

*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
<b>300-36 (LS)</b> As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning; and further amended on the Floor	Sabina F. Perez Therese M. Terlaje Telo T. Taitague Tina Rose Muña Barnes Joanne Brown Frank Blas Jr. V. Anthony Ada Christopher M. Dueñas James C. Moylan Telena Cruz Nelson Clynton E. Ridgell	AN ACT TO REPEAL AND REENACT § 5213 OF SUBARTICLE B, ARTICLE 3, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO STRENGTHENING THE REQUIREMENTS OF SMALL PURCHASES.	4/28/22 2:44 p.m.	4/29/22	Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning	5/11/22 9:00 a.m.	5/17/22 4:21 p.m.  As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning.	Request: 4/29/22  Waiver: 5/6/22	
	<b>SESSION DATE</b>	<b>TITLE</b>	<b>DATE PASSED</b>	<b>TRANSMITTED</b>	<b>DUE DATE</b>	<b>PUBLIC LAW NO.</b>	<b>DATE SIGNED</b>	<b>NOTES</b>	
	5/27/22	AN ACT TO REPEAL AND REENACT § 5213 OF SUBARTICLE B, ARTICLE 3, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO STRENGTHENING THE REQUIREMENTS OF SMALL PURCHASES.	6/2/22	6/3/22	6/15/22	36-103	6/15/22	Received: 6/15/22 Mess and Comm. Doc. No. 36GL-22-2143	

LOURDES A. LEON GUERRERO  
GOVERNOR



JOSHUA F. TENORIO  
LT. GOVERNOR

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

June 15, 2022

Doc Type: 36GL-22-2143  
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

~~06~~ 15 2022

Time: 3:54pm

Received: *[Signature]*

**Re: BILL NO. 300-36 (LS) – AN ACT TO REPEAL AND REENACT § 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,*

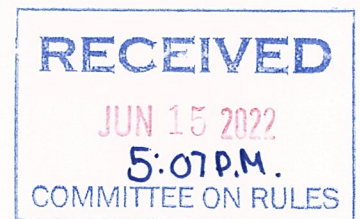
I recognize the work that was put into this effort modifying the small purchase requirements to increase the competitive nature of small purchases, and I thank the sponsors of the bill for acting quickly to address concerns raised by the General Services Agency of the Department of Administration regarding a defect in a previous version of the bill, that would have inadvertently affected the ability of agencies to properly utilize this important procurement method. Bill No. 300-36 addresses GSA's concerns, ensuring that affected agencies may proceed with their small purchase procurements even if the required number of positive written quotations cannot be obtained. As passed, this Bill will enhance the transparency in small purchase procurements, without hindering their use. I hereby sign Bill No. 300-36 (LS) into law as **Public Law No. 36-103**.

*Senseremente,*

**LOURDES A. LEON GUERRERO**

*Maga'hågan Guåhan*

Governor of Guam



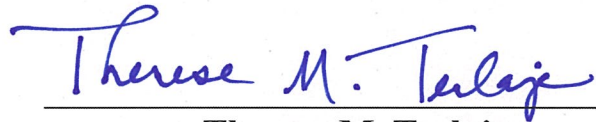
Enclosure: Bill No. 300-36 (LS) *nka P.L. No. 36-103*

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

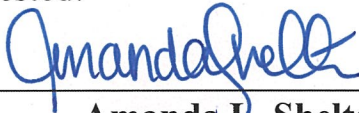
**CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'HÅGAN GUÅHAN**

This is to certify that **Bill No. 300-36 (LS), "AN ACT TO REPEAL AND REENACT § 5213 OF SUBARTICLE B, ARTICLE 3, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO STRENGTHENING THE REQUIREMENTS OF SMALL PURCHASES,"** was on the 2<sup>nd</sup> day of June 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 3<sup>rd</sup> day of June,  
2022, at 3:18 o'clock P.M.



