

**Messages and Communications for Doc. Nos. 36GL-22-1903 through 1911\*.**

1 message

**Committee on Rules 36GL** <cor@guamlegislature.org>

Wed, Apr 13, 2022 at 10:34 AM

To: Clerks &lt;clerks@guamlegislature.org&gt;, Rennae Meno &lt;rennae@guamlegislature.org&gt;

Cc: "Speaker Therese M. Terlaje" &lt;speaker@guamlegislature.org&gt;

Håfa Adai Clerks,

Please see attached M&amp;C Doc. No. 36GL-22-1903 to 1911 for processing:

36GL-22-1903	BILL NO. 169-36 (LS) nka P.L. No. 36-89 - An Act to Amend Appendix A, Appendix B, Appendix C, Appendix D, and Appendix E, All of Chapter 67, Title 9, Guam Code Annotated, Relative to Updating the List of Scheduled Controlled Substances Provided in the Guam Uniform Controlled Substances Act *.	Office of the Governor of Guam
36GL-22-1904	BILL NO. 247-36 (COR) nka P.L. No. 36-90 - An Act to Amend §§ 53101(d) and 53102, and to Add a New § 53109, All of Chapter 53, Title 11, Guam Code Annotated, Relative to Transferring the Authority to Implement the Guam Able Savings Program from the Department of Revenue and Taxation to the Department of Administration, and Authorizing the Governor to Identify and Transfer Up to Two Hundred Fifty Thousand Dollars (\$250,000) from the General Fund to Implement the Program*.	Office of the Governor of Guam
36GL-22-1905	SUBSTITUTE BILL NO. 213-36 (COR) nka P.L. No. 36-91 - An Act to Add New Subsections (a) and (b) to § 8119 of Article 1, Chapter 8, Title 12, Guam Code Annotated, Relative to Establishing an Exemption to the Guam Power Authority for the Construction of New Forty-One (41) Megawatt Ultra-Low Sulfur Diesel Units on Lots 261 and 257, U.S. Navy Apra Harbor Reservation, and be Required to Comply with the Air Quality and Emissions Limitations Contained in the U.S. Environmental Protection Agency Clean Air Act of 1990*.	Office of the Governor of Guam
36GL-22-1906	BILL NO. 224-36 (COR) nka P.L. No. 36-92 - An Act to Repeal Chapter 19, Division 3 of Title 30, Guam Administrative Rules and Regulations; and to Add a New Chapter 2 to Title 12, Guam Administrative Rules and Regulations, Relative to Clarifying Insurance Continuing Education*.	Office of the Governor of Guam
36GL-22-1907	SUBSTITUTE BILL NO. 41-36 (COR) nka P.L. No. 36-93 - An Act to Amend § 4210 of Article 2, Chapter 4, Title 19, Guam Code Annotated, Relative to Expediting Social Studies for Adoptions*.	Office of the Governor of Guam
36GL-22-1908	BILL NO. 68-36 (COR) nka P.L. No. 36-94 - An Act to Amend §§ 88103 and 88104, and to Add a New § 88103.1, All of Chapter 88, Title 5, Guam Code Annotated, Relative to Adding Youth Representation to <i>I Kumision I Fino' CHamoru Yan I Fina'na'guen I Historia Yan I Lina'la' I Taotao Tano'</i> (The Commission on CHamoru Language and the Teaching of the History and Culture of the Indigenous People of Guam), and Prohibiting Double Representation on <i>I Kumision</i> ; and to Cite this Act as the " <i>Mahoben Para I Fino'-ta Act</i> "*.	Office of the Governor of Guam
36GL-22-1909	SUBSTITUTE BILL NO. 236-36 (COR) VETO - An Act to Amend § 5213 of Subarticle B, Article 3, Chapter 5, Title 5, Guam Code Annotated, Relative to Strengthening the Requirements of Small Purchases*.	Office of the Governor of Guam
36GL-22-1910	BILL NO. 123-36 (COR) VETO - An Act to Amend § 2108 of Chapter 2, Title 4, Guam Code Annotated, Relative to Requiring Employees Who Resign from Government of Guam Employment to Submit to Drug Testing to Retain Re-Employment Rights if said Resignation was Tendered Subsequent to the Employer's Announcement of Drug Testing*.	Office of the Governor of Guam
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**Electronic and Hard Copies received and attached.**

