to meet an  
16 event of emergency may be increased to cover a duration beyond the ninety  
17 (90) day period, but not beyond the duration of the event of emergency, by a  
18 Declaration of Emergency authorized by Executive Order of the Governor.  
19 A ~~w~~Written determinations of the basis for the emergency, describing the  
20 event of emergency, including the nature and substantial cause of the event,  
21 and the adverse effects of the emergency on the public, environment, or  
22 government, and, a determination describing the process and justification for  
23 the selection of the particular contractor, and, a determination that  
24 emergency procurement authorized by this Section, is necessary without  
25 delay to protect substantial interests of the Territory, shall be included in the  
26 contract file records of procurement actions required by Article 3, Subarticle  
27 G of this Chapter. The requirements for ~~a written determination for the~~

1 emergency procurement authorized by this Section shall be met if the  
2 ~~procurement are being on the basis of~~ the Governor's declaration of an  
3 emergency ~~situation~~ by Executive Order includes the determinations  
4 provided herein and states that if such Order states that emergency  
5 procurement may be resorted to for the purposes of the Order. Unless  
6 ~~authorized by~~ Absent an Executive Order declaring an emergency  
7 procurement, no emergency procurement may be made or authorized except  
8 ~~or~~ by a eCertificate of Emergency, made under penalty of perjury, by the  
9 Chief Procurement Officer, ~~Director of Public Works~~ or the head of a  
10 purchasing agency having authority to procure supplies and services, as the  
11 case may be. Certified copies of the eCertificate of Emergency by the Chief  
12 Procurement Officer or the head of the purchasing agency shall be sent, prior  
13 to award and as a condition thereof, to the Governor and Speaker of the  
14 Legislature. The certificate shall contain the following:

15 (a) ~~a statement of the facts giving rise to the emergency~~ the  
16 determination of the basis for the emergency, as described above, and the  
17 necessity of;

18 (b) ~~the factual basis of the determination that an emergency~~  
19 ~~procurement is necessary~~ the determination describing that emergency  
20 procurement of specified supplies and/or services is particularly necessary  
21 without delay to protect substantial interests of the government; and

22 (c) a statement that the emergency procurement as certified is not  
23 being used ~~solely~~ for the dominant purpose of avoidance of the purposes and  
24 policies or other provisions of this Chapter.

25 In addition to any other requirement, the Governor must approve or  
26 ratify, in writing, all authorizations for emergency procurement of any  
27 supplies and/or services."

1           **Section 3. Effective Date.** This Act shall be effective upon enactment  
2 into law.

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



**I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN**  
**2019 (FIRST) Regular Session**

**Bill No. 90-35 (COR)**

As substituted by the Committee on Environment,  
Revenue and Taxation, and Procurement.

Introduced by:

Sabina Flores Perez  
Kelly Marsh (Taitano), PhD  
Amanda L. Shelton

**AN ACT TO REPEAL AND REENACT § 5215 OF  
SUBARTICLE B, ARTICLE 3, CHAPTER 5, TITLE 5,  
GUAM CODE ANNOTATED, RELATIVE TO  
PROVIDING FOR EMERGENCY PROCUREMENT FOR  
THREATS TO THE ENVIRONMENT, INCREASING  
TRANSPARENCY AND OTHERWISE IMPROVING  
EMERGENCY PROCUREMENT.**

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

2           **Section 1.**   § 5215 of Subarticle B, Article 3, Chapter 5, Title 5, Guam Code  
3           Annotated, is *repealed* and *reenacted* to read:

4           “§ 5215.   **Emergency Procurements.**

5           ~~Notwithstanding any other provision of this Chapter, the Chief Procurement~~  
6           ~~Officer, the Director of Public Works, the head of a purchasing agency, or a designee~~  
7           ~~of either officer may make or authorize others to make emergency procurements~~  
8           ~~when there exists a threat to public health, welfare, or safety under emergency~~  
9           ~~conditions as defined in regulations promulgated by the Policy Office; provided that~~  
10          ~~such emergency procurements shall be made with such competition as is practicable~~  
11          ~~under the circumstances, and further provided that the procurement agent must~~  
12          ~~solicit at least three (3) informal price quotations, if time allows must give notice to~~

1 all contractors from the qualified bid list who have provided the needed supplies and  
2 services to the government within the preceding twelve (12) months, and must award  
3 the procurement to the firm with the best offer, as determined by evaluating cost and  
4 delivery time. No emergency procurement or combination of emergency  
5 procurements may be made for an amount of goods or supplies greater than the  
6 amount of such goods and supplies which is necessary to meet an emergency for the  
7 thirty (30) day period immediately following the procurement. A written  
8 determination of the basis for the emergency and for the selection of the particular  
9 contractor shall be included in the contract file. The requirements for a written  
10 determination for the emergency shall be met if the procurements are being made on  
11 the basis of the Governor's declaration of an emergency situation by Executive  
12 Order if such Order states that emergency procurement may be resorted to for the  
13 purposes of the Order. Unless authorized by an Executive Order declaring an  
14 emergency, no emergency procurement may be made except on a certificate made  
15 under penalty of perjury by the Chief Procurement Officer, Director of Public Works  
16 or the head of a purchasing agency, as the case may be. Certified copies of the  
17 certificate shall be sent, prior to award and as a condition thereof, to the Governor  
18 and Speaker of the Legislature. The certificate shall contain the following:

19 (a) a statement of the facts giving rise to the emergency;

20 (b) the factual basis of the determination that an emergency  
21 procurement is necessary; and

22 (c) a statement that emergency procurement is not being used solely  
23 for the purpose of avoidance of the provisions of this Chapter.

24 In addition to any other requirement, the Governor must approve in writing  
25 all authorizations for emergency procurement.

26 (a) Authority to make emergency procurements. Notwithstanding  
27 any other provision of this Chapter, the Chief Procurement Officer, the

1 Director of Public Works, the head of a purchasing agency, or a designee of  
2 either officer, provided the designee of any such officer is subject to the  
3 qualifications of § 3114(b) of this Chapter, may make or authorize others to  
4 make emergency procurements of supplies, services and construction works  
5 in the manner specified in this Section when there exists a threat to public  
6 health, welfare, or safety or the health and safety of the environment in the  
7 event of an emergency as defined in § 5030(x) of this Chapter. Construction  
8 “works” authorized for emergency procurement is not as broad as the  
9 definition of “construction” in § 5030(g), but includes the emergency  
10 operation, repair, maintenance, or demolition of existing structures and real  
11 property improvements, as well as the building or assembly of temporary  
12 structures, necessary to address, within the time limits of emergency  
13 procurement specified in subsection (c) of this section, the imminent threat  
14 and nature of a particular event of emergency as described by a Determination  
15 of Emergency Procurement required in subsection (d) of this section.

