


I MINA'TRENTAI DOS NA LIHESLATURAN GUÁHAN
2013 (First) Regular Session

Bill No. 163-32 (COR)

Introduced by:

FRANK B. AGUON, JR. 
T. C. ADA 
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AN ACT RELATIVE TO PROVIDING SERVICE-DISABLED VETERAN-OWNED BUSINESSES PREFERENCE IN GOVERNMENT OF GUAM CONTRACTUAL OPPORTUNITIES FOR THE PROVISION OF SERVICES OR PRODUCTS TO THE COMMUNITY; THROUGH ADDING A NEW ARTICLE 15 TO CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED; THIS ACT SHALL HERETOFORE BE REFERRD TO AS THE "GUAM SERVICE-DISABLED VETERANS BUSINESS OPPORTUNITY ACT".

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

2 **Section 1. Provision of Preference for Service-Disabled Veteran-Owned**
3 **Businesses.**

4 A new Article 15 is hereby added to Chapter 5, Title 5, Guam Code
5 Annotated, relative to providing Guam Service-Disabled Veterans preference in
6 government contractual opportunities, which shall read as follows:

7 **"ARTICLE 15**

8 **GUAM SERVICE-DISABLED VETERANS**
9 **BUSINESS OPPORTUNITY ACT**

10 **§5910. Guam Service-Disabled Veterans Business Opportunity Act.**

11 **A. Legislative Intent.**

12 It is the intent of I Liheslaturan Guahan to address any economic

1 disadvantages of service-disabled veterans, who are statistically the least likely to
2 be self-employed when compared to the general population as a whole and who
3 have made extraordinary sacrifices on behalf of the island of Guam and the nation,
4 by providing business opportunities for service-disabled veteran businesses as set
5 forth in this section.

6 **B. Definitions.**

7 For the purpose of this section, the following terms shall be defined as
8 provided herein:

9 (a) "Certified service-disabled veteran business" means a business that has
10 been certified by the Department of Revenue and Taxation or the Office of
11 Veterans Affairs to be a service-disabled veteran business as defined within this
12 Act.

13 (b) "Service-disabled veteran" means a veteran who is a permanent Guam
14 resident with a service-connected disability as determined by the United States
15 Department of Veterans Affairs or who has been terminated from military service
16 by reason of disability by the United States Department of Defense.

17 (c) "Service-disabled Veteran business" means an independently owned and
18 operated business that:

- 19 1. Is duly licensed and registered to conduct business on Guam;
- 20 2. Employ permanent full-time employees;
- 21 3. Has a net worth of \$2 million or less or, if a sole proprietorship, has
22 a net worth of \$2 million or less including both personal and business investments;
- 23 4. Is organized to engage in commercial transactions;
- 24 5. Is physically domiciled in Guam;
- 25 6. Is at least 51 percent owned by one or more service-disabled
26 veteran; and
- 27 7. The management and daily business operations of which are being

1 administered by one or more service-disabled veterans or, for a service-disabled
2 veteran with a permanent and total disability, by the spouse or permanent caregiver
3 of the veteran.

4 **C. Vendor Preference.**

5 (a) Any and all departments, agencies, or instrumentalities of the
6 Government of Guam when considering two or more bids, proposals, or replies for
7 the procurement of commodities or contractual services, at least one of which is
8 from a certified service-disabled veteran business enterprise, which are equal with
9 respect to all relevant considerations, including price, quality, and service, shall
10 award such procurement or contract to the certified service-disabled veteran
11 business.

12 (b) Notwithstanding subsection “a” of this paragraph, if a service-disabled
13 veteran business entitled to the vendor preference under this section and one or
14 more businesses entitled to this preference or another vendor preference provided
15 by law submit bids, proposals, or replies for procurement of commodities or
16 contractual services which are equal with respect to all relevant considerations,
17 including price, quality, and service, then the Government of Guam department,
18 agency or instrumentality shall award the procurement or contract to the service-
19 disabled veteran business having the smallest net worth.

20 **D. Certification Procedure.**

21 (a) The application for certification as a service-disabled veteran business
22 enterprise must, at a minimum, include:

23 1. The name of the business enterprise applying for certification and
24 the name of the service-disabled veteran submitting the application on behalf of
25 the business enterprise.

1 2. The names of all owners of the business enterprise, including
2 owners who are service-disabled veterans, and owners who are not service-
3 disabled veterans, and the percentage of ownership interest held by each owner.

4 3. The names of all persons involved in both the management and
5 daily operations of the business, including the spouse or permanent caregiver of a
6 veteran who has a permanent and total disability.

