

**MINA' TRENTAI DOS NA LIHESLATURAN GUAHAN
2013 (FIRST) Regular Session**

Bill No. 160 -32 (COR.)

Introduced by:

D.G. RODRIGUEZ, JR. *CR*

**AN ACT TO ADOPT THE RULES OF PROCEDURE FOR
GOVERNMENT OF GUAM HEALTH INSURANCE
NEGOTIATING TEAM AND THE CONDUCT OF THE
ANNUAL SOLICITATION OF HEALTH INSURANCE
COVERAGE FOR GOVERNMENT OF GUAM ACTIVE
EMPLOYEES, RETIREES, AND THEIR DEPENDANTS.**

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

2 **Section 1. Legislative Findings and Intent:** *I Liheslaturan Guåhan* finds
3 that on July 19, 2013, the Government of Guam Health Insurance Negotiating
4 Team has submitted the proposed Rules of Procedure to the Legislature. The
5 authority and mandate to establish the rules of procedure is provided for pursuant
6 to §4302(c) of Article 3, Chapter 4, Title 4, Guam Code Annotated. The rules are
7 intended to provide for the orderly and equitable process by which the Negotiating
8 Team shall annually seek to acquire healthcare insurance coverage for active and
9 retired government of Guam employees and their dependants.

10 *I Liheslaturan Guåhan* takes due notice that the annual process relative to
11 the solicitation, receipt, review and contract award process for health insurance
12 coverage is currently being conducted under *interim rules of procedure*, pending
13 formal legislative action.

14 It is, therefore, the *intent* of *I Liheslaturan Guåhan* to adopt the Rules of
15 Procedures appended to this Act as Exhibit "A".

2013 JUL 23 PM 5:02
[Signature]

1 **Section 2. Adoption of Rules.** Notwithstanding any other provision of law,
2 rule, regulation and Executive Order, the Rules of Procedure of the Government of
3 Guam Health Insurance Negotiating Team, and attached hereto as Exhibit “A”, are
4 hereby adopted by *I Mina’Trentai Dos Na Liheslaturan Guåhan*, and shall be
5 codified under a new Chapter 13 of Division 4, Title 2, Guam Administrative
6 Rules and Regulations.

7 **Section 3. Amendment of Rules.** The government of Guam Health
8 Insurance Negotiating Team *shall*, in keeping with the provisions of Article 3 of
9 Chapter 4, 4 GCA, and pursuant to Article 3- rule making procedures, of Chapter
10 9, Title 5, Guam Code Annotated, review and amend, as may be necessary, the
11 Rules of Procedure adopted pursuant to section 2 of this Act.

12 **Section 4. 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
14 invalidity shall *not* affect other provisions or applications of this Act which can be
15 given effect without the invalid provisions or application, and to this end the
16 provisions of this Act are severable.

17 **Section 5. Effective Date.** This Act shall become immediately effective
18 upon enactment.

1 **Exhibit “A”**

2 **Administrative Rules of Procedure**

3 **FOR**

Government of Guam Health Insurance Negotiating Team

4 **[Authority: §4302(c) of Article 3, Chapter 4, Title 4, Guam Code Annotated]**

5 **Department of Administration**

6

1 **PROPOSED - Rules of Procedure for Negotiating Team [as amended in**
2 **response to Public Hearing]**

3 **Approved by Negotiating Team on July 9, 2013.**

4 **I. Authority.** The Negotiating Team for the government of Guam,
5 responsible for the solicitation of group health insurance benefits for
6 employees and retirees of the government, is established by statute.
7 Pursuant to law, the Negotiating Team shall develop its rules of procedure in
8 accordance with the Administrative Adjudication Law. 4 GCA § 4302(c).
9 The responsibilities and roles of the Negotiating Team are those set out by
10 law at Title Four, Chapter Four, Article Three, of the Guam Code Annotated
11 (“Group Benefits Laws”). At any time that these Rules of Procedure come
12 into conflict with the Group Benefits Laws, the Group Benefits Laws shall
13 preempt these rules.

