

I MINA' TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 4-32(LS)

Introduced by:

T.A. Morrison
B.J.F. Cruz
V. Anthony Ada

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AN ACT TO REPEAL AND RE-ENACT ARTICLE 2 OF
CHAPTER 20 OF TITLE 5, GUAM CODE ANNOTATED
RELATIVE TO ESTABLISHING THE OFFICE OF
TECHNOLOGY.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

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3 Section 1. Article 2 of Chapter 20 of 5GCA is *repealed and re-enacted* to read:

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ARTICLE 2.

6

OFFICE OF TECHNOLOGY.

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§20200. Findings and purposes.

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I Liheslaturan Guåhan finds and declares that information technology is essential to

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finding practical solutions to the everyday problems of government and that the

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management goals and purposes of government are furthered by the development of

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compatible, linked information systems across government. Therefore, it is the purpose

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of this article to create, as an integral part of the Department of Administration, the

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Office of Technology with the authority to advise and make recommendations to all

1 local governmental units on their information systems and to have the authority to
2 oversee coordination of the government's technical infrastructure.

3 **§20201. Scope of Authority.**

4 This Chapter shall apply to all agencies of the Executive Branch of the Government of
5 Guam not including the autonomous agencies as defined by 12GCA. This Chapter
6 shall not apply to the Legislative and Judicial branches of the Government of Guam.

7 **§20202. Definitions.**

8 As used in this article:

9 (a) "Information systems" means computer-based information equipment and
10 related services designed for the automated transmission, storage, manipulation
11 and retrieval of data by electronic or mechanical means;

12 (b) "Information technology" means data processing and telecommunications
13 hardware, software, services, supplies, personnel, maintenance, training and
14 includes the programs and routines used to employ and control the capabilities of
15 data processing hardware;

16 (c) "Information equipment" includes central processing units, front-end
17 processing units, microprocessors and related peripheral equipment, including
18 data storage devices, networking equipment, services, routers, document
19 scanners, data entry equipment, terminal controllers, data terminal equipment,
20 computer-based word processing systems other than memory typewriters;

21 (d) "Related services" includes feasibility studies, systems design, software
22 development and time-sharing services whether provided by Government of
23 Guam employees or others;

1 (e) "Telecommunications" means any transmission, emission or reception of
2 signs, signals, writings, images or sounds of intelligence of any nature by wire,
3 radio or other electromagnetic or optical systems. The term includes all facilities
4 and equipment performing those functions that are owned, leased or used by the
5 executive agencies of the government;

6 (f) "Chief Technology Officer" means the person holding the position created in
7 §20203 of this Article and vested with authority to oversee agencies/programs in
8 planning and coordinating information systems that serve the effectiveness and
9 efficiency of the government and individual agencies/programs and further the
10 overall management goals and purposes of government;

11 (g) "Technical infrastructure" means all information systems, information
12 technology, information equipment, telecommunications and related services as
13 defined in this section;

14 (h) "Information technology project" means the process by which
15 telecommunications, automated data processing, databases, the internet,
16 management information systems and related information, equipment, goods and
17 services are planned, procured and implemented;

18 (i) "Major information technology project" means any information technology
19 project estimated to cost more than one hundred thousand dollars or require more
20 than three hundred man hours to complete; and

21 (j) "Steering committee" means an internal agency oversight committee
22 established jointly by the Chief Technology Officer and the agency requesting
23 the project, which shall include representatives from the Office of Technology
24 and at least one representative from the agency requesting the project.

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§20203. Office of Technology; Chief Technology Officer; appointment and qualifications.

The Office of Technology is created within the Department of Administration. A Chief Technology Officer shall be appointed by the Governor with the advice and consent of *Liheslaturan Guåhan* . The Chief Technology Officer shall have knowledge in the field of information technology, experience in the design and management of information systems and an understanding of the special demands upon government with respect to budgetary constraints, the protection of privacy interests and federal and local standards of accountability.

§20204. Powers and duties of the Chief Technology Officer; generally.

(a) With respect to all agencies/programs the Chief Technology Officer may:

- (1) Develop an organized approach to information resource management for the Government of Guam;
- (2) Provide, with the assistance of the information/technology/communications services of the Department of Administration, technical assistance to the administrators of the various agencies/programs in the design and management of information systems;
- (3) Evaluate, in conjunction with the Information Services and Communications Division, the economic justification, system design and suitability of information equipment and related services, and review and make recommendations on the purchase, lease or acquisition of

1 information equipment and contracts for related services by the
2 agencies/programs;

3 (4) Develop a mechanism for identifying those instances where systems of
4 paper forms should be replaced by direct use of information equipment and
5 those instances where applicable Government of Guam or federal
6 standards of accountability demand retention of some paper processes;

