

I Mina'trentai Ocho Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
151-38 (COR)	Sabina Flores Perez Therese M. Terlaje Frank F. Blas, Jr. Telo T. Taitague V. Anthony Ada Chris Barnett	AN ACT TO <i>AMEND</i> § 5212 OF CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO UPDATING BID BOND REQUIREMENTS IN ORDER TO IMPROVE COMPETITION FOR GOVERNMENT PROCUREMENT.	6/13/25 5:03 p.m. 6/24/25 2:14 p.m.						

I MINA'TRENTAI OCHO NA LIHESLATURAN GUÅHAN
2025 (FIRST) Regular Session

Bill No. 151-38 (COR)

Introduced by:

Sabina Flores Perez *SFP*
Therese M. Terlaje *TMT*
Frank Blas, Jr. *FB*
Telo T. Taitague *TT*
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Chris Barnett *CB*

**AN ACT TO AMEND § 5212 OF CHAPTER 5, TITLE 5,
GUAM CODE ANNOTATED, RELATIVE TO UPDATING
BID BOND REQUIREMENTS IN ORDER TO IMPROVE
COMPETITION FOR GOVERNMENT PROCUREMENT.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the requirement of a bid security bond of all bidders negatively impacts
4 businesses by unnecessarily tying up capital and deterring qualified companies from
5 submitting a solicitation package, thus limiting competition for government
6 procurements.

7 *I Liheslatura* further finds that a balance is needed to protect government
8 acquisition of goods and services in a timely manner. Furthermore, the requirement
9 of a bid bond should align with the small purchase threshold, unless justification is
10 provided for a different amount and the specific amount is prominently displayed in
11 the Invitation for Bid Solicitation package.

12 Therefore, it is the intent of *I Liheslaturan Guåhan* to require the submission
13 of bid security bonds of the selected bidder at the small purchase threshold or an

1 amount that is clearly specified and prominently displayed in the Invitation of Bid
2 solicitation package that simultaneously promotes competition and ensures
3 government acquisition of goods and services in a timely manner.

4 **Section 2.** § 5212 of Chapter 5, Title 5 Guam Code Annotated is hereby
5 *amended* to read as follows:

6 **“§ 5212. Bid Security and Performance Bond Requirements for**
7 **Contractors.**

8 (a) Requirement for Bid Security. Upon award of a solicitation, the
9 Bid bid security shall be required, for all competitive sealed bidding, from the
10 awarded bidder for the procurement of supplies or services, when the total
11 price is estimated by the Chief Procurement Officer to exceed ~~Twenty-Five~~
12 ~~Thousand Dollars (\$25,000.00) the small purchase limit.~~ Bid security shall be
13 a bond provided by a surety company authorized to do business in Guam, or
14 the equivalent in cash, or otherwise supplied in a form satisfactory to the
15 government of Guam. Nothing herein prevents the requirement of such bonds
16 on the procurement of supplies or services totaling fewer than ~~