14 **II. Membership.**

15 A. The Negotiating Team is comprised of individuals identified by statute at
16 4 GCA §4302(c).

17 B. The Negotiating Team may obtain technical support from other financial,
18 legal and health-related agencies. The Director of Administration, upon
19 the approval of the Negotiating Team, may invite representatives of
20 government departments, agencies, bureaus and other government
21 entities to Negotiating Team meetings as seen fit to serve as consultants
22 in aid of the Negotiating Team in its duties. No unilateral consultations
23 shall be conducted by the Chairperson or any member of the Negotiating
24 Team nor shall they hold independent meetings or consultations with

1 persons outside of the Negotiating Team and its consultants prior to the
2 conclusion of the Negotiating Team proceedings.

3 C. The Attorney General or his designee shall act as legal advisor during all
4 phases of the solicitation or procurement process for group health
5 insurance benefits for employees and retirees of the government.

6 D. Non-delegation of representation. The following members of the
7 Negotiating Team are not permitted, by law, to delegate to another
8 individual the authority to serve in their stead as a substitute or proxy for
9 purposes of participation in Negotiating Team activities:

- 10 1. Director of Administration
- 11 2. The employee representative of the Judiciary of Guam to be
12 appointed by the Chief Justice of the Supreme Court of Guam.
- 13 3. The employee representative of the Legislative Branch to be
14 appointed by the Speaker of *I Liheslaturan Guåhan*.
- 15 4. The retiree who is a member of the Government of Guam
16 Retirement Fund appointed by the Board of Trustees of the
17 Government of Guam Retirement Fund.
- 18 5. The member of the general public appointed *by I Maga'låhen*
19 *Guåhan*.

20 E. Delegation of representation. The following members of the Negotiating
21 Team are permitted, by law, to delegate to another individual the
22 authority to serve in their stead as a substitute or proxy for purposes of
23 participation in Negotiating Team activities:

- 24 1. The Administrator of the Department of Integrated Services for
25 Individuals with Disabilities.
- 26 2. The Director of the Bureau of Budget and Management Research.

- 1 3. The Superintendent of the Department of Education.
- 2 4. The Director of the Government of Guam Retirement Fund.
- 3 5. The Chairperson of the Committee on Health or the successor
- 4 committee of *I Liheslaturan Guåhan*.
- 5 6. The Chairperson of the Committee on Appropriations, or the
- 6 successor committee of *I Liheslaturan Guåhan*.

7 F. Delegation in writing. A member of the Negotiating Team who is
8 permitted, by law, to delegate to another individual the authority to serve
9 in their stead as a substitute or proxy shall designate such delegation in
10 writing and have such written delegation delivered to the Chairperson of
11 the Negotiating Team prior to the delegation being effective. Any
12 member of the Negotiating Team with the authority to delegate shall
13 delegate only one representative for the entire process to ensure for
14 continuity of communications and to safeguard the dissemination of
15 information. A written delegation may be repealed in writing.

16 **III. Voting.**

17 A. Voting Members. The following members of the Negotiating Team are
18 voting members:

- 19
- 20 1. The Director of Administration, who shall be Chairperson of the
- 21 Negotiating Team.
- 22 2. The employee representative from the Judicial Branch appointed
- 23 by the Chief Justice of the Supreme Court of Guam.
- 24 3. The employee representative of the Legislative Branch to be
- 25 appointed by the Speaker of *I Liheslaturan Guåhan*.

- 1 4. The retiree who is a member of the Government of Guam
2 Retirement Fund to be appointed by the Board of Trustees of the
3 Government of Guam Retirement Fund.
- 4 5. The member of the general public, appointed *by I Maga'låhen*
5 *Guåhan*.
- 6 6. The Administrator of the Department of Integrated Services for
7 Individuals with Disabilities, or his or her designee.
- 8 7. The Director of the Bureau of Budget and Management Research,
9 or his or her designee.
- 10 8. The Superintendent of the Department of Education, or his or her
11 designee.
- 12 9. The Director of the Government of Guam Retirement Fund, or his
13 or her designee.

14 B. Non-Voting Members. The following members of the Negotiating Team
15 are non-voting members:

- 16 1. The Chairperson of the Committee on Health or the successor
17 committee *of I Liheslaturan Guåhan*, or his or her designee.
- 18 2. The Chairperson of the Committee on Appropriations or the
19 successor committee *of I Liheslaturan Guåhan*, or his or her
20 designee.