Si Yu'os Ma'åse',

**COMMITTEE ON RULES**

Vice Speaker Tina Rose Muña Barnes

36th Guam Legislature

*I Mina'trentai Sais Na Liheslaturan Guåhan*

163 Chalan Santo Papa Hågatña Guam 96910

Email: cor@guamlegislature.org

"Disclaimer: This message is intended only for the use of the individual or entity to which it is addressed and may contain information which is privileged, confidential, proprietary, or exempt from disclosure under applicable law. If you are not the intended recipient or the individual responsible for delivering the message to the intended recipient, you are strictly prohibited from disclosing, distributing, copying, or in any way using this message. If you have received this communication in error, please notify the sender and immediately delete any copies you may have received. Thank you."

----- Forwarded message -----

From: **Speaker Therese M. Terlaje** <speaker@guamlegislature.org>

Date: Wed, Apr 13, 2022 at 9:46 AM

Subject: Messages and Communications for 36GL-22-1903 to 1911

To: Legislative Secretary Amanda Shelton <officeofsenatorshelton@guamlegislature.org>, Committee on Rules 36GL <cor@guamlegislature.org>

Håfa Adai,

Please see attached M&C Doc. No. 36GL-22-1903 to 1911.\*

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36GL-22-1911	BILL NO. 239-36 (COR) VETO - An Act to Add a New § 76206 to Article 2 of Chapter 76, Division 3, Title 11, Guam Code Annotated; and to Add a New § 13510 to Article 5 of Chapter 13, Title 19, Guam Code Annotated, Relative to Business License Requirements for Entities Engaging in Child Replacement Services.*	Office of the Governor of Guam

Note: e-Delivery received April 12, 2022 at 9:46 a.m. Hard copies received April 12, 2022 at 11:31 a.m.

Si Yu'os Ma'åse',

Marie Cruz  
Community Relations Liaison

Office of Speaker Therese M. Terlaje  
Committee on Health, Land, Justice and Culture  
I Mina'trentai Sais na Liheslaturan Guåhan  
36th Guam Legislature  
Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910  
T: (671) 472-3586 F: (671) 989-3590 Email: senatorterlajeguam@gmail.com  
website: www.senatorterlaje.com

----- Forwarded message -----

From: **Brianne LG Dunstan** <brianne.dunstan@guam.gov>

Date: Tue, Apr 12, 2022 at 9:46 AM

Subject: Statements regarding Legislative bills passed on: April 1, 2022

To: Speaker Therese M. Terlaje <speaker@guamlegislature.org>

Cc: GOVERNOR Lourdes A. Leon Guerrero <governor@guam.gov>, LT. GOVERNOR Joshua F. Tenorio <lt.governor@guam.gov>, Geraldine A. Cepeda <gcepeda@guamcourts.gov>, Guam Compiler of Laws <guamcompiler@gmail.com>, Lisa C. Ibanez <libanez@guamcourts.gov>, CHIEF OF STAFF Jon Junior Calvo <jon.calvo@guam.gov>, DEPUTY COS Alice Tajeron <alice.tajeron@guam.gov>, Legal <legal@guam.gov>, Stephanie G. Flores <stephanie.flores@guam.gov>, Krystal Paco-San Agustin <krystal.paco@guam.gov>, <lester.carlson@bbmr.guam.gov>, BERTHA <bertha.duenas@guam.gov>, Eliza G. Dames (Chamber) <eliza.dames@guam.gov>, Shamra L.A. Chargualaf (Chamber) <shamra.chargualaf@guam.gov>, Josephine C. Cepeda (Chamber) <josephine.cepeda@guam.gov>, Kathleen C. Cepeda (COS) <kathleen.cepeda@guam.gov>, Rhea Chang <rhea.chang@guam.gov>, Jessica Cruz (CF) <jessica.cruz@guam.gov>, BBMR Administrative Staff <admin@bbmr.guam.gov>, Analyn Eustaquio <analyn.eustaquio@bbmr.guam.gov>, Michael D. Weakley <michael.weakley@guam.gov>, Rikki Orsini <rikki.orsini@guam.gov>