16 (b) How conducted. To the extent practicable and except as  
17 otherwise allowed under this Section, emergency procurements shall be made  
18 and conducted with such competition and utilizing or adapting competitive  
19 procedures used in this Chapter as is practicable under the circumstances, in  
20 the good faith determination of the person authorized to make emergency  
21 procurements. A record shall kept of all determinations and statements  
22 required by this § 5215, as well as all other matters intended to be made a part  
23 of the procurement record by this Chapter. At the conclusion of a solicitation  
24 whether by award or cancellation, the Procurement Officer of the soliciting  
25 agency shall make, date and sign a written statement, describing: any  
26 circumstances of the event of emergency procurement which adversely  
27 impeded or affected the field of competition for the solicitation; and, the

1 solicitation processes used; and, the potential names of potential contractors  
2 contacted or otherwise engaged; and, the justification for the selection of the  
3 particular contractor(s) awarded any emergency procurement contract. The  
4 solicitation and competition for award of emergency procurement contracts  
5 should include:

6 (1) sending notice of request for indications of interest to any  
7 contractors on a qualified bidders list, and others known to the  
8 government, who have provided responsive supplies, services or  
9 construction works to the government, within the preceding twelve  
10 months, of the type expected to be needed to meet the particular  
11 emergency needs of the government, and requesting prompt expression  
12 of interest ; and,

13 (2) solicitation of at least three (3) competitive Requests for  
14 Quotations, in the manner of making small purchases as prescribed by  
15 regulations under authority of § 5213 of this Article 3 from known or  
16 potential vendors and contractors, for the acquisition of supplies,  
17 services or construction works needed, unrestricted by the qualified  
18 bidders list; and,

19 (3) award of a contract or purchase order, as fairly and  
20 expeditiously as circumstances and prudent competition may allow in  
21 the circumstances, to the responsible contractor shown to provide the  
22 lowest price and most expeditious delivery time, taking into account the  
23 price and delivery trade-off specified in § 5010 of this Chapter.

24 (c) Limitations on numbers, time and amount of emergency  
25 procurement. There shall be no limit on the numbers of emergency  
26 procurements of supplies, services and construction works, but no emergency  
27 procurement shall be made for an amount of supplies, services or construction

1 greater than the amount of such supplies, services or construction works  
2 which is necessary to address the emergency for the ninety (90) day period  
3 immediately following the date of the earliest Determination for Emergency  
4 Procurement, as described in subsection (d) of this Section. During said ninety  
5 (90) day period, the responsible government agencies shall promptly begin  
6 and expeditiously take all necessary steps to determine if there will be ongoing  
7 needs arising from the event of emergency beyond the ninety (90) day period,  
8 and make execute plans for the solicitation of supplies, services and  
9 construction for such ongoing needs under any method of procurement other  
10 than emergency procurement authorized in this Chapter. A record of such  
11 steps and plans shall be made and kept as a procurement record as required by  
12 § 5249 of this Chapter.

13 (d) Necessity of a Determination for Emergency Procurement. No  
14 emergency procurement shall be solicited or awarded without a Determination  
15 for Emergency Procurement. The Determination for Emergency Procurement  
16 shall:

17 (1) be made and dated as of the date of its making, in writing,  
18 and signed, under penalty of perjury, by the Chief Procurement Officer,  
19 the Director of Public Works, or the head of a purchasing agency,  
20 whichever is conducting emergency procurement of supplies, services  
21 or construction works, and in the event of multiple such emergency  
22 procurements, the date of the first such Determination shall be deemed  
23 the Date of the Emergency for purposes of calculating the allowed  
24 period of time to conduct and conclude emergency procurements as  
25 specified in subsection (c) of this Section; and,

26 (2) prominently warn all contractors that any contract or other  
27 arrangement made to extend or renew an emergency procurement or

1 make a new emergency procurement based on the circumstances of the  
2 event of emergency described in the instant Determination of  
3 Emergency Procurement shall be void when made and unenforceable  
4 against the government; and,

5 (3) describe with factual particularity the threat attributable to  
6 the event of emergency, including the nature and apparent cause of the  
7 event and the foreseeable adverse effects of the emergency on the  
8 environment, or the health, welfare or safety of the public or the health  
9 and safety of the environment; and,

10 (4) state that the threat of the event of emergency is imminent,  
11 and that emergency procurement authorized by this Section is  
12 necessary, without delay, to protect substantial interests of the  
13 Territory; and,

14 (5) affirm solemnly that the emergency procurement of  
15 supplies, services or construction works, in the face of the event of  
16 emergency described, is not being used and will not be used, directly or  
17 indirectly, to avoid other methods of source selection or the purposes  
18 and policies of this Chapter; and,

19 (6) be copied and a full, complete copy appended to any  
20 Declaration of Emergency by Executive Order authorizing emergency  
21 procurement and to any Certificate of Emergency, as described in  
22 subsection (e) of this section, and further attached to and made a part of  
23 any contract, purchase order or notice of Award made or given in  
24 respect of the relevant event of emergency; and,

25 (7) be made a material part of the procurement record required  
26 in this Chapter.

1           (e) Necessity of a Declaration of Emergency, or Certificate of  
2 Emergency. No emergency procurement shall be made except after and  
3 consistent with a Declaration of Emergency made by the Governor, or a  
4 Certificate of Emergency made by the Chief Procurement Officer, the  
5 Director of Public Works, or the head of a purchasing agency, whomever is  
6 conducting the procurement, as are specified in this subsection.

7           (1) A Declaration of Emergency shall be made by Executive  
8 Order duly issued, and expressly authorizing emergency procurement  
9 of supplies, services and construction works as authorized by this §  
10 5215, and pursuant to the Determination of Emergency Procurement,  
11 appended thereto as required in subsection (d) of this section.

