

I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
182-36 (LS)	Sabina Flores Perez Joanne Brown James C. Moylan Telo T. Taitague Joe S. San Agustin	AN ACT TO AMEND § 5214 OF ARTICLE 3, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO IMPROVING SOLE SOURCE PROCUREMENT.	8/24/21 2:00 p.m.						

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

Bill No. 182-36 (LS)

Introduced by:

Sabina Flores Perez *SFP*
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**AN ACT TO AMEND § 5214 OF ARTICLE 3, CHAPTER 5,
TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO
IMPROVING SOLE SOURCE PROCUREMENT.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that sole source creates a greater dependency on the single business contracted by
4 the government and increases vulnerability and risk of interruption of supplies or
5 services.

6 *I Liheslaturan Guåhan* also finds that the method of sole source selection may
7 not be understood and often misused. If competition is at all reasonable possible, or
8 where there is reasonable doubt that only a sole source exists, a competitive method
9 of source selection must be used.

10 *I Liheslaturan Guåhan* intends to improve the sole source selection method
11 by limiting the term of the contract, requiring market research and justification for
12 using said method. If a similar supply or service is available, the specifications
13 justifying a sole source contract must be scrutinized, and where there is reasonable
14 doubt that the minimum needs of the government were not specified, the sole source
15 contract shall be terminated and a competitive method of source selection used.

1 **Section 2.** § 5214 of Article 3, Chapter 5, Title 5, Guam Code Annotated,
2 is hereby amended to read as follows:

3 **“§ 5214. Sole Source Procurement.**

4 A contract may be awarded for a supply, service, or construction item
5 without competition when the Chief Procurement Officer, the Director of
6 Public Works, the head of a purchasing agency, or a designee of either officer
7 above the level of the Procurement Officer prior to the issuance of a
8 solicitation determines in writing that there is only one source for the required
9 supply, service or construction item. A sole source contract shall not be issued
10 for a term greater than one (1) year, with four (4) successive annual options
11 to renew, such option being exercisable by the government and only if there
12 is, at the time to be exercised, no other available source. Prior to and as a
13 condition of making such determination, the purchasing agency shall prepare
14 a written report to the person making such determination which shall detail an
15 analysis of the minimal needs of the government upon which the contract is
16 based, and the findings of a thorough market research and conclusion that
17 there is no other source which will satisfy the government need. The report
18 must be signed by the person or persons conducting the analysis and market
19 research, and shall be made part of the procurement record. The purchasing
20 agency shall also make a written determination that the price of any sole
21 source contract is fair and reasonable, which determination shall include
22 relevant cost and pricing information for the sole source as well as comparable
23 or substitute sources, supplies or services. In the event any such contract is in
24 excess of the amount of Fifty Thousand Dollars (\$50,000), the purchasing
25 agency shall, within fourteen (14) days of making the contract, publish notice
26 of the making of the contract, including the name of the purchasing agency,
27 the contractor, the contract amount and its term, and the nature of the contract,
28 in a newspaper of general circulation on Guam and on its website.”

1 **Section 3.** The Procurement Policy Office, pursuant to § 5130 shall
2 promulgate rules and regulations for sole source selection ninety (90) days after
3 enactment.

4 **Section 4. Effective Date.** This Act shall be effective ninety (90) days after
5 enactment.

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