Hafa Adai Madame Speaker,

Enclosed are copies of statements dated April 11, 2022, from the *Honorable*, Lourdes A. Leon Guerrero, regarding the following nine (9) bills:

- **BILL NO. 169-36 (LS) nka P.L. No. 36-89** - An Act to Amend Appendix A, Appendix B, Appendix C, Appendix D, and Appendix E, All of Chapter 67, Title 9, Guam Code Annotated, Relative to Updating the List of Scheduled Controlled Substances Provided in the Guam Uniform Controlled Substances Act
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The original statements and bills will be delivered to your office today.

Respectfully,



**Brianne LG Dunstan**

Unisifan I Maga'hågan Guåhan

Office of the Governor of Guam

*Office of Legal Counsel*

513 West Marine Corps Drive

Ricardo J. Bordallo Governor's Complex

Hagåtña, Guam 96910

Office: 671.473.1118

brianne.dunstan@guam.gov

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**9 attachments**

**36GL-22-1905.pdf**  
551K

**36GL-22-1904.pdf**  
517K

**36GL-22-1907.pdf**  
468K

**36GL-22-1906.pdf**  
824K

**36GL-22-1909.pdf**  
628K

**36GL-22-1908.pdf**  
637K

**36GL-22-1910.pdf**  
473K

**36GL-22-1911.pdf**  
461K

**36GL-22-1903.pdf**  
1945K



Speaker Therese M. Terlaje <speaker@guamlegislature.org>

## Statements regarding Legislative bills passed on: April 1, 2022

**Brianne LG Dunstan** <brianne.dunstan@guam.gov> Tue, Apr 12, 2022 at 9:48 AM  
 To: "Speaker Therese M. Terlaje" <speaker@guamlegislature.org>  
 Cc: "GOVERNOR Lourdes A. Leon Guerrero" <governor@guam.gov>, "LT. GOVERNOR Joshua F. Tenorio" <lt.governor@guam.gov>, "Geraldine A. Cepeda" <gcepeda@guamcourts.gov>, Guam Compiler of Laws <guamcompiler@gmail.com>, "Lisa C. Ibanez" <libanez@guamcourts.gov>, CHIEF OF STAFF Jon Junior Calvo <jon.calvo@guam.gov>, DEPUTY COS Alice Taijeron <alice.taijeron@guam.gov>, Legal <legal@guam.gov>, "Stephanie G. Flores" <stephanie.flores@guam.gov>, Krystal Paco-San Agustin <krystal.paco@guam.gov>, lester.carlson@bbmr.guam.gov, BERTHA <bertha.duenas@guam.gov>, "Eliza G. Dames (Chamber)" <eliza.dames@guam.gov>, "Shamra L.A. Chargualaf (Chamber)" <shamra.chargualaf@guam.gov>, "Josephine C. Cepeda (Chamber)" <josephine.cepeda@guam.gov>, "Kathleen C. Cepeda (COS)" <kathleen.cepeda@guam.gov>, Rhea Chang <rhea.chang@guam.gov>, "Jessica Cruz (CF)" <jessica.cruz@guam.gov>, BBMR Administrative Staff <admin@bbmr.guam.gov>, Analyn Eustaquio <analyn.eustaquio@bbmr.guam.gov>, "Michael D. Weakley" <michael.weakley@guam.gov>, Rikki Orsini <rikki.orsini@guam.gov>

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Respectfully,



**Brianne LG Dunstan**  
 Unisifan I Maga'hågan Guåhan  
 Office of the Governor of Guam  
 Office of Legal Counsel  
 513 West Marine Corps Drive  
 Ricardo J. Bordallo Governor's Complex  
 Hagåtña, Guam 96910  
 Office: 671.473.1118  
 brianne.dunstan@guam.gov

Doc Type: 36GL-22-1903-1911  
 OFFICE OF THE SPEAKER  
 THERESE M. TERLAJE

04-12-2022

Time: 9:46 a.m.  
 Received: [Signature]

COMMITTEE ON RULES  
 RECEIVED:

April 13, 2022

9:46 A.M.