12           (2) A Certificate of Emergency shall be made, under penalty  
13 of perjury, by the Chief Procurement Officer, or Director of Public  
14 Works, or by the head of a purchasing agency, having requisite  
15 authority to procure supplies, services or construction works, as the  
16 case may be. The Certificate of Emergency shall have appended thereto  
17 a complete and true copy of the Determination of Emergency  
18 Procurement, and contain the following:

19                   (i) a statement expressly incorporating by reference the  
20 entire unqualified and unaltered contents of the appended  
21 Determination of Emergency Procurement; and,

22                   (ii) an affirmation that the contents of the  
23 Determination of Emergency Procurement are true, correct and  
24 complete to the best informed knowledge and good faith belief  
25 of person making the Certification.

26           (3) Certified copies of the Certificate of Emergency by the  
27 Chief Procurement Officer, the Director of Public Works, or the head

1           of the purchasing agency shall be sent, prior to award, to the Governor  
2           and Attorney General. Also prior to, and as a condition precedent to an  
3           authorized award, under authority of a Certificate of Emergency under  
4           subsection (e)(2) of this Section, the Governor shall approve or  
5           acknowledge in writing the completed Certificate of Emergency.

6           **Section 2. Effective Date.** This Act *shall* be effective upon enactment.

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



*I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN*  
2019 (FIRST) Regular Session

**Bill No. 90-35 (COR)**

As Substituted and amended by the Committee on Environment,  
Revenue and Taxation, and Procurement.

Introduced by:

Sabina Flores Perez  
Kelly Marsh (Taitano), PhD  
Amanda L. Shelton

**AN ACT TO REPEAL AND REENACT § 5215 OF  
SUBARTICLE B, ARTICLE 3, CHAPTER 5, TITLE 5,  
GUAM CODE ANNOTATED, RELATIVE TO  
PROVIDING FOR EMERGENCY PROCUREMENT FOR  
THREATS TO THE ENVIRONMENT, INCREASING  
TRANSPARENCY AND OTHERWISE IMPROVING  
EMERGENCY PROCUREMENT.**

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

**Section 1.** § 5215 of Subarticle B, Article 3, Chapter 5, Title 5, Guam Code  
Annotated, is *repealed* and *reenacted* to read:

**“§ 5215. Emergency Procurements.**

~~Notwithstanding any other provision of this Chapter, the Chief Procurement  
Officer, the Director of Public Works, the head of a purchasing agency, or a designee  
of either officer may make or authorize others to make emergency procurements  
when there exists a threat to public health, welfare, or safety under emergency  
conditions as defined in regulations promulgated by the Policy Office; provided that  
such emergency procurements shall be made with such competition as is practicable  
under the circumstances, and further provided that the procurement agent must  
solicit at least three (3) informal price quotations, if time allows must give notice to~~

1 all contractors from the qualified bid list who have provided the needed supplies and  
2 services to the government within the preceding twelve (12) months, and must award  
3 the procurement to the firm with the best offer, as determined by evaluating cost and  
4 delivery time. No emergency procurement or combination of emergency  
5 procurements may be made for an amount of goods or supplies greater than the  
6 amount of such goods and supplies which is necessary to meet an emergency for the  
7 thirty (30) day period immediately following the procurement. A written  
8 determination of the basis for the emergency and for the selection of the particular  
9 contractor shall be included in the contract file. The requirements for a written  
10 determination for the emergency shall be met if the procurements are being made on  
11 the basis of the Governor's declaration of an emergency situation by Executive  
12 Order if such Order states that emergency procurement may be resorted to for the  
13 purposes of the Order. Unless authorized by an Executive Order declaring an  
14 emergency, no emergency procurement may be made except on a certificate made  
15 under penalty of perjury by the Chief Procurement Officer, Director of Public Works  
16 or the head of a purchasing agency, as the case may be. Certified copies of the  
17 certificate shall be sent, prior to award and as a condition thereof, to the Governor  
18 and Speaker of the Legislature. The certificate shall contain the following:

19 (a) a statement of the facts giving rise to the emergency;

20 (b) the factual basis of the determination that an emergency  
21 procurement is necessary; and

22 (c) a statement that emergency procurement is not being used solely  
23 for the purpose of avoidance of the provisions of this Chapter.

24 In addition to any other requirement, the Governor must approve in writing  
25 all authorizations for emergency procurement.

26 (a) Authority to make emergency procurements. Notwithstanding  
27 any other provision of this Chapter, the Chief Procurement Officer, the

1 Director of Public Works, the head of a purchasing agency, or a designee of  
2 either officer, provided the designee of any such officer is subject to the  
3 qualifications of § 5114(b) of this Chapter, may make or authorize others to  
4 make emergency procurements of supplies and services in the manner  
5 specified in this Section when there exists a threat to public health, welfare,  
6 or safety or the health and safety of the environment in the event of an  
7 emergency in accordance with regulations promulgated by the Policy Office.

8 (b) Necessity of a Declaration of Emergency, or Certificate of  
9 Emergency. No emergency procurement shall be made except after and  
10 consistent with a Declaration of Emergency made by the Governor, or a  
11 Certificate of Emergency made by the Chief Procurement Officer, the  
12 Director of Public Works, or the head of a purchasing agency, whoever is  
13 conducting the procurement, as specified in this subsection.

14 (1) A Declaration of Emergency shall be made by Executive  
15 Order duly issued, and expressly authorizing emergency procurement  
16 of supplies or services as authorized by this § 5215, and pursuant to the  
17 Determination of Emergency Procurement, appended thereto as  
18 required in subsection (c) of this section.

19 (2) A Certificate of Emergency shall be made, under penalty  
20 of perjury, by the Chief Procurement Officer, or Director of Public  
21 Works, or by the head of a purchasing agency, having requisite  
22 authority to procure supplies or services. The Certificate of Emergency  
23 shall have appended thereto a complete copy of the Determination of  
24 Emergency Procurement, and contain the following:

25 (i) a statement expressly incorporating by reference the  
26 entire unqualified and unaltered contents of the appended  
27 Determination of Emergency Procurement; and,

1                   (ii) an affirmation that the contents of the  
2                   Determination of Emergency Procurement are true, correct and  
3                   complete to the best informed knowledge and good faith belief  
4                   of person making the Certification.

