

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

NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator V. Anthony Ada	✓					
Senator Frank Blas Jr.	✓					
Senator Joanne Brown	✓					
Senator Christopher M. Dueñas	✓					
Senator James C. Moylan	✓					
Vice Speaker Tina Rose Muña Barnes	✓					
Senator Telena Cruz Nelson	✓					
Senator Sabina Flores Perez	✓					
Senator Clynton E. Ridgell	✓					
Senator Joe S. San Agustin	✓					
Senator Amanda L. Shelton	✓					
Senator Telo T. Taitague	✓					
Senator Jose "Pedo" Terlaje	✓					
Speaker Therese M. Terlaje	✓					
Senator Mary Camacho Torres	✓					

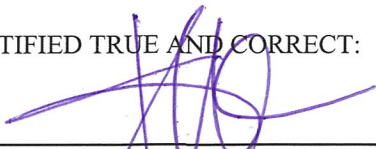
Bill No. 52-36 (COR)
 As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research and Planning.

Speaker Antonio R. Unpingco Legislative Session Hall
 Guam Congress Building
 March 26, 2021

TOTAL

15	0				
Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused

CERTIFIED TRUE AND CORRECT:



 RENNAE V. G. MENO
 Clerk of the Legislature

I = Pass

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Bill No. 52-36 (COR)

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Revenue and Taxation, Labor, Procurement, and
Statistics, Research and Planning.

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Introduced by:

Sabina Flores Perez

**AN ACT TO *REPEAL* AND *REENACT* § 5233 OF
SUBARTICLE D, ARTICLE 3, CHAPTER 5, TITLE 5,
GUAM CODE ANNOTATED, RELATIVE TO
DISCLOSURE OF OWNERSHIP, FINANCIAL, AND
CONFLICTS OF INTEREST UNDER GUAM
PROCUREMENT LAW.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. § 5233 of Subarticle D, Article 3, Chapter 5, Title 5, Guam Code
Annotated, is *repealed* and *reenacted* to read:

**“§ 5233. Disclosure of Ownership, Financial, and Conflicts of
Interest.**

(a) Purpose. The disclosures required by this Section are intended to
reveal information bearing on the responsibility of a bidder, and can be
obtained by an inquiry regarding responsibility prior to award.

(b) Definitions.

As used herein, the term “person” shall be interpreted liberally to
include the definition found in 1 GCA § 715, and in § 5030(n) of this
Chapter, and includes a natural person as well as every entity of
whatever form or composition (an “artificial person”) recognized under

1 the laws of Guam other than a natural person, who is a prospective
2 contractor under a bid, offer, proposal, or other response to a
3 solicitation, or is a contractor under a contract with the government of
4 Guam, and subject to the provisions of this Chapter.

5 (c) Public Disclosure of Ownership.

6 (1) The ownership interests to be disclosed under this Section
7 include the interests of a natural or artificial person who owns all or any
8 part of a prospective contractor, bidder, or offeror, whether as
9 proprietor, a partner, limited or otherwise, a shareholder of any class,
10 in which case the percentage ownership interest test shall be based on
11 each class, a member of an association or company, limited or
12 otherwise, and any person owning a beneficial legal interest in any trust,
13 and any other person having the power to control the performance of
14 the contract or the prospective contractor.

15 (2) Prior to award, every person who is a prospective
16 contractor, bidder, or offeror of a contract to be acquired under any
17 method of source selection authorized by this Chapter shall submit a
18 Disclosure Statement, executed as an affidavit under oath, disclosing
19 the name of each person who currently or has owned an ownership
20 interest in the prospective contractor, bidder, or offeror greater than ten
21 percent (10%) at any time during the twelve (12) month period
22 immediately preceding the date of the solicitation (the “relevant
23 disclosure period”). If a prospective contractor, bidder, or offeror is an
24 artificial person, the Disclosure Statement shall disclose the name of
25 each person who has owned an ownership interest in such artificial
26 person (a “second tier owner”) greater than twenty-five percent (25%)
27 at any time during the relevant disclosure period. If any such second

1 tier owner is also an artificial person, the Disclosure Statement shall
2 disclose the name of each person who has owned an ownership interest
3 in such second tier owner (a “third tier owner”) of forty-nine percent
4 (49%) or more during the relevant disclosure period. If the name of no
5 natural person has been identified as an owner, or a second or third tier
6 owner of the prospective contractor, bidder, or offeror, the Disclosure
7 Statement shall identify the name, position, address, and contact
8 information of the natural person having the authority and
9 responsibility for the performance of the prospective contract, and the
10 name of any natural person who has the authority and power to remove
11 and replace the designated responsible person or otherwise control the
12 performance of the prospective contract.

13 (d) Disclosure of Financial Interest. A prospective contractor shall
14 execute an affidavit disclosing the name of any person who has received or is
15 entitled to receive a commission, gratuity, contingent fee or other
16 compensation to solicit, secure, or assist in obtaining business related to the
17 solicitation by means of a Disclosure Statement, executed as an affidavit
18 under oath, disclosing such interest and shall also contain the amounts of any
19 such commission, gratuity, contingent fee or other compensation.

20 (e) Disclosure of Conflict of Interest. A prospective contractor shall
21 disclose the name of any person who directly or indirectly participates in any
22 solicitation if such person is also an employee of the government of Guam, or
23 of the government of the United States if federal funds are used in payment of
24 the contract.

25 (f) Every disclosure of an ownership or financial interest of any
26 person required to be identified by this Section shall name the person required
27 to be disclosed and the street address of their principal place of business. All

1 information disclosed or meant to be disclosed under this Section is public
2 procurement data and shall be kept as part of the public record of each
3 procurement.

4 (g) Continuing Duty of Disclosure. Notwithstanding any other
5 provision of this Chapter, the duty to disclose the information required under
6 this Section shall be, upon award, a continuing duty of a contractor of every
7 contract subject to this Chapter, and all such information shall become part of
8 the procurement record required by § 5249 of this Chapter. Throughout the
9 term of a contract subject to the terms of this Chapter, the contractor shall
10 promptly make any disclosures not made previously and update changes in
11 the identities or other required information, interests, or conflicts of the
12 persons required to be disclosed herein. Failure to comply with this Section
13 shall constitute a material breach of contract.”

14 **Section 2. Severability.** If any provision of this Act or its application to any
15 person or circumstance is found to be invalid or contrary to law, such invalidity shall
16 not affect other provisions or applications of this Act that can be given effect without
17 the invalid provision or application, and to this end the provisions of this Act are
18 severable.