Assistant Staff Officer  
*Maga'håga's Office*

APPROVED:



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

Date: 6/15/2022

Public Law No. 36-103

2022-16709  
RCVD AT CENTRAL FILES  
JUN 3 '22 PM3:18

**Elaine Tajalle**

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

**Bill No. 300-36 (LS)**

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

Introduced by:

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

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

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that 5 GCA § 5213, as first enacted in Public Law 16-124, allowed the Policy Office  
4 to establish, by regulation, the threshold amount and "small purchase procedures."  
5 Currently, that statute specifies that "any procurement not exceeding Twenty-five

1 Thousand Dollars (\$25,000) for supplies or services, and not exceeding One  
2 Hundred Thousand Dollars (\$100,000) for construction, may be made in accordance  
3 with small purchase procedures promulgated by the Policy Office.” Regulations  
4 adopted by the Executive Branch have provided for two (2) specific competitive  
5 source selection procedures: (1) solicitation of goods and services and construction  
6 by informal (not advertised) Requests for Quotations (RFQs) (2 GAR § 3111); and,  
7 (2) Blanket Purchase Agreements (BPAs) (2 GAR § 3112.1). 2 GAR §3111  
8 emphasizes that small purchases of goods and services must have competitive  
9 features [see, § 3111(c) through (f)]. But if “the supply, service, or construction item  
10 is available from only one business, the sole source procurement method set forth in  
11 § 3112 (Sole Source Procurement) of these regulations shall be used even if the  
12 procurement is a small purchase....” [2 GAR § 3111(b)(4)].

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

25 *I Liheslatura* finds that procurement without public competition by informal  
26 Requests for Quotations (RFQs) of small purchases may be abused by the  
27 acquirement of a vague “no quote quotation” requirement in regulation 2 GAR §

1 3111(c)(1), and by a purchasing agency's obligation to obtain "no less than three  
2 positive written quotations from businesses", and due to failure of purchasing  
3 agencies to keep procurement records that create an audit trail which would reveal,  
4 among other matters: how many and which vendors were actually solicited by an  
5 RFQ; how were the chosen recipients selected; and which recipients of an RFQ  
6 returned a price quote. *I Liheslatura* has not noticed any evidence that small  
7 purchases by the sole source method have received any of the treatment required by  
8 5 GCA § 5214 or 2 GAR § 3112 to provide competition, frugality, transparency, and  
9 accountability under the formal sole source method of procurement.

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

26 **Section 2.** § 5213 of Subarticle B, Article 3, Chapter 5, Title 5, Guam Code  
27 Annotated, is hereby *repealed* and *reenacted* to read:

1           **“§ 5213. Small Purchases.**

2           Any procurement not exceeding Twenty-five Thousand Dollars  
3 (\$25,000) for supplies or services, and not exceeding One Hundred Thousand  
4 Dollars (\$100,000) for construction, may be made in accordance with small  
5 purchase regulations promulgated by the Policy Office, which shall include  
6 the requirements, in a Request for Quotes (RFQ) small purchase solicitation,  
7 to solicit and obtain, to the maximum extent practicable, no less than three (3)  
8 positive written quotations from qualified sources that shall be part of the  
9 procurement record. A “no quote” response will not be considered a positive  
10 quotation but shall be part of the procurement record, which shall further  
11 include a written record or memorandum of all solicitations and responses  
12 thereto, negative or positive, orally or in writing. In the event the agency  
13 obtains less than three (3) positive quotations and provides the attestation  
14 required by this Section, the agency may proceed with the small purchase  
15 procurement. The purchasing agency shall include in the procurement record  
16 of a small purchase solicitation made by RFQ, regardless of whether it was  
17 concluded, an attestation containing the following:

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

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

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

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

7           **Section 3. Promulgation of Rules and Regulations for Small Purchases.**

8 The Procurement Policy Office, pursuant to 5 GCA § 5130(a), shall promulgate rules  
9 and regulations for small purchases consistent with 5 GCA § 5213, no later than  
10 ninety (90) calendar days after the enactment of this Act.

11           **Section 4. Effective Date.** This Act shall be effective upon enactment.

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