

I MINA' TRENTA NA LIHESLATURAN GUÁHAN
2009 (FIRST) Regular Sesion

Bill No. 300-30 (COR)

Introduced by:

T.C. Ada
A.B. Palacios, Sr.

2009 DEC 18 AM 11:27

WWM



AN ACT TO AMEND SECTION 10401 OF TITLE 12, GUAM CODE ANNOTATED, CHAPTER 10, PORT AUTHORITY OF GUAM, ARTICLE 4, PUBLIC-PRIVATE PARTNERSHIP THROUGH A PERFORMANCE MANAGEMENT CONTRACT.

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

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3 **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that at the time Public
4 Law 29-23, which authorizes the Board of Directors of the Jose D. Leon Guerrero Commercial
5 Port to enter into a public-private partnership through a performance management contract for
6 the management, operation and maintenance of the port cargo handling equipment and/or
7 facilities associated with such equipment and/or other aspects of the port operations, and award
8 such contract within one hundred twenty (120) to one hundred fifty (150) days, the timeline
9 outlined in the legislation does not take into consideration the requirement of approval by the
10 Public Utilities Commission and the role of the Attorney General in the procurement oversight
11 and advisement in the award of such contract. To ensure adequate period is provided to the Port
12 in awarding the performance management contract and the involvement of the Attorney General
13 in the procurement oversight and advisement of the award, *I Liheslaturan Guåhan* finds that the
14 timeline should be extended from one hundred fifty (150) days to two hundred twenty (220) days

1 and provide the Attorney General with the authority to extend such timelines as it deems
2 necessary.

3 **Section 2. Amendment of Section 10401 of Chapter 10, Title 12, GCA.** Section
4 10401 of Chapter 10, Title 12 GCA is hereby amended to read:

5 **“§ 10401 Public-Private Partnership Authorization through a Performance**
6 **Management Contract .**

7 The Board of Directors of the Jose D. Leon Guerrero Commercial Port (Port) is
8 authorized to issue a Request for Proposal (RFP), Multi-Step Bid (MSB), Invitation for
9 Bid (IFB), soliciting bids or proposals from qualified parties for the management,
10 operation and maintenance of its cargo handling equipment through a performance
11 management contract, subject to the procurement laws of Guam. The scope of work
12 required through this RFP, MSB or IFB *shall* include the daily operation and
13 maintenance of its cargo handling equipment; any repairs required, inclusive of all parts
14 and labor; performance monitoring requirements; and preventive maintenance of all
15 equipment and/or facilities directly associated with the equipment, including, *but not*
16 *limited to*, the acquisition for replacement of such equipment.

17 The RFP, MSB and/or IFB *shall* include performance standards that will provide
18 operating criteria, guidelines and requirements to minimize costly downtime and
19 maximize cargo handling equipment availability and its life span. Parties interested in
20 submitting proposals *shall* have sixty (60) days to prepare and submit a response to the
21 Port. The General Services Agency Chief Procurement Officer *shall* be an observer
22 throughout the RFP, MSB or IFB process as specified in this Section, *shall* receive copies

1 of all documents involved and *shall* be invited to any meetings regarding the public-
2 private partnership process specified in this Section.

3 The Port *shall* award a performance management contract subject to the RFP,
4 MSB or IFB detailed in this Section ~~within one hundred twenty (120) to one hundred~~
5 ~~forty (150)~~ no later than two hundred twenty (220) days of the date of issuance of the
6 RFP, MSB or IFB; provided, that qualified offerors have submitted proposals in
7 compliance with the procurement laws of Guam and the provisions of this Section. The
8 Attorney General shall act as legal advisor during all phases of the solicitation or
9 procurement process and shall have the authority to extend the timelines as outlined in
10 this section as it deems necessary.”

11 **Section 3. Severability.** If any provision of this law or its application to any person or
12 circumstance is found to be invalid or contrary to law, such invalidity shall not affect other
13 provisions or applications of this law which can be given effect without the invalid provisions or
14 applications, and to this end the provisions of this law are severable.

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