[Signature]

9 attachments

 <b>Bill No. 247-36 (COR) nka P.L. 36-90.pdf</b> 169K	<i>36GL-22-1904</i>
 <b>Sub. Bill No. 213-36 (COR) nka P.L. 36-91.pdf</b> 187K	<i>36GL-22-1905</i>
 <b>Bill No. 224-36 (COR) nka P.L. 36-92.pdf</b> 314K	<i>36GL-22-1906</i>
 <b>Sub. Bill No. 41-36 (COR) nka P.L. 36-93.pdf</b> 144K	<i>36GL-22-1907</i>
 <b>Bill No. 68-36 (COR) nka P.L. 36-94.pdf</b> 226K	<i>36GL-22-1908</i>
 <b>Sub. Bill No. 236-36 (COR) _VETO.pdf</b> 225K	<i>36GL-22-1909</i>
 <b>Bill No. 123-36 (COR) _VETO.pdf</b> 148K	<i>36GL-22-1910</i>
 <b>Bill No. 239-36 (COR) _VETO.pdf</b> 135K	<i>36GL-22-1911</i>
 <b>Bill No. 169-36 (LS) nka P.L. 36-89.pdf</b> 853K	<i>36GL-22-1903</i>



UFISINAN I MAGA'HÅGAN GUÅHAN  
OFFICE OF THE GOVERNOR OF GUAM

April 11, 2022

**HONORABLE THERESE M. TERLAJE, Speaker**

*I Mina'trentai Sais Na Liheslaturan Guåhan*

36<sup>th</sup> Guam Legislature  
Guam Congress Building  
163 Chalan Santo Papa  
Hagåtña, Guam 96910

**Re: SUBSTITUTE BILL NO. 236-36 (COR) – AN ACT TO AMEND § 5213 OF SUBARTICLE B, ARTICLE 3, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO STRENGTHENING THE REQUIREMENTS OF SMALL PURCHASES**

*Hafa Adai* Madame Speaker,

Substitute Bill No. 236-36 seeks to improve competition for small purchases made under Guam Procurement Law by requiring procuring agencies to submit requests for quotations (RFQs) to businesses for supplies or services, and to require procuring agencies to include in the procurement record an attestation documenting the agency's efforts to obtain quotations; a list of qualified vendors for the item or service<sup>1</sup>; and a record of businesses contacted, businesses that responded, businesses that did not respond, and/or businesses that otherwise submitted a positive written quotation. The testimony received by the Legislature on Substitute Bill No. 236-36 was generally positive, with agencies and experts alike collaborating on revisions.

However, the bill the Legislature ultimately passed contains a defect that would affect the ability of our procuring agencies to utilize the small purchase mechanism as intended. Specifically, the bill requires that a procuring agency not only solicit but *obtain* three (3) positive quotes, to the maximum extent practicable. The bill gives no guidance regarding the action a procuring agency may take in the event the agency receives only two positive quotes. It appears from both the Legislature's discussion during the hearing, and from the original language of the bill, that the Legislature's intent was perhaps to require an attestation documenting the agency's efforts to foster competition for a small purchase procurement in the event the agency is unable to obtain three (3) positive quotes. However, the ultimate engrossed bill nullified this alternative, leaving agencies with no clear path towards completing a small purchase procurement in the event three (3) positive quotes are not obtained.

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<sup>1</sup> In the event the Legislature proceeds with a corrective bill, I suggest the Legislature provide clear instruction to the GSA regarding its obligation to compile a list of qualified vendors, to the extent the Legislature shall require submission of such a list along with the attestation.