7 (5) Develop a mechanism for identifying those instances where
8 information systems should be linked and information shared, while
9 providing for appropriate limitations on access and the security of
10 information;

11 (6) Create new technologies to be used in government, convene
12 conferences and develop incentive packages to encourage the utilization of
13 technology;

14 (7) Engage in any other activities as directed by the Governor;

15 (8) Charge a fee to the agencies/programs for evaluations performed and
16 technical assistance provided under the provisions of this section. All fees
17 collected by the Chief Technology Officer shall be deposited in a special
18 account in the Government of Guam Treasury to be known as the Chief
19 Technology Officer Administration Fund. Expenditures from the fund
20 shall be made by the Chief Technology Officer for the purposes set forth in
21 this article accordance with appropriation by *I Liheslaturan Guåhan*.

22 (9) Monitor trends and advances in information technology and technical
23 infrastructure;

1 (10) Direct the formulation and promulgation of policies, guidelines,
2 standards and specifications for the development and maintenance of
3 information technology and technical infrastructure, including, but not
4 limited to:

5 (A) Standards to support Government of Guam and the exchange,
6 acquisition, storage, use, sharing and distribution of electronic
7 information;

8 (B) Standards concerning the development of electronic
9 transactions, including the use of electronic signatures;

10 (C) Standards necessary to support a unified approach to
11 information technology across the totality of the Government of
12 Guam, thereby assuring that the citizens and businesses of Guam
13 receive the greatest possible security, value and convenience from
14 investments made in technology;

15 (D) Guidelines directing the establishment of government-wide
16 standards for the efficient exchange of electronic information and
17 technology, including technical infrastructure, between the public
18 and private sectors;

19 (E) Technical and data standards for information technology and
20 related systems to promote efficiency and uniformity;

21 (F) Technical and data standards for the connectivity, priorities and
22 interoperability of technical infrastructure used for homeland
23 security, public safety and health and systems reliability necessary to

1 provide continuity of government operations in times of disaster or
2 emergency; and

3 (G) Technical and data standards for the coordinated development of
4 infrastructure related to deployment of electronic government
5 services;

6 (11) Periodically evaluate the feasibility of subcontracting information
7 technology resources and services, and to subcontract only those resources
8 that are feasible and beneficial to the Government of Guam;

9 (12) Direct the compilation and maintenance of an inventory of
10 information technology and technical infrastructure which may include
11 personnel, facilities, equipment, goods and contracts for service, wireless
12 tower facilities, geographic information systems and any technical
13 infrastructure or technology that is used for law enforcement, homeland
14 security or emergency services;

15 (13) Develop job descriptions and qualifications necessary to perform
16 duties related to information technology as outlined in this article; and

17 (14) Promulgate rules as may be necessary to standardize and make
18 effective the administration of the provisions of article six of this chapter.

19 (b) With respect to executive agencies, the Chief Technology Officer may:

20 (1) Develop a unified and integrated structure for information systems for
21 all executive agencies;

1 (2) Establish, based on need and opportunity, priorities and time lines for
2 addressing the information technology requirements of the various
3 executive agencies of the Government of Guam;

4 (3) Exercise authority delegated by the Governor by executive order to
5 overrule and supersede decisions made by the administrators of the various
6 executive agencies of government with respect to the design and
7 management of information systems and the purchase, lease or acquisition
8 of information equipment and contracts for related services;

9 (4) Draw upon staff of other executive agencies for advice and assistance
10 in the formulation and implementation of administrative and operational
11 plans and policies; and

12 (5) Recommend to the Governor transfers of equipment and human
13 resources from any executive agency and the most effective and efficient
14 uses of the fiscal resources of executive agencies, to consolidate or
15 centralize information-processing operations.

16 (c) The Chief Technology Officer may employ the personnel necessary to carry
17 out the work of the Office of Technology and may approve reimbursement of
18 costs incurred by employees to obtain education and training.

19 (d) The Chief Technology Officer shall oversee telecommunications services
20 used by agencies/programs for the purpose of maximizing efficiency to the fullest
21 possible extent. The Chief Technology Officer may establish microwave or other
22 networks and hops; audit telecommunications services and usage; recommend
23 and develop strategies for the discontinuance of obsolete or excessive utilization;
24 participate in the renegotiation of telecommunications contracts; and encourage

1 the use of technology and take other actions necessary to provide the greatest
2 value to the Government of Guam.

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4 **§20204a. Duties of the Chief Technology Officer relating to security of government**
5 **information.**

6 (a) To ensure the security of government information and the data
7 communications infrastructure from unauthorized uses, intrusions or other
8 security threats. At a minimum, these policies, procedures and standards shall
9 identify and require the adoption of practices to safeguard information systems,
10 data and communications infrastructures, as well as define the scope and
11 regularity of security audits and which bodies are authorized to conduct security
12 audits. The audits may include reviews of physical security practices.