5                   (3) Certified copies of the Certificate of Emergency by the  
6                   Chief Procurement Officer, the Director of Public Works, or the head  
7                   of the purchasing agency shall be sent, prior to award, to the Governor,  
8                   the Procurement Policy Office and the Speaker of the Legislature. Also  
9                   prior to, and as a condition precedent to an authorized award, under  
10                  authority of a Certificate of Emergency under subsection (b)(2) of this  
11                  Section, the Governor shall approve or acknowledge in writing the  
12                  completed Certificate of Emergency.

13                  (c) Necessity of a Determination for Emergency Procurement. No  
14                  emergency procurement shall be solicited or awarded without a Determination  
15                  for Emergency Procurement. The Determination for Emergency Procurement  
16                  shall:

17                         (1) be made and dated as of the date of its making, in writing,  
18                         and signed, under penalty of perjury, by the Chief Procurement Officer,  
19                         the Director of Public Works, or the head of a purchasing agency,  
20                         whoever is conducting emergency procurement of supplies or services,  
21                         and in the event of multiple such emergency procurements, the date of  
22                         the first such Determination shall be deemed the Date of the Emergency  
23                         for purposes of calculating the allowed period of time to conduct and  
24                         conclude emergency procurements as specified in subsection (e) of this  
25                         Section; and,

26                         (2) describe with factual particularity the threat attributable to  
27                         the event of emergency, including the nature and apparent cause of the

1 event and the foreseeable adverse effects of the emergency on the  
2 health, welfare or safety of the public or the health and safety of the  
3 environment; and,

4 (3) state that the threat of the event of emergency is imminent,  
5 and that emergency procurement authorized by this Section is  
6 necessary, without delay, to protect the health, welfare, or safety or the  
7 health and safety of the environment; and,

8 (4) affirm solemnly that the emergency procurement of  
9 supplies or services, in the face of the event of emergency described, is  
10 not being used and will not be used, directly or indirectly, to avoid other  
11 methods of source selection or the purposes and policies of this  
12 Chapter; and,

13 (5) be copied and a full, complete copy appended to any  
14 Declaration of Emergency by Executive Order authorizing emergency  
15 procurement and to any Certificate of Emergency, as described in  
16 subsection (b) of this section, and further attached to and made a part  
17 of any contract, purchase order or notice of Award made or given in  
18 respect of the relevant event of emergency; and,

19 (6) be made a material part of the procurement record required  
20 in this Chapter.

21 (d) How conducted. To the extent practicable and except as  
22 otherwise allowed under this Section, emergency procurements shall be made  
23 and conducted with such competition and utilizing or adapting competitive  
24 procedures used in this Chapter as is practicable under the circumstances, in  
25 the good faith determination of the person authorized to make emergency  
26 procurements. A record shall be kept of all determinations and statements  
27 required by this § 5215, as well as all other matters intended to be made a part

1 of the procurement record by this Chapter. At the conclusion of a solicitation  
2 whether by award or cancellation, the Procurement Officer of the soliciting  
3 agency shall make, date and sign a written statement, describing: any  
4 circumstances of the event of emergency procurement; and, the solicitation  
5 processes used; and, the potential names of potential contractors contacted or  
6 otherwise engaged; and, the justification for the selection of the particular  
7 contractor(s) awarded any emergency procurement contract. The solicitation  
8 and competition for award of emergency procurement contracts should  
9 include:

10 (1) sending notice of request for indications of interest to any  
11 contractors on a qualified bidders list, and others known to the  
12 government, who have provided responsive supplies, services or  
13 construction works to the government, within the preceding twelve  
14 months, of the type expected to be needed to meet the particular  
15 emergency needs of the government, and requesting prompt expression  
16 of interest ; and,

17 (2) solicitation of at least three (3) competitive Requests for  
18 Quotations, in the manner of making small purchases as prescribed by  
19 regulations under authority of § 5213 of this Article 3 from known or  
20 potential vendors and contractors, for the acquisition of supplies, or  
21 services needed, unrestricted by the qualified bidders list; and,

22 (3) award of a contract or purchase order, as fairly and  
23 expeditiously as circumstances and prudent competition may allow in  
24 the circumstances, to the responsible contractor shown to provide the  
25 lowest price and most expeditious delivery time, taking into account the  
26 price and delivery trade-off specified in § 5010 of this Chapter.

1           (e) Limitations on numbers, time and amount of emergency  
2 procurement. There shall be no limit on the numbers of emergency  
3 procurements of supplies and services, but no emergency procurement shall  
4 be made for an amount of supplies or services greater than the amount of such  
5 supplies or services which is necessary to address the emergency for the ninety  
6 (90) day period immediately following the date of the earliest Determination  
7 for Emergency Procurement, as described in subsection (c) of this Section.  
8 During said ninety (90) day period, the Chief Procurement Officer, the  
9 Director of Public Works, the head of a purchasing agency, or a designee of  
10 either officer shall promptly begin and expeditiously take all necessary steps  
11 to determine if there will be ongoing needs arising from the event of  
12 emergency beyond the ninety (90) day period, and make execute plans for the  
13 solicitation of supplies and services for such ongoing needs under any method  
14 of procurement other than emergency procurement authorized in this Chapter.  
15 A record of such steps and plans shall be made and kept as a procurement  
16 record as required by § 5249 of this Chapter.

17       **Section 2. Procurement Regulations.** The Procurement Policy Office  
18 shall update § 3113 Division 4 of Title 2, Guam Administrative Rules and  
19 Regulations, pursuant to the Administrative Adjudication Law in accordance with  
20 the intent of this Act.

21       **Section 3. Effective Date.** This Act *shall* be effective 90 days after its  
22 enactment.

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

## COMMITTEE MARKUP

### *I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÁHAN* 2019 (FIRST) Regular Session

#### Bill No. 90-35 (COR)

As Substituted and amended by the Committee on Environment,  
Revenue and Taxation, and Procurement.

