

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2024 (SECOND) Regular Session

Bill No. 255-37(COR)
As Substituted on the Floor

Introduced by:

Therese M. Terlaje *TMT*

**AN ACT TO AMEND §5118 OF SUBARTICLE B, §5121(a) OF
SUBARTICLE C, AND §5150 OF SUBARTICLE F, ALL OF
ARTICLE 2, CHAPTER 5, DIVISION 1, TITLE 5, GUAM CODE
ANNOTATED, RELATIVE TO THE REVIEW AND
APPROVAL OF CONTRACTS AND OTHER PROCUREMENT
ACTIONS BY THE ATTORNEY GENERAL.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. § 5118 of Subarticle B, Article 2, Chapter 5, Division 1,
Title 5, Guam Code Annotated is hereby *amended* to read as follows:

“§ 5118. Procurement Counsel.

The Department of Administration may employ an attorney to assist the General
Services Agency, to be called the Procurement Counsel. The Director of
Administration shall set the terms and conditions of employment for ~~the attorney~~
Procurement Counsel and determine his or her compensation consistent with the
laws of Guam. The attorney shall be full-time employee, and shall be admitted to
practice before the courts of Guam under the same conditions as are attorneys
employed by the government pursuant to Title 7 GCA, §§ 9A114 and 9A114A. The
Procurement Counsel shall assist and advise the Chief Procurement Officer on all
civil matters in which the General Services Agency is legally interested, provided
that the Office of the Attorney General shall represent the General Services Agency,
unless the Office of the Attorney General formally withdraws from such

1 representation, then the Procurement Counsel shall represent the General Services
2 Agency in such civil matters upon notice to the Attorney General until the Office of
3 the Attorney General resumes such representation. The attorney shall provide
4 technical assistance to the Guam Procurement Advisory Council, and shall assist
5 with the preparation of any legislation, rules or regulations. ~~The incumbent~~
6 ~~procurement advisor shall be designated as the procurement counsel.”~~

7 **Section 2.** § 5121(a) of Subarticle C, Article 2, Chapter 5, Division 1, Title
8 5, of Guam Code Annotated is hereby *amended* to read as follows:

9 “(a) General Authority. For the purpose of procuring the services of
10 accountants, physicians, lawyers, dentists, licensed nurses, other licensed
11 health professionals and other professionals, any governmental body of Guam
12 may act as a purchasing agency and contract on its own behalf for such
13 services, subject to this Chapter and regulations promulgated by the Policy
14 Office, but this Subsection shall not authorize the procuring of such services
15 where any given governmental body is otherwise prohibited from procuring
16 such services. If the Office of the Attorney General formally withdraws from
17 representation of a governmental body, the agency shall be authorized to
18 employ or contract with an attorney to provide legal services to the agency
19 until the Office of the Attorney General resumes such representation.
20 Alternatively, the agency may enter into an agreement with another agency
21 for the provision of legal services upon notice to the Attorney General until
22 the Office of the Attorney General resumes such representation.”

23 **Section 3.** § 5150 of Chapter 5, Subarticle F, Article 2, Title 5, Guam Code
24 Annotated is *amended* to read as follows:

25 **“§ 5150. Duties of the Attorney General.**

26 The Attorney General, the Deputy Attorney General or such Assistant
27 Attorneys General, or such Special Assistant Attorneys General as the

1 Attorney General may designate, shall serve as legal counsel and provide
2 necessary legal services to the Policy Office and the General Services Agency.
3 Whenever the Chief Procurement Officer, the Director of Public Works, or
4 the head of any executive branch agency, autonomous agency, instrumentality
5 or public corporation of the government of Guam conducts any solicitation or
6 procurement which is estimated to result in an award of Five Hundred
7 Thousand or more, the Attorney General or his designees, including one (1)
8 or more Special Assistant Attorneys General who may be so designated or
9 appointed by the Attorney General and subject to any reasonable requirements
10 or conditions determined by the Attorney General, shall act as legal advisor
11 during all phases of the solicitation or procurement process. The Attorney
12 General, or his designee, including one (1) or more Special Assistant
13 Attorneys General, shall, in addition, when he approves contracts, determine
14 not only the correctness of their form, but their legality. In making such a
15 determination of legality, he may require any or all agencies involved in the
16 contract to supply him with evidence that the required procedures precedent
17 to executing the contract were carried out. He or his designees may prescribe
18 the forms and format required to be followed by the agencies in aiding him in
19 his determination of form and legality. Notwithstanding the foregoing, if the
20 Office of the Attorney General formally withdraws from representing any
21 agency, instrumentality or public corporation as provided in this Section while
22 the agency is conducting any solicitation or procurement which is estimated
23 to result in an award of Five Hundred Thousand Dollars (\$500,000) or more,
24 then the agency may conduct the solicitation or procurement without the
25 assistance of the Attorney General upon notice to the Attorney General until
26 the Office of the Attorney General resumes such representation.”

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

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