21 **IV. Confidentiality.** Members, delegates of members, consultants of the
22 Negotiating Team, and applicable Department of Administration staff as
23 determined by the Director of Administration must adhere to the strictest of
24 confidentiality and acknowledge that the proposals received are confidential
25 in nature. Team members, delegates of members, consultants, and
26 applicable Department of Administration staff acknowledge that no

1 information contained in the proposals, meetings or negotiations can be
2 divulged to any person outside of the Negotiating Team. Team members,
3 delegates of members, consultants and applicable Department of
4 Administration staff must sign a confidentiality agreement attesting to such.
5 Confidentiality agreements shall be signed prior to the predetermined
6 meeting date and time for opening proposals referenced in Section IX. A
7 delegate may brief the member of the Negotiating Team who made the
8 delegation about the business of the Negotiating Team but both parties are
9 subject to strict confidentiality throughout the entire process.

10 **V. No conflict-of-interest.** A member, consultant or advisor of the Negotiating
11 Team that has a conflict of interest (as understood and regulated by 5 GCA
12 §§ 5625-5633) because of a financial interest with an offeror or due to
13 employment of a family member shall recuse him or herself from being a
14 member, consultant or advisor of the Negotiating Team during the pendency
15 of the solicitation. Members, consultants and advisors of the Negotiating
16 Team must sign an affidavit that no conflict of interest exists with any
17 offerors once knowledge of the names of the carriers who submitted
18 proposals is known and prior to receiving any information contained in the
19 proposals. Any member, consultant or advisor who later realizes that a
20 conflict of interest exists must recuse himself or herself from being a
21 member of the Negotiation Team.

22 **VI. Meetings.** Meetings of the Negotiating Team shall be called by the
23 Chairperson, or by a majority of the voting members of the Negotiating
24 Team.

25 A. The Chairperson shall set the time, day and place of meetings with the
26 intent to permit the largest number of voting members of the Negotiating

1 team to attend the meeting. The Chairperson shall establish an agenda
2 for each meeting. The agenda shall be confirmed by the Negotiating
3 Team at the start of a meeting.

4 B. Notice of meetings of the Negotiating Team shall be provided to each
5 member of the Negotiating Team in writing, by business email, and by
6 other acceptable written or telephonic format as may be determined by
7 the Negotiating Team from time to time, at least one business day in
8 advance of the meeting.

9 C. Notwithstanding the foregoing, the Negotiating Team, at a properly
10 noticed meeting with a quorum present, may adjourn its business and
11 schedule a subsequent meeting for a time, day and place certain even
12 though notice as prescribed here cannot be given one business day before
13 the meeting. Nonetheless, written notice, by business email of such
14 subsequent meeting shall be provided to each member. Nothing here
15 prohibits additional forms of providing notice to ensure that all members
16 receive actual notice of a scheduled meeting.

17 D. The Chairperson is responsible for providing timely notice to all
18 members of the Negotiating Team of each meeting, as provided for in
19 this rule.

20 **VII. Quorum.** The Negotiating Team may conduct official business if a quorum
21 of its voting members is present at any properly noticed meeting. A quorum
22 of the Negotiating Team is seven (7) voting members.

23 **VIII. Decisions.** At any properly noticed meeting of the Negotiating Team where
24 a quorum is present, the Negotiating Team shall make decisions based upon
25 an affirming vote of at least five (5) of the voting members present, after a
26 motion is made by any member, and seconded by any other member. In any

1 circumstance, a failure to get an affirming vote of at least five (5) of the
2 voting members present shall mean that the motion being voted on fails for
3 lack of a majority. Upon the casting of votes, team members shall sign off
4 on a voting sheet to document the decision made.

5 **IX. Opening of Proposals.** Provisions shall be made in each Request For
6 Proposals that establish the process for receiving proposals, documenting the
7 reception of proposals, the initial opening of proposals to ensure a proper
8 count, documenting the count, and for adequately securing proposals
9 received so that they shall only be viewed by persons having legitimate
10 access to proposals. Provisions made for the initial opening of proposals
11 may include the involvement of the Negotiating Team and/or representatives
12 of offerors, as determined by the Negotiating Team and set out in the
13 Request For Proposals.