Introduced by:

Sabina Flores Perez  
Kelly Marsh (Taitano), PhD  
Amanda L. Shelton

**AN ACT TO REPEAL AND REENACT § 5215 OF  
SUBARTICLE B, ARTICLE 3, CHAPTER 5, TITLE 5,  
GUAM CODE ANNOTATED, RELATIVE TO  
PROVIDING FOR EMERGENCY PROCUREMENT FOR  
THREATS TO THE ENVIRONMENT, INCREASING  
TRANSPARENCY AND OTHERWISE IMPROVING  
EMERGENCY PROCUREMENT.**

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

2 **Section 1.** § 5215 of Subarticle B, Article 3, Chapter 5, Title 5, Guam Code

3 Annotated, is *repealed* and *reenacted* to read:

4 **“§ 5215. Emergency Procurements.**

5 ~~Notwithstanding any other provision of this Chapter, the Chief Procurement~~  
6 ~~Officer, the Director of Public Works, the head of a purchasing agency, or a designee~~  
7 ~~of either officer may make or authorize others to make emergency procurements~~  
8 ~~when there exists a threat to public health, welfare, or safety under emergency~~  
9 ~~conditions as defined in regulations promulgated by the Policy Office; provided that~~  
10 ~~such emergency procurements shall be made with such competition as is practicable~~  
11 ~~under the circumstances, and further provided that the procurement agent must~~  
12 ~~solicit at least three (3) informal price quotations, if time allows must give notice to~~



## COMMITTEE MARKUP

1 all contractors from the qualified bid list who have provided the needed supplies and  
2 services to the government within the preceding twelve (12) months, and must award  
3 the procurement to the firm with the best offer, as determined by evaluating cost and  
4 delivery time. No emergency procurement or combination of emergency  
5 procurements may be made for an amount of goods or supplies greater than the  
6 amount of such goods and supplies which is necessary to meet an emergency for the  
7 thirty (30) day period immediately following the procurement. A written  
8 determination of the basis for the emergency and for the selection of the particular  
9 contractor shall be included in the contract file. The requirements for a written  
10 determination for the emergency shall be met if the procurements are being made on  
11 the basis of the Governor's declaration of an emergency situation by Executive  
12 Order if such Order states that emergency procurement may be resorted to for the  
13 purposes of the Order. Unless authorized by an Executive Order declaring an  
14 emergency, no emergency procurement may be made except on a certificate made  
15 under penalty of perjury by the Chief Procurement Officer, Director of Public Works  
16 or the head of a purchasing agency, as the case may be. Certified copies of the  
17 certificate shall be sent, prior to award and as a condition thereof, to the Governor  
18 and Speaker of the Legislature. The certificate shall contain the following:

- 19 (a) a statement of the facts giving rise to the emergency;
- 20 (b) the factual basis of the determination that an emergency  
21 procurement is necessary; and
- 22 (c) a statement that emergency procurement is not being used solely  
23 for the purpose of avoidance of the provisions of this Chapter.

24 In addition to any other requirement, the Governor must approve in writing  
25 all authorizations for emergency procurement.

- 26 (a) Authority to make emergency procurements. Notwithstanding  
27 any other provision of this Chapter, the Chief Procurement Officer, the

## COMMITTEE MARKUP

1 Director of Public Works, the head of a purchasing agency, or a designee of  
2 either officer, provided the designee of any such officer is subject to the  
3 qualifications of § 5114(b) of this Chapter, may make or authorize others to  
4 make emergency procurements of supplies and services in the manner  
5 specified in this Section when there exists a threat to public health, welfare,  
6 or safety or the health and safety of the environment in the event of an  
7 emergency in accordance with regulations promulgated by the Policy Office.

8 (b) Necessity of a Declaration of Emergency, or Certificate of  
9 Emergency. No emergency procurement shall be made except after and  
10 consistent with a Declaration of Emergency made by the Governor, or a  
11 Certificate of Emergency made by the Chief Procurement Officer, the  
12 Director of Public Works, or the head of a purchasing agency, whoever is  
13 conducting the procurement, as specified in this subsection.

14 (1) A Declaration of Emergency shall be made by Executive  
15 Order duly issued, and expressly authorizing emergency procurement  
16 of supplies or services as authorized by this § 5215, and pursuant to the  
17 Determination of Emergency Procurement, appended thereto as  
18 required in subsection (c) of this section.

19 (2) A Certificate of Emergency shall be made, under penalty  
20 of perjury, by the Chief Procurement Officer, or Director of Public  
21 Works, or by the head of a purchasing agency, having requisite  
22 authority to procure supplies or services. The Certificate of Emergency  
23 shall have appended thereto a complete copy of the Determination of  
24 Emergency Procurement, and contain the following:

25 (i) a statement expressly incorporating by reference the  
26 entire unqualified and unaltered contents of the appended  
27 Determination of Emergency Procurement; and,

Deleted: , services

Deleted: construction works

Deleted: as defined in § 5030(x) of this Chapter. Construction "works" authorized for emergency procurement is not as broad as

Deleted: definition of "construction" in § 5030(g), but includes the emergency operation, repair, maintenance, or demolition of existing structures and real property improvements, as well as the building or assembly of temporary structures, necessary to address, within the time limits of emergency procurement specified in subsection (c) of this section, the imminent threat and nature of a particular event of emergency as described by a Determination of Emergency Procurement required in subsection (d) of this section

Deleted: (b)

Moved (insertion) [1]

## COMMITTEE MARKUP

1           (ii) an affirmation that the contents of the  
2           Determination of Emergency Procurement are true, correct and  
3           complete to the best informed knowledge and good faith belief  
4           of person making the Certification.

5           (3) Certified copies of the Certificate of Emergency by the  
6           Chief Procurement Officer, the Director of Public Works, or the head  
7           of the purchasing agency shall be sent, prior to award, to the Governor,  
8           the Procurement Policy Office and the Speaker of the Legislature. Also  
9           prior to, and as a condition precedent to an authorized award, under  
10           authority of a Certificate of Emergency under subsection (b)(2) of this  
11           Section, the Governor shall approve or acknowledge in writing the  
12           completed Certificate of Emergency.