7 4. The service-connected disability rating of all persons listed under
8 the preceding subparagraphs 1, 2, and 3, as applicable, with supporting
9 documentation from the United States Department of Veterans Affairs or the
10 United States Department of Defense.

11 5. The number of permanent full-time employees.

12 6. The location of the business headquarters.

13 7. The total net worth of the business enterprise and its affiliates. In
14 the case of a sole proprietorship, the net worth includes personal and business
15 investments.

16 (b) To maintain certification, a service-disabled veteran business shall renew
17 its certification biennially.

18 (c) A certified service-disabled veteran business must provide written
19 notification to the Department of Revenue and Taxation or the Office of Veterans
20 Affairs within 30 business days after any event that may significantly affect the
21 certification of the business, including, but not limited to, a change in ownership or
22 change in management and daily business operations.

23 (d) The certification of a service-disabled veteran business shall be revoked
24 for 12 months if the Department of Revenue and Taxation or the Office of
25 Veterans Affairs determines that the business is in violation of Section D of this
26 Act. An owner of a certified service-disabled veteran business whose certification

1 is revoked is not permitted to reapply for certification under this section as an
2 owner of any business during the 12-month revocation period.

3 i. During the 12-month revocation period, a service-disabled
4 veteran business whose certification has been revoked may bid on state contracts
5 but is not eligible for any preference available under this section.

6 ii. A service-disabled veteran business whose certification has
7 been revoked may apply for certification at the conclusion of the 12-month
8 revocation period by complying with requirements applicable to initial
9 certifications.

10 **E. Office of Veterans Affairs Responsibilities.**

11 The Office of Veterans Affairs shall be responsible for the following:

12 (a) Assist the Department of Revenue and Taxation in establishing a
13 certification procedure, which shall be reviewed biennially and updated as
14 necessary.

15 (b) Identify eligible service-disabled veteran businesses by any electronic
16 means, including electronic mail or Internet website, or by any other reasonable
17 means.

18 (c) Encourage and assist eligible service-disabled veteran businesses to
19 apply for certification under this section.

20 (d) Provide information regarding services that are available from the Office
21 of Veterans' Affairs or the Guam Small Business Development Center to service-
22 disabled veteran businesses.

23 **F. Department of Revenue and Taxation Responsibilities.**

24 The Department of Revenue and Taxation shall be responsible for the
25 following:

1 (a) With assistance from the Office of Veterans Affairs, establish a
2 certification procedure, which shall be reviewed biennially and updated as
3 necessary.

4 (b) Grant, deny, or revoke the certification of a service-disabled veteran
5 business under this section.

6 (c) Maintain an electronic directory of certified service-disabled veteran
7 businesses for use by the departments, agencies or instrumentalities of the
8 Government of Guam.

9 **G. Responsibilities of departments, agencies or instrumentalities of the**
10 **Government of Guam.**

11 All Directors, Administrators or heads of Government of Guam
12 Departments, agencies or instrumentalities shall be responsible for the timely
13 dissemination of the information contained within this Act to their respective
14 procurement or contracting personnel, and shall further be responsible for the
15 implementation and proper compliance of the provisions contained within this Act.

16 Any time a Service-Disabled Veteran Business benefits directly from the
17 provisions of this Act, the respective heads of the Government of Guam
18 Departments, agencies or instrumentalities, shall provide such notification to the
19 Department of Revenue and Taxation and the Office of Veterans Affairs in writing
20 within Sixty (60) days of such benefits being extended to the Service-Disabled
21 Veteran Business.

22 The Department of Revenue and Taxation and the Office of Veterans Affairs
23 collaboratively shall provide an annual written report to I Maga'lahen Guahan and
24 the Speaker of I Liheslaturan Guahan no later than January 30 of each year on the
25 application of the provisions contained herein. Such report shall include the names
26 of the Service-Disabled Veteran Businesses, the nature of the service or product

1 being provided to the applicable Government of Guam entity, the duration of the
2 contractual term, and the sum of the contractual arrangement.

3 **H. Promulgation of Rules and Regulations.**

4 The Department of Revenue and Taxation, in collaboration with the Office
5 of Veterans Affairs, shall promulgate rules and regulations, as deemed necessary,
6 for the proper administration of the provisions contained in this Act. “

7 **Section 2. Severability Clause.**

8 If any provision of this Act or its application to any person or circumstance
9 is held invalid, the invalidity shall not affect other provisions or applications of this
10 Act which can be given effect without the invalid provision or application.

11 **Section 3. Effective Date.**

12 The provisions contained herein shall be effective One Hundred and Twenty
13 (120) days upon enactment of this Act.