To: Speaker Terlaje  
Fr: Governor of Guam  
Date: April 11, 2022  
Re: Substitute Bill No. 236-36 (COR)

Page 2 of 2

I trust that the Legislature will act expeditiously to correct this error, with input from affected agencies and stakeholders. Accordingly, ***Substitute Bill No. 236-36 is vetoed.***

*Senseremente,*



**LOURDES A. LEON GUERRERO**

*Maga'hågan Guåhan*

Governor of Guam

Enclosure: VETOED Substitute Bill No. 236-36 (COR)

cc via email: *Honorable Joshua F. Tenorio, Sigundo Maga'låhen Guåhan*  
Compiler of Laws



***I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN***  
**2022 (SECOND) Regular Session**

**CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN***

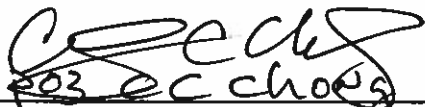
This is to certify that **Substitute Bill No. 236-36 (COR), "AN ACT TO AMEND § 5213 OF SUBARTICLE B, ARTICLE 3, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO STRENGTHENING THE REQUIREMENTS OF SMALL PURCHASES,"** was on the 1<sup>st</sup> day of April 2022, duly and regularly passed.

  
Therese M. Terlaje  
Speaker

Attested:

  
Amanda L. Shelton  
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 1 day of April,  
2022, at 9:39 o'clock P.M.

  
Assistant Staff Officer  
*Maga'håga's Office*

APPROVED:

\_\_\_\_\_  
Lourdes A. Leon Guerrero  
*I Maga'hågan Guåhan*

Date: 4/11/2022

Public Law No. \_\_\_\_\_

RCVD AT CENTRAL FILE  
APR 4 '22 AMB:58  
2022-16194  
Evelyn Fejeran

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

**Bill No. 236-36 (COR)**

As amended by the Committee on Environment, Revenue  
and Taxation, Labor, Procurement, and Statistics,  
Research, and Planning; and substituted and further amended on the Floor.

Introduced by:

Sabina Flores Perez  
Therese M. Terlaje  
Joanne Brown  
Telena Cruz Nelson  
James C. Moylan  
Joe S. San Agustin  
Clynton E. Ridgell  
Telo T. Taitague  
Tina Rose Muña Barnes  
V. Anthony Ada  
Frank Blas Jr.  
Christopher M. Dueñas  
Amanda L. Shelton  
Jose “Pedro” Terlaje  
Mary Camacho Torres

**AN ACT TO *AMEND* § 5213 OF SUBARTICLE B,  
ARTICLE 3, CHAPTER 5, TITLE 5, GUAM CODE  
ANNOTATED, RELATIVE TO STRENGTHENING THE  
REQUIREMENTS OF SMALL PURCHASES.**

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

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
that 5 GCA § 5213, as first enacted in Public Law 16-124, allowed the Policy Office  
to establish, by regulation, the threshold amount and “small purchase procedures.”  
Currently, that statute specifies that “any procurement not exceeding Twenty-five  
Thousand Dollars (\$25,000) for supplies or services, and not exceeding One

1 Hundred Thousand Dollars (\$100,000) for construction, may be made in accordance  
2 with small purchase procedures promulgated by the Policy Office.” Regulations  
3 adopted by the Executive Branch have provided for two (2) specific competitive  
4 source selection procedures: (1) solicitation of goods and services and construction  
5 by informal (not advertised) Requests for Quotations (RFQs) (2 GAR § 3111); and,  
6 (2) Blanket Purchase Agreements (BPAs) (2 GAR § 3112.1). 2 GAR § 3111  
7 emphasizes that small purchases of goods and services must have competitive  
8 features [see, § 3111(c) through (f)]. But if “the supply, service, or construction item  
9 is available from only one business, the sole source procurement method set forth in  
10 § 3112 (Sole Source Procurement) of these regulations shall be used even if the  
11 procurement is a small purchase....” [2 GAR § 3111(b)(4)].