13           (c) Necessity of a Determination for Emergency Procurement. No  
14           emergency procurement shall be solicited or awarded without a Determination  
15           for Emergency Procurement. The Determination for Emergency Procurement  
16           shall:

Moved (insertion) [2]

17           (1) be made and dated as of the date of its making, in writing,  
18           and signed, under penalty of perjury, by the Chief Procurement Officer,  
19           the Director of Public Works, or the head of a purchasing agency,  
20           whoever is conducting emergency procurement of supplies or services,  
21           and in the event of multiple such emergency procurements, the date of  
22           the first such Determination shall be deemed the Date of the Emergency  
23           for purposes of calculating the allowed period of time to conduct and  
24           conclude emergency procurements as specified in subsection (e) of this  
25           Section; and,

26           (2) describe with factual particularity the threat attributable to  
27           the event of emergency, including the nature and apparent cause of the

## COMMITTEE MARKUP

1 event and the foreseeable adverse effects of the emergency on the  
2 health, welfare or safety of the public or the health and safety of the  
3 environment; and,

4 (3) state that the threat of the event of emergency is imminent,  
5 and that emergency procurement authorized by this Section is  
6 necessary, without delay, to protect the health, welfare, or safety or the  
7 health and safety of the environment; and,

8 (4) affirm solemnly that the emergency procurement of  
9 supplies or services, in the face of the event of emergency described, is  
10 not being used and will not be used, directly or indirectly, to avoid other  
11 methods of source selection or the purposes and policies of this  
12 Chapter; and,

13 (5) be copied and a full, complete copy appended to any  
14 Declaration of Emergency by Executive Order authorizing emergency  
15 procurement and to any Certificate of Emergency, as described in  
16 subsection (b) of this section, and further attached to and made a part  
17 of any contract, purchase order or notice of Award made or given in  
18 respect of the relevant event of emergency; and,

19 (6) be made a material part of the procurement record required  
20 in this Chapter.

21 (d) How conducted. To the extent practicable and except as  
22 otherwise allowed under this Section, emergency procurements shall be made  
23 and conducted with such competition and utilizing or adapting competitive  
24 procedures used in this Chapter as is practicable under the circumstances, in  
25 the good faith determination of the person authorized to make emergency  
26 procurements. A record shall be kept of all determinations and statements  
27 required by this § 5215, as well as all other matters intended to be made a part

## COMMITTEE MARKUP

1 (e) Limitations on numbers, time and amount of emergency  
2 procurement. There shall be no limit on the numbers of emergency  
3 procurements of supplies and services, but no emergency procurement shall  
4 be made for an amount of supplies or services greater than the amount of such  
5 supplies or services which is necessary to address the emergency for the ninety  
6 (90) day period immediately following the date of the earliest Determination  
7 for Emergency Procurement, as described in subsection (c) of this Section.  
8 During said ninety (90) day period, the Chief Procurement Officer, the  
9 Director of Public Works, the head of a purchasing agency, or a designee of  
10 either officer shall promptly begin and expeditiously take all necessary steps  
11 to determine if there will be ongoing needs arising from the event of  
12 emergency beyond the ninety (90) day period, and make execute plans for the  
13 solicitation of supplies and services for such ongoing needs under any method  
14 of procurement other than emergency procurement authorized in this Chapter.  
15 A record of such steps and plans shall be made and kept as a procurement  
16 record as required by § 5249 of this Chapter.

17 **Section 2. Procurement Regulations.** The Procurement Policy Office  
18 shall update § 3113 Division 4 of Title 2, Guam Administrative Rules and  
19 Regulations, pursuant to the Administrative Adjudication Law in accordance with  
20 the intent of this Act.

21 **Section 3. Effective Date.** This Act shall be effective 90 days after its  
22 enactment.

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

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Deleted: responsible government agencies

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Moved up [2]: }- Necessity of a Determination for Emergency Procurement. No emergency procurement shall be solicited or awarded without a Determination for Emergency Procurement. The Determination for Emergency Procurement shall: \*

Deleted: (1)- be made and dated as of the date of its making, in writing, and signed, under penalty of perjury, by the Chief Procurement Officer, the Director of Public Works, or the head of a purchasing agency, whichever is conducting emergency procurement of supplies, services or construction works, and in the event of multiple such emergency procurements, the date of the first such Determination shall be deemed the Date of the Emergency for purposes of calculating the allowed period of time to conduct and conclude emergency procurements as specified in subsection (c) of this Section; and, \*

(2)- prominently warn all contractors that any contract or other arrangement made to extend or renew an emergency procurement or make a new emergency procurement based on the circumstances of the event of emergency described in the instant Determination of Emergency Procurement shall be void when made and unenforceable against the government; and, \*

(3)- describe with factual particularity the threat attributable to the event of emergency, including the nature and apparent cause of the event and the foreseeable adverse effects of the emergency on the environment, or the health, welfare or safety of the public or the health and safety of the environment; and, \*

(4)- state that the threat of the event of emergency is imminent, and that emergency procurement authorized by this

Deleted: (1)- be made and dated as of the date of its making, in writing, and signed, under penalty of perjury, by the Chief Procurement Officer, the Director of Public Works, or the head of a purchasing agency, whichever is conducting emergency procurement of supplies, services or construction works, and in the event of multiple such emergency procurements, the date of the first such Determination shall be deemed the Date of the Emergency for purposes of calculating the allowed period of time to conduct and conclude emergency procurements as specified in subsection (c) of this Section; and, \*

Moved up [1]: copy of the Determination of Emergency Procurement, and contain the following: \*

Deleted: is necessary, without delay, to protect substantial interests of the Territory; and, \* ... [1]

Deleted: and Attorney General. Also prior to, and as a condition precedent to an authorized award, under ... [2]

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Senator Amanda L. Shelton,  
Vice Chairperson

Speaker Tina Muña Barnes,  
Member

Vice Speaker Telena Cruz Nelson,  
Member

Senator Kelly Marsh (Taitano), Ph.D.,  
Member

Senator Sabina Flores Perez  
Member

Senator Clynton E. Ridgell  
Member



**COMMITTEE ON RULES**  
**SENATOR RÉGINE BISCOE LEE, CHAIR**  
*I MINA 'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN*  
35<sup>TH</sup> GUAM LEGISLATURE

Senator Joe S. San Agustin,  
Member

Senator Jose T. Terlaje,  
Member

Senator Therese M. Terlaje,  
Member

Senator James C. Moylan,  
Member

Senator Mary Camacho Torres,  
Member and  
Chair, Subcommittee on Protocol

April 24, 2019

# MEMO

**To:** **Rennae Meno**  
Clerk of the Legislature

**From:** **Senator Régine Biscoe Lee**  
Chairperson, Committee on Rules

**Re:** **Fiscal Note Waivers**

---

*Buenas yan Håfa adai.*

Attached, please find the fiscal note waivers for the following bills:

**Bill No. 88-35 (COR)**

**Bill No. 90-35 (COR)**

Please forward the same to Management Information Services (MIS) for posting on our website.

For any questions or concerns, please feel free to contact Mary Maravilla, Committee on Rules Director at 472-2461.