14 **X. Authority to Clarify Proposals.** The Negotiation Team shall request any
15 documents or information for any proposals received and deemed to be non-
16 responsive or not qualified that will cause said proposals to be responsive
17 and qualified. A proposal shall only be disqualified or rejected if any offeror
18 fails to submit the requested information to the Negotiating Team within
19 three business days after request.

20 **XI. Proceeding to the Next Phase.** After the conclusion of each phase
21 identified in the RFP, Team Members must acknowledge, via signature, such
22 approval or disapproval to proceed to the next phase.

23 **XII. Weighting and Ranking.** During the planning stage of each solicitation for
24 group health and dental insurance, the Negotiating Team shall establish the
25 processes and mechanisms for evaluating proposals submitted in response to
26 a solicitation for the purpose of the ultimate ranking of proposals, to include

1 the factors to be evaluated, the weighting of the various factors, the process
2 of scoring the evaluation factors, the development of a scoring sheet or
3 sheets, and all other processes that lead to the ultimate ranking of proposals.
4 The Negotiating Team, and each Team member, shall follow the evaluation
5 process developed for a given solicitation and as set out in the Request For
6 Proposals for that solicitation.

7 **XIII. Review and Audit.** The Negotiating Team reserves the right and obligation
8 to review and audit its evaluation determination during the solicitation
9 process, consistent with the instructions and procedures provided for in a
10 Request For Proposals, Guam law and regulations.

11 **XIV. Roles of Team Members.** The following are the responsibilities of the
12 Department of Administration personnel, consultant and negotiating team
13 members. Any additional duties identified in the Consultant contract, 4
14 GCA, § 4301 and other pertinent sections that may arise hereafter are also
15 included under these Rules of Procedures.

16 A. Consultant: Consultant is responsible for duties as defined in consultant
17 contract and any amendments thereof.

18 B. DOA: The Department of Administration is responsible for the
19 following:

- 20 1. Preparation of RFP to include comments and recommendations
21 submitted by team members, finalization and issuance of RFP,
22 advertisements, recordings of meetings with team, scheduling and
23 notifications of meetings, compilation of voting sheets of motions
24 made, responding to inquiries posed during the issuance of the
25 RFP as guided by consultant, collection of incoming proposals,
26 review of proposals to ensure for initial compliance as defined in

1 the RFP, preparation of negotiations materials, securing site for
2 negotiations, logistics, communications to carriers as directed by
3 Negotiation Team members and communications to the consultant
4 except during designated official team meetings.

5 2. The publication date of the RFP is determined by the Chairperson
6 of the Negotiation Team.

7 C. Negotiation Team Members: Negotiation Team members are responsible
8 for the development of the minimum qualifications for proposals,
9 development of the ranking system used to rank proposals, reviewing
10 proposals upon conclusion of initial review by consultant, examination of
11 the financial information, rating of proposals, determination of qualified
12 carriers after review, approval and recommendation from the consultant
13 and Department of Administration, ranking of carriers, negotiations,
14 development of contractual language requirements, and the final
15 recommendation, after obtaining guidance from the Consultant,
16 Insurance Commissioner and Attorney General, to the Governor for
17 approval.

18 **XV. Amendment.** These Rules of Procedure may be amended by the
19 Negotiating Team pursuant to the Administrative Adjudication Law, 5 GCA
20 § 9301.

21 **XVI. Compliance With Law.** The Negotiating Team shall retain consultants
22 cognizant of Federal and Guam laws as applicable to the provision of health
23 and dental insurance and health and dental services, and as applicable to the
24 solicitation and acquisition of group health and dental insurance programs
25 for government employees, retirees, families and survivors.

1 **XVII. Vice Chairperson.** There shall be a Vice Chairperson of the Negotiating
2 Team chosen from among the members of the Negotiating Team by a
3 majority vote of the Negotiating Team. The Vice Chairperson shall serve as
4 Chairperson at any meeting of the Negotiating Team at which the Director
5 of Administration is unable to attend.