12 *I Liheslatura* further finds that the fundamental purposes and policies  
13 underlying the Procurement Act, as expressed in 5 GCA § 5001(b), include  
14 underlying principles which “(3) provide for increased public confidence in the  
15 procedures followed in public procurement; (4) ensure the fair and equitable  
16 treatment of all persons who deal with the procurement system of this Territory; (5)  
17 provide increased economy in territorial activities and to maximize to the fullest  
18 extent practicable the purchasing value of public funds; and, (6) foster effective  
19 broad-based competition.” § 5001(a) expresses the command that the entirety of the  
20 procurement law “shall be construed and applied [to the facts and circumstances] to  
21 promote its underlying purposes and policies.” The government is obliged to  
22 promote its underlying purposes and policies generally, and to foster competition in  
23 particular.

24 *I Liheslatura* finds that procurement without public competition by informal  
25 Requests for Quotations (RFQs) of small purchases may be abused by the  
26 acquirement of a vague “no quote quotation” requirement in regulation 2 GAR §  
27 3111(c)(1), and by a purchasing agency’s obligation to obtain “no less than three

1 positive written quotations from businesses”, and due to failure of purchasing  
2 agencies to keep procurement records that create an audit trail which would reveal,  
3 among other matters: how many and which vendors were actually solicited by an  
4 RFQ; how were the chosen recipients selected; and which recipients of an RFQ  
5 returned a price quote. *I Liheslatura* has not noticed any evidence that small  
6 purchases by the sole source method have received any of the treatment required by  
7 5 GCA § 5214 or 2 GAR § 3112 to provide competition, frugality, transparency, and  
8 accountability under the formal sole source method of procurement.

9 Inasmuch as they are meant to share the same monetary thresholds, *I*  
10 *Liheslaturan Guåhan* intends to clarify that the small purchase method of source  
11 selection is intended to apply to the regulations applicable to Requests for Quotations  
12 (RFQs) as contemplated in 2 GAR § 3111 as well as to Blanket Purchase  
13 Agreements (BPAs) which the Executive Branch has adopted as 2 GAR § 3112.1,  
14 which is found within the context of 2 GAR § 3112 (Sole Source Procurement, a  
15 non-competitive procedure). *I Liheslatura* further intends to increase transparency  
16 and foster competition in the use of small purchases with more thorough and  
17 transparent reporting by all agencies of cumulative purchases of similar goods and  
18 services to give teeth to the mandate of the procurement law that “procurement  
19 requirements shall not be artificially divided so as to constitute a small purchase” (5  
20 GCA § 5213). By bringing both small purchase procedures under the umbrella of 5  
21 GCA § 5213, and out from under the company of sole source purchases, it is intended  
22 that the Procurement Policy Office will take note of the more demanding  
23 transparency and accounting attention given to BPAs and apply those standards to  
24 RFQs.

25 **Section 2.** § 5213 of Subarticle B, Article 3, Chapter 5, Title 5, Guam Code  
26 Annotated, is hereby *amended* to read as follows:

27 **“§ 5213. Small Purchases.**

Any procurement not exceeding Twenty-five Thousand Dollars (\$25,000) for supplies or services, and not exceeding One Hundred Thousand Dollars (\$100,000) for construction, may be made in accordance with small purchase regulations, promulgated by the Policy Office, which shall include the requirement, in a Request for Quotes (RFQ) small purchase solicitation, to solicit and obtain, to the maximum extent practicable, no less than three (3) positive written quotations from qualified sources and which shall be part of the procurement record. A "no quote" response will not be considered a positive quotation but shall be part of the procurement record, which shall further include a written record or memorandum of all solicitations and responses thereto, negative or positive, orally or in writing. The purchasing agency shall include in the procurement record of a small purchase solicitation made by RFQ, regardless of whether it was concluded, an attestation containing the following:

(a) a record of those particular businesses that were contacted, and those who, contacted or not, submitted a "no quote," or did not respond to the solicitation, as well as those that submitted positive written quotations;

(b) a statement documenting the solicitation efforts to obtain quotations from qualified sources other than those which responded; and

(c) GSA's list of all qualified vendors for the item(s) or service(s) being procured.