13 (b) Annual audits:

14 (1) The Chief Technology Officer shall at least annually perform security
15 audits of all executive branch agencies regarding the protection of
16 government databases and data communications.

17 (2) Security audits may include, but are not limited to, on-site audits as
18 well as reviews of all written security procedures and documented
19 practices.

20 (c) The Chief Technology Officer may contract with a private firm or firms that
21 specialize in conducting these audits.

22 (d) All public bodies subject to the audits required by this section shall fully
23 cooperate with the entity designated to perform the audit.

1 (e) The Chief Technology Officer may direct specific remediation actions to
2 mitigate findings of insufficient administrative, technical and physical controls
3 necessary to protect government information or data communication
4 infrastructures.

5 (f) The Chief Technology Officer shall promulgate rules to minimize
6 vulnerability to threats and to regularly assess security risks, determine
7 appropriate security measures and perform security audits of government
8 information systems and data communications infrastructures.

9 (g) To ensure compliance with confidentiality restrictions and other security
10 guidelines applicable to law-enforcement agencies, emergency response
11 personnel and emergency management operations.

12 (h) The provisions of this section shall not infringe upon the responsibilities
13 assigned to the Public Auditor or other statutory requirements.

14 (i) In consultation with the Adjutant General, Chief of Police, Fire Chief and the
15 Director of the Division of Homeland Security, the Chief Technology Officer is
16 responsible for the development and maintenance of an information systems
17 disaster recovery system for the Government of Guam with redundant sites in
18 two or more locations isolated from reasonably perceived threats to the primary
19 operation of the Government of Guam. The Chief Technology Officer shall
20 develop specifications, funding mechanisms and participation requirements for
21 all executive branch agencies to protect the Government of Guam's essential
22 data, information systems and critical government services in times of
23 emergency, inoperativeness or disaster. Each executive branch agency shall assist
24 the Chief Technology Officer in planning for its specific needs and provide to the
25 Chief Technology Officer any information or access to information systems or

1 equipment that may be required in carrying out this purpose. No government-
2 wide or executive branch agency procurement of disaster recovery services may
3 be initiated, let or extended without the expressed consent of the Chief
4 Technology Officer.

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6 **§20204b. Project management duties of the Chief Technology Officer;**
7 **establishment of the Project Management Office and duties of the director of the**
8 **Project Management Office.**

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10 (a) Concerning the management of information technology projects, the Chief
11 Technology Officer shall:

12 (1) Develop an approval process for proposed major information
13 technology projects by Government of Guam agencies to ensure that all
14 projects conform to the government-wide strategic plan and the
15 information management plans of agencies;

16 (2) Establish a methodology for conceiving, planning, scheduling and
17 providing appropriate oversight for information technology projects,
18 including oversight for the projects and a process for approving the
19 planning, development and procurement of information technology
20 projects;

21 (3) Establish minimum qualifications and training standards for project
22 managers;

1 (4) Direct the development of any government-wide and multiagency
2 enterprise project; and

3 (5) Develop and update a project management methodology to be used by
4 agencies in the development of information technology.

5 (b) The Chief Technology Officer shall create a Project Management Office
6 within the Office of Technology.

7 (c) The Director of the Project Management Office shall:

8 (1) Implement the approval process for information technology projects;

9 (2) Assist the Chief Technology Officer in the development and
10 implementation of a project management methodology to be used in the
11 development and implementation of information technology projects in
12 accordance with this article;

13 (3) Provide ongoing assistance and support to Government of Guam
14 agencies and public institutions of higher education in the development of
15 information technology projects;

16 (4) Establish a program providing training to agency project managers;

17 (5) Review information management and information technology plans
18 submitted by agencies and recommend to the Chief Technology Officer the
19 approval of the plans and any amendments thereto;

20 (6) Monitor the implementation of information management and
21 information technology plans and periodically report its findings to the
22 Chief Technology Officer;

1 (7) Assign project managers to review and recommend information
2 technology project proposals.

3 (8) The director shall create criteria upon which information technology
4 project proposal plans may be based including:

5 (A) The degree to which the project is consistent with the
6 Government of Guam's overall strategic plan;

7 (B) The technical feasibility of the project;

8 (C) The benefits of the project to the Government of Guam,
9 including customer service improvements;

10 (D) The risks associated with the project;

11 (E) Any continued funding requirements; and

12 (F) The past performance on other projects by the agency.

13 (9) Provide oversight for Government of Guam agency information
14 technology projects.

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16 **§20204c. Major information technology projects proposals and the establishment**
17 **of steering committees.**

18 (a) Prior to proceeding with a major information technology project, an agency
19 shall submit a project proposal, outlining the business need for the project, the
20 proposed technology solution, if known, and an explanation of how the project
21 will support the agency's business objective and the Government of Guam's
22 strategic plan for information technology. The project manager may require the

1 submission of additional information as needed to adequately review any
2 proposal.

