

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
52-36 (COR) As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research and Planning	Sabina Flores Perez	AN ACT TO <i>REPEAL</i> AND <i>REENACT</i> § 5233 OF SUBARTICLE D, ARTICLE 3, CHAPTER 5 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO DISCLOSURE OF OWNERSHIP, FINANCIAL AND CONFLICT OF INTERESTS UNDER GUAM PROCUREMENT LAW.	2/2/21 2:14 p.m.	2/3/21	Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning	2/11/21 8:00 a.m.	3/12/21 2:08 p.m.	Request: 2/3/21 Waiver: 2/5/21	
	SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW NO.	DATE SIGNED	NOTES	
	3/19/21	AN ACT TO <i>REPEAL</i> AND <i>REENACT</i> § 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.	3/26/21	3/29/21	4/9/21	36-13	4/9/21	Received: 4/9/21 Mess and Comm. Doc. No. 36GL-21-0416	

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

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

April 9, 2021

HONORABLE THERESE M. TERLAJE

Speaker

I Mina'trentai Sais Na Liheslaturan Guåhan

36th Guam Legislature

Guam Congress Building

163 Chalan Santo Papa

Hagåtña, Guam 96910

RE: BILL NO. 52-36 (COR) – 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

Buenas yan Hafa Adai Madame Speaker:

Bill No. 52-36 is an attempt to modernize the procurement code so that it better reflects the types of entities that may be bidding on or submitting proposals for government projects or purchases. This change follows the federal model, which has recognized that corporate shareholders are not the only owners of businesses involved in government procurement. I have signed it into law as *Public Law No. 36-13*.

This effort to shed light on ownership interests will provide additional transparency in government procurement, but it should not be viewed as the end of the required efforts to improve efficiencies. Through the Procurement Policy Office, established by 5 G.C.A. §5101, our Administration is actively working on policies to help provide direction to the General Services Agency relative to policy initiatives intended to streamline procurement operations and encourage use of provisions in both the Organic Act and Guam law to avail of federal procurement authorities.

Senseremente,

LOURDES A. LEON GUERRERO

Maga'hågan Guåhan

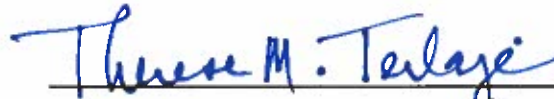
Governor of Guam

Enclosure(s): Bill No. 52-36 (COR) *nka P.L. 36-13*

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

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'HÅGAN GUÅHAN

This is to certify that **Bill No. 52-36 (COR), "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,"** was on the 26th day of March 2021, duly and regularly passed.




Therese M. Terlaje
Speaker

Attested:



Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 29th day of March,
2021, at 5:15 o'clock P.M.



Assistant Staff Officer
Maga'håga's Office

APPROVED:



Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 4/9/2021

Public Law No. 36-13

2021-13302
RCVD AT CENTRAL FILES
MAR 29 '21 PM5:15

Elaine Tajalle

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

Bill No. 52-36 (COR)

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

Introduced by:

Sabina Flores Perez

V. Anthony Ada

Frank Blas Jr.

Jóanne Brown

Christopher M. Dueñas

James C. Moylan

Tina Rose Muña Barnes

Telena Cruz Nelson

Clynton E. Ridgell

Joe S. San Agustin

Amanda L. Shelton

Telo T. Taitague

Jose "Pedro" Terlaje

Therese M. Terlaje

Mary Camacho Torres

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

(c) Public Disclosure of Ownership.

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

(2) Prior to award, every person who is a prospective contractor, bidder, or offeror of a contract to be acquired under any method of source selection authorized by this Chapter shall submit a Disclosure Statement, executed as an affidavit under oath, disclosing

1 the name of each person who currently or has owned an ownership
2 interest in the prospective contractor, bidder, or offeror greater than ten
3 percent (10%) at any time during the twelve (12) month period
4 immediately preceding the date of the solicitation (the “relevant
5 disclosure period”). If a prospective contractor, bidder, or offeror is an
6 artificial person, the Disclosure Statement shall disclose the name of
7 each person who has owned an ownership interest in such artificial
8 person (a “second tier owner”) greater than twenty-five percent (25%)
9 at any time during the relevant disclosure period. If any such second
10 tier owner is also an artificial person, the Disclosure Statement shall
11 disclose the name of each person who has owned an ownership interest
12 in such second tier owner (a “third tier owner”) of forty-nine percent
13 (49%) or more during the relevant disclosure period. If the name of no
14 natural person has been identified as an owner, or a second or third tier
15 owner of the prospective contractor, bidder, or offeror, the Disclosure
16 Statement shall identify the name, position, address, and contact
17 information of the natural person having the authority and
18 responsibility for the performance of the prospective contract, and the
19 name of any natural person who has the authority and power to remove
20 and replace the designated responsible person or otherwise control the
21 performance of the prospective contract.

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

1 such commission, gratuity, contingent fee or other compensation.

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

7 (f) Every disclosure of an ownership or financial interest of any
8 person required to be identified by this Section shall name the person required
9 to be disclosed and the street address of their principal place of business. All
10 information disclosed or meant to be disclosed under this Section is public
11 procurement data and shall be kept as part of the public record of each
12 procurement.

13 (g) Continuing Duty of Disclosure. Notwithstanding any other
14 provision of this Chapter, the duty to disclose the information required under
15 this Section shall be, upon award, a continuing duty of a contractor of every
16 contract subject to this Chapter, and all such information shall become part of
17 the procurement record required by § 5249 of this Chapter. Throughout the
18 term of a contract subject to the terms of this Chapter, the contractor shall
19 promptly make any disclosures not made previously and update changes in
20 the identities or other required information, interests, or conflicts of the
21 persons required to be disclosed herein. Failure to comply with this Section
22 shall constitute a material breach of contract.”

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

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HĀGAN GUĀHAN
OFFICE OF THE GOVERNOR OF GUAM

April 9, 2021

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I Mina'trentai Sais Na Liheslaturan Guåhan

36th Guam Legislature

Guam Congress Building

163 Chalan Santo Papa

Hagåtña, Guam 96910

Doc Type: 36GL-21-0416
OFFICE OF THE SPEAKER
THERESE M. TERLAJE

~~04~~ 09 2021

Time: 4:11pm
Received: [Signature]

RE: BILL NO. 52-36 (COR) – 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

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Senseremente,

LOURDES A. LEON GUERRERO

Maga'hāgan Guåhan

Governor of Guam

COMMITTEE ON RULES

RECEIVED:

April 9, 2021

5:27 P.M.

Enclosure(s): Bill No. 52-36 (COR) *nka P.L. 36-13*

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

RICARDO J. BORDALLO GOVERNOR'S COMPLEX

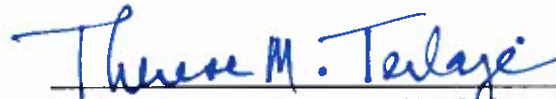
513 W. Marine Corps Drive Hagåtña, Guam 96910

governor.guam.gov | (671) 472-8931

Doc. No. 36GL-21-0416.*

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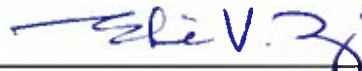
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Speaker

Attested:



Amanda L. Shelton
Legislative Secretary

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2021, at 5:15 o'clock P.M.



Assistant Staff Officer
Maga'håga's Office

APPROVED:



Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 4/9/2021

Public Law No. 36-13

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