Small purchase procurement requirements shall not be artificially divided so as to constitute a small purchase under this Section. The Chief Procurement Officer, the Director of the Department of Public Works, the head of a purchasing agency, or designee at or above the level of Procurement Officer utilizing this Section for procurement, shall submit a report of all small purchases to the Speaker of *I Liheslaturan Guåhan* quarterly."

**Section 3. Effective Date.** This Act shall be effective upon enactment.

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



UFISINAN I MAGA'HÅGAN GUÅHAN  
OFFICE OF THE GOVERNOR OF GUAM

April 11, 2022

Doc Type: 36GL-22-1909  
OFFICE OF THE SPEAKER  
THERESE M. TERLAJE

**HONORABLE THERESE M. TERLAJE**, *Speaker*  
*I Mina'trentai Sais Na Liheslaturan Guåhan*  
36<sup>th</sup> Guam Legislature  
Guam Congress Building  
163 Chalan Santo Papa  
Hagåtña, Guam 96910

04-12-2022

Time: 11:31 a.m.  
Received: [Signature]

**Re: SUBSTITUTE BILL NO. 236-36 (COR) – AN ACT TO AMEND § 5213 OF SUBARTICLE B, ARTICLE 3, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO STRENGTHENING THE REQUIREMENTS OF SMALL PURCHASES**

*Hafa Adai* Madame Speaker,

Substitute Bill No. 236-36 seeks to improve competition for small purchases made under Guam Procurement Law by requiring procuring agencies to submit requests for quotations (RFQs) to businesses for supplies or services, and to require procuring agencies to include in the procurement record an attestation documenting the agency's efforts to obtain quotations; a list of qualified vendors for the item or service<sup>1</sup>; and a record of businesses contacted, businesses that responded, businesses that did not respond, and/or businesses that otherwise submitted a positive written quotation. The testimony received by the Legislature on Substitute Bill No. 236-36 was generally positive, with agencies and experts alike collaborating on revisions.

However, the bill the Legislature ultimately passed contains a defect that would affect the ability of our procuring agencies to utilize the small purchase mechanism as intended. Specifically, the bill requires that a procuring agency not only solicit but *obtain* three (3) positive quotes, to the maximum extent practicable. The bill gives no guidance regarding the action a procuring agency may take in the event the agency receives only two positive quotes. It appears from both the Legislature's discussion during the hearing, and from the original language of the bill, that the Legislature's intent was perhaps to require an attestation documenting the agency's efforts to foster competition for a small purchase procurement in the event the agency is unable to obtain three (3) positive quotes. However, the ultimate engrossed bill nullified this alternative, leaving agencies with no clear path towards completing a small purchase procurement in the event three (3) positive quotes are not obtained.

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<sup>1</sup> In the event the Legislature proceeds with a corrective bill, I suggest the Legislature provide clear instruction to the GSA regarding its obligation to compile a list of qualified vendors, to the extent the Legislature shall require submission of such a list along with the attestation.

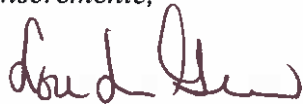


To: Speaker Terlaje  
Fr: Governor of Guam  
Date: April 11, 2022  
Re: Substitute Bill No. 236-36 (COR)

Page 2 of 2

I trust that the Legislature will act expeditiously to correct this error, with input from affected agencies and stakeholders. Accordingly, ***Substitute Bill No. 236-36 is vetoed.***

*Senseremente,*



**LOURDES A. LEON GUERRERO**

*Maga'hågan Guåhan*

Governor of Guam

Enclosure: VETOED Substitute Bill No. 236-36 (COR)

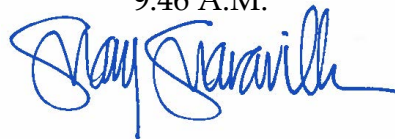
cc via email: *Honorable Joshua F. Tenorio, Sigundo Maga'låhen Guåhan*  
Compiler of Laws

**COMMITTEE ON RULES**

**RECEIVED:**

April 13, 2022

9:46 A.M.