3 (b) The proposal will further include:

4 (1) A detailed business case plan, including a cost-benefit analysis;

5 (2) A business process analysis, if applicable;

6 (3) System requirements, if known;

7 (4) A proposed development plan and project management structure;

8 (5) Business goals and measurement criteria, as appropriate; and

9 (6) A proposed resource or funding plan.

10 (c) The project manager assigned to review the project development proposal
11 shall recommend its approval or rejection to the Chief Technology Officer. If the
12 Chief Technology Officer approves the proposal, then he or she shall notify the
13 agency of its approval.

14 (d) Whenever an agency has received approval from the Chief Technology
15 Officer to proceed with the development and acquisition of a major information
16 technology project, the Chief Technology Officer shall establish a steering
17 committee.

18 (e) The steering committee shall provide ongoing oversight for the major
19 information technology project and have the authority to approve or reject any
20 changes to the project's scope, schedule or budget.

21 (f) The Chief Technology Officer shall ensure that the major information
22 technology project has in place adequate project management and oversight

1 structures for addressing the project's scope, schedule or budget and shall address
2 issues that cannot be resolved by the steering committee.

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4 **§20205. Notice of request for proposals by agencies/programs required to make**
5 **purchases through the Guam General Services Agency.**

6 Any agency/program that pursues an information technology purchase that does not
7 meet the definition of a "major technology project" and that is required to submit a
8 request for proposal to the Guam General Services Agency prior to purchasing goods or
9 services shall obtain the approval of the Chief Technology Officer, in writing, of any
10 proposed purchase of goods or services related to its information technology and
11 telecommunication systems. The notice shall contain a brief description of the goods
12 and services to be purchased. The agency/program shall provide the notice to the Chief
13 Technology Officer prior to the time it submits its request for proposal to the Guam
14 General Services Agency.

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16 **§20206. Notice of request for proposals by an agency/program exempted from**
17 **submitting purchases to the Guam General Services Agency.**

18 (a) Any agency/program that is not required to submit a request for proposal to
19 the Guam General Services Agency prior to purchasing goods or services shall
20 notify the Chief Technology Officer, in writing, of any proposed purchase of
21 goods or services related to its information technology or telecommunication
22 systems. The notice shall contain a detailed description of the goods and services
23 to be purchased. The agency/program shall provide the notice to the Chief

1 Technology Officer a minimum of ten days prior to the time it requests bids on
2 the provision of the goods or services.

3 (b) If the Chief Technology Officer evaluates the suitability of the information
4 technology and telecommunication equipment and related services under the
5 provisions of subdivision (3), subsection (a) of §20204 of this Article and
6 determines that the goods or services to be purchased are not suitable, he or she
7 shall, within ten days of receiving the notice from the agency/program, notify the
8 agency/program, in writing, of any recommendations he or she has regarding the
9 proposed purchase of the goods or services. If the agency/program receives a
10 written notice from the Chief Technology Officer within the time period required
11 by this section, the agency/program shall not put the goods or services out for bid
12 less than fifteen days following receipt of the notice from the Chief Technology
13 Officer.

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15 **§20207. Annual report.**

16 The Chief Technology Officer shall report annually to the Speaker *I Liheslatura* on the
17 activities of his or her office.

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19 **§20208. Exemptions.**

20 (a) The provisions of this article do not apply to autonomous agencies as defined
21 by 12GCA, *I Liheslatura*, the judiciary, the Office of Public Accountability and
22 the Office of the Attorney General.

1 (b) Notwithstanding any other provision of this article to the contrary, except for
2 participation in the compilation and maintenance of an inventory of information
3 technology and technical infrastructure of the Government of Guam authorized
4 by §20204 of this Article, the provisions of this article do not apply to the Guam
5 Department of Education. The Guam Department of Education may cooperate
6 and collaborate with the Chief Technology Officer to the extent feasible.

7 (c) *I Maga Lahi Guåhan* may, by executive order, exempt from the provisions of
8 this article any entity created and organized to facilitate the public and private
9 use of health care information and the use of electronic medical records
10 throughout the Government of Guam.

11 **§20209. Voluntary Assistance.**

12 Any branch or agency exempt from the provision of this Article by §20208(a) *may*, by
13 memorandum of understanding, avail itself of any of the services offered by the Office
14 of Technology if such branch or agency determines that acquiring such services is
15 feasible. Such memorandum of understanding *may* include fees and costs paid by the
16 branch or agency except that no fees for such services shall be paid by the Office of
17 Attorney General or the Office of Public Accountability. All fees collected shall be
18 deposited in the General Fund and are continually appropriated to the Office of
19 Technology.