Thank you for your attention to this important matter.





## BUREAU OF BUDGET & MANAGEMENT RESEARCH

OFFICE OF THE GOVERNOR  
Post Office Box 2950, Hagåtña Guam 96932

LOURDES A. LEON GUERRERO  
GOVERNOR

LESTER L. CARLSON, JR.  
ACTING DIRECTOR

JOSHUA F. TENORIO  
LIEUTENANT GOVERNOR

APR 23 2019

Senator Régine Biscoe-Lee  
Legislative Secretary and Chairperson, Committee on Rules  
I Mina' Trentai Cinco na Liheslaturan Guåhan  
35<sup>th</sup> Guam Legislature  
Guam Congress Building  
163 Chalan Santo Papa  
Hagåtña, Guam 96910

*Hafa Adai!* Senator Biscoe-Lee:

The Bureau requests that Bill No. 90-35 (COR) be granted a waiver pursuant to Public Law 12-229 as amended for the following reason(s):

Legislative Bill No. 90-35 (COR) seeks to amend §5215 of Chapter 5, Title 5, Guam Code Annotated, relative to strengthening emergency procurement provisions and transparency, and providing for emergency procurement for threats to the environment.

The provision in the proposed legislation is administrative in nature and poses no fiscal impact upon any funds of the Government of Guam.

  
LESTER L. CARLSON, JR.



**OFFICE OF SENATOR SABINA FLORES PEREZ**

Chairperson

Committee on Environment, Revenue and Taxation, and Procurement

*I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÁHAN*

35<sup>TH</sup> GUAM LEGISLATURE

**COMMITTEE VOTE SHEET**

**Bill No. 90-35 (COR), As Substituted; and amended by the Committee on Environment, Revenue and Taxation, and Procurement – “AN ACT TO REPEAL AND REENACT § 5215 OF SUBARTICLE B, ARTICLE 3, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING FOR EMERGENCY PROCUREMENT FOR THREATS TO THE ENVIRONMENT, INCREASING TRANSPARENCY AND OTHERWISE IMPROVING EMERGENCY PROCUREMENT.”**

Introduced by: Sabina Flores Perez, Kelly Marsh (Taitano), PhD, Amanda L. Shelton

COMMITTEE MEMBERS	SIGNATURE AND DATE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
SENATOR SABINA FLORES PEREZ Chairperson	<i>Sabina Flores Perez</i> 2/21/2020	✓				
VICE SPEAKER TELENA CRUZ NELSON Vice Chairperson	<i>TL</i> 2/21/20			✓		
SENATOR THERESE M. TERLAJE Member						
SPEAKER TINA ROSE MUÑA BARNES Member	<i>Tina Rose Muña Barnes</i> 2/21/20	✓				
SENATOR KELLY G. MARSH (TAITANO), Ph.D. Member	<i>Kelly Marsh</i> 2/21/2020			✓		
SENATOR TELO T. TAITAGUE Member						
SENATOR MARY CAMACHO TORRES Member						





**OFFICE OF SENATOR SABINA FLORES PEREZ**  
Chairperson  
Committee on Environment, Revenue and Taxation, and Procurement  
*I MINA TRENTAI SINGKO NA LIHESLATURAN GUÁHAN*  
35<sup>TH</sup> GUAM LEGISLATURE

**PRESS RELEASE**

**“Procurement problems are destroying our environment”  
Senator Perez Introduces Two Environment-Focused Procurement Bills**

*Guam, April 14, 2019* – On September 11, 2007, the Coconut Rhinoceros Beetle (CRB) was first discovered on Guam. It was confined to Lower Tumon, so attempts were made to quarantine and completely eradicate CRB before it spread further.

The Guam Department of Agriculture reacted swiftly, requesting to purchase traps and equipment to eradicate the invasive species. However, due to the slowness of the GovGuam procurement process, six months passed before the department’s purchasing requests were complete.

During the six-month delay, CRB spread far beyond its initial location, making it impossible to isolate the invasive species. By 2010, CRB had spread to all other parts of the island. Today, CRB is responsible for the death of countless coconut trees around the island, severely damaging Guam’s ecosystem.

Little Fire Ant (LFA) was first found on Guam in November of 2011, in a landfill in Yigo. In an echo of the CRB response, the Guam Department of Agriculture immediately requested access to funds to purchase pesticides and application equipment to isolate and possibly eradicate LFA. However, it took until June of 2013 before the Governor issued an Executive Order declaring a state of emergency and allowing for the purchase to move forward. During that time, LFA spread to over a dozen different locations around the island. The invasive ant kills all animals in its proximity, leaving ecological dead zones in its wake.

On Friday, April 12, Senator Sabina Perez introduced Bills 89-35 and 90-35, to improve GovGuam’s procurement ability when facing environmental threats. Together, they aim to prevent CRB or LFA incidents from happening again. “Procurement problems are destroying our environment,” said Senator Perez. “These measures will provide GovGuam personnel with the tools they need to protect our island from environmental threats,” she added.

Bill 89-35, co-sponsored by Senator Marsh, Senator Shelton, and Senator Ridgell, proposes creating an Invasive Species Rapid Response Fund. The fund will be managed by the Research Corporation of the University of Guam (RCUOG), which has experience administering large grants and funds in an expeditious manner. All expenditures from the fund will be under the direction of the Director of the Department of Agriculture, who is a member of the Guam Invasive Species Council, and the new fund will receive \$75,000 from the Guam Invasive Species Fund, which is intended for invasive species management and eradication efforts and is supposed to generate \$2M annually from surcharges on incoming cargo.



## **OFFICE OF SENATOR SABINA FLORES PEREZ**

Chairperson

Committee on Environment, Revenue and Taxation, and Procurement  
*I MINA TRENDAI SINGKO NA LIHESLATURAN GUÅHAN*  
35<sup>TH</sup> GUAM LEGISLATURE

“The intent is to use both funds in tandem. Following advice from the Invasive Species Council, the Guam Invasive Species Fund will continue to fund staffing and long-term projects, while the Invasive Species Rapid Response Fund will address immediate short-term threats by utilizing RCUOG’s strengths in administering complex funds in a timely manner. Both funds will still be under the purview and oversight of the Invasive Species Council,” said Senator Perez.