***I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN***  
**2022 (SECOND) Regular Session**

**CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN***

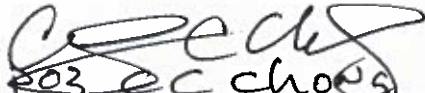
This is to certify that **Substitute Bill No. 236-36 (COR), "AN ACT TO AMEND § 5213 OF SUBARTICLE B, ARTICLE 3, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO STRENGTHENING THE REQUIREMENTS OF SMALL PURCHASES,"** was on the 1<sup>st</sup> day of April 2022, duly and regularly passed.

  
Therese M. Terlaje  
Speaker

Attested:

  
Amanda L. Shelton  
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 1 day of April,  
2022, at 9:39 o'clock P.M.

  
Assistant Staff Officer  
*Maga'håga's Office*

APPROVED:

\_\_\_\_\_  
Lourdes A. Leon Guerrero  
*I Maga'hågan Guåhan*

Date: 4 | 11 | 2022

Public Law No. \_\_\_\_\_

RCVD AT CENTRAL FILES  
APR 4 '22 AM 8:58  
2022-16194  
Evelyn Fejeran

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

**Bill No. 236-36 (COR)**

As amended by the Committee on Environment, Revenue  
and Taxation, Labor, Procurement, and Statistics,  
Research, and Planning; and substituted and further amended on the Floor.

Introduced by:

Sabina Flores Perez  
Therese M. Terlaje  
Joanne Brown  
Telena Cruz Nelson  
James C. Moylan  
Joe S. San Agustin  
Clynton E. Ridgell  
Telo T. Taitague  
Tina Rose Muña Barnes  
V. Anthony Ada  
Frank Blas Jr.  
Christopher M. Dueñas  
Amanda L. Shelton  
Jose “Pedro” Terlaje  
Mary Camacho Torres

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Hundred Thousand Dollars (\$100,000) for construction, may be made in accordance with small purchase procedures promulgated by the Policy Office.” Regulations adopted by the Executive Branch have provided for two (2) specific competitive source selection procedures: (1) solicitation of goods and services and construction by informal (not advertised) Requests for Quotations (RFQs) (2 GAR § 3111); and, (2) Blanket Purchase Agreements (BPAs) (2 GAR § 3112.1). 2 GAR § 3111 emphasizes that small purchases of goods and services must have competitive features [see, § 3111(c) through (f)]. But if “the supply, service, or construction item is available from only one business, the sole source procurement method set forth in § 3112 (Sole Source Procurement) of these regulations shall be used even if the procurement is a small purchase....” [2 GAR § 3111(b)(4)].

*I Liheslatura* further finds that the fundamental purposes and policies underlying the Procurement Act, as expressed in 5 GCA § 5001(b), include underlying principles which “(3) provide for increased public confidence in the procedures followed in public procurement; (4) ensure the fair and equitable treatment of all persons who deal with the procurement system of this Territory; (5) provide increased economy in territorial activities and to maximize to the fullest extent practicable the purchasing value of public funds; and, (6) foster effective broad-based competition.” § 5001(a) expresses the command that the entirety of the procurement law “shall be construed and applied [to the facts and circumstances] to promote its underlying purposes and policies.” The government is obliged to promote its underlying purposes and policies generally, and to foster competition in particular.

*I Liheslatura* finds that procurement without public competition by informal Requests for Quotations (RFQs) of small purchases may be abused by the acquirement of a vague “no quote quotation” requirement in regulation 2 GAR § 3111(c)(1), and by a purchasing agency’s obligation to obtain “no less than three

1 positive written quotations from businesses”, and due to failure of purchasing  
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23 divided so as to constitute a small purchase under this Section. The Chief  
24 Procurement Officer, the Director of the Department of Public Works, the  
25 head of a purchasing agency, or designee at or above the level of Procurement  
26 Officer utilizing this Section for procurement, shall submit a report of all small  
27 purchases to the Speaker of *I Liheslaturan Guåhan* quarterly."

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

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