“It is important we respond to the threat of invasive species with the same speed with which we respond to all emergencies. Invasive species can ruin industries, livelihoods, and our ecosystem,” said Senator Perez.

“Rapid response is the key to mitigating invasive species and environmental issues before they become environmental calamities,” said Senator Shelton.

Bill 90-35, co-sponsored by Senator Marsh and Senator Shelton, allows the Governor to authorize emergency procurement when facing threats to the environment.

Current Guam law allows the Governor to authorize emergency procurement for “a threat to public health, welfare, or safety”. Bill 90-35 will extend this clause to also include “health or safety of the environment.” By doing so, the Governor may now act sooner when facing serious environmental threats, rather than waiting and having to justify that an environmental threat poses public health or safety risks.

Senator Perez believes the environment should be afforded the same protections as public health and safety. “The environment is something we all rely on, but often take for granted. We need to protect our ecosystem against threats to its safety. Our people deserve a natural habitat that is rich and sustainable for us to use, enjoy, and share with future generations. The only way to ensure that is to place these type of protections for our environment now,” said Senator Perez.

Bill 90-35 also improves transparency in the emergency procurement process. As the Chairperson for the Committee on Environment, Department of Revenue and Taxation, and Procurement, Senator Perez felt that current emergency procurement provisions do not provide enough transparency, leaving room for potential abuse. “Bill 90-35 improves transparency in the emergency procurement process, and provides greater safeguards to protect the public trust,” said Senator Perez.

“These bills will go a long way towards improving GovGuam’s ability to respond quickly and protect our natural resources,” said Senator Perez. “We must put these measures in place now to save our environment and preserve it for our people to enjoy now and for generations to come,” she added.

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# Bills speed up response in invasive species eradication

Louella Losinio April 14, 2019



*Coconut rhinoceros beetles have been attacking coconut trees on Guam since it was first discovered on the island in 2007. (Photo from the UOG-CNAS Guam Rhinoceros Beetle Project)*

**Guam – Recognizing the importance of rapid response in preventing newly discovered invasive species from spreading throughout the island, the legislature introduced two measures providing a funding and procurement mechanism to respond quickly to these threats.**

Sen. Sabina Perez introduced Bills 89-35 and 90-35, to improve GovGuam’s procurement ability when facing environmental challenges.

“Procurement problems are destroying our environment,” said Perez. “These measures will provide GovGuam personnel with the tools they need to protect our island from environmental threats,” she added.

## **CRB and LFAs**

Perez mentioned the coconut rhinoceros beetle (*Oryctes rhinoceros*), and

the Little Fire Ant (*Wasmannia auropunctata*) as two examples of how delays in the procurement process contribute to the spread of invasive species.

The CRB was first discovered on Guam in 2007. The invasive insect, at first, stayed mainly in the Lower Tumon area. The Department of Agriculture attempted to quarantine and completely eradicate the CRB before it spread further.

The department requested to buy traps and equipment but it would be six months before the purchasing requests were completed. During the six-month delay, the CRB had spread beyond Tumon.

By 2010, the invasive beetle had spread to all other parts of the island.

The LFA was first found on Guam in November 2011, in a landfill in Yigo. Again, agriculture immediately put out a request to buy pesticides and application equipment. It took until June 2013 before the governor issued an executive order declaring a state of emergency. The EO allowed the purchase to move forward.

### **Invasive species fund**

Bill 89-35 proposes creating an Invasive Species Rapid Response Fund. Around \$75,000 from the existing Guam Invasive Species Fund will be transferred into the rapid response fund. According to the senator's office the invasive species fund is "supposed to generate \$2M annually from surcharges on incoming cargo."

Perez said the intention is to use both funds in tandem.

The Research Corporation of the University of Guam (RCUOG) will manage the newly created. RCUOG has experience administering large grants and funds in an expeditious way. The Department of Agriculture director, who is a member of the Guam Invasive Species Council, will monitor fund

expenditures.

“It is important we respond to the threat of invasive species with the same speed with which we respond to all emergencies. Invasive species can ruin industries, livelihoods, and our ecosystem,” said Senator Perez.

Bill 90-35 allows the Governor to authorize emergency procurement when facing threats to the environment.

Current Guam law allows the Governor to authorize emergency procurement for “a threat to public health, welfare, or safety”. According to Perez, Bill 90-35 will extend this clause to also include “health or safety of the environment.”

By doing so, she said the Governor may now act sooner when facing serious environmental threats, and not wait before justifying that an environmental threat poses public health or safety risks.

Bill 90-35 also improves transparency in the emergency procurement process. Perez said that current emergency procurement provisions do not provide enough transparency, leaving room for potential abuse.

“Bill 90-35 improves transparency in the emergency procurement process, and provides greater safeguards to protect the public trust,” she said.

## **Comments**

# Emergency procurement bill gets support

By **Gerry Partido** June 6, 2019



*John Thomas Brown, procurement expert testifies at the Legislature. (Still image from the Guam Legislature)*

**Guam – Bill 90-35, which allows the governor to authorize emergency procurement when facing threats to the environment, received supportive testimony during its public hearing Wednesday morning.**

Introduced by Senator Sabina Flores Perez, Bill 90-35 authorizes the governor to act sooner when facing serious environmental threats, rather than waiting and having to justify that an environmental threat poses public health or safety risks.

In her opening remarks during the public hearing, Senator Perez said the environment should be afforded the same protections as public health and safety.

Testifying in favor of the bill was procurement expert John Thomas Brown. He said he supports the bill because it adds an environmental perspective to emergency procurement

Brown said Bill 90-35 also gives teeth to the punishment of procurement violations because it has a clause that makes contracts void.

In the past, Brown said there have been many instances of procurement contracts being abused.

Oftentimes, Brown said it's just a matter of government neglect and lack of planning as GovGuam fails to make plans on what to do after a contract expires and just resorts to emergency procurement.

Edward Birn, the director of the Department of Administration, also testified in favor of the legislation, saying that Bill 90-35 defines emergency procurement more closely.

Birn also said that emergency procurement should be limited to real emergencies and if procurement is just stalled or failed due to administrative lapses, then this should not be considered an emergency procurement.

Birn suggested, though, that language in the bill about voiding contracts should be changed to voiding contract solicitations instead.

In closing, Senator Sabina Perez said Bill 90-35 will go a long way towards improving GovGuam's ability to respond quickly to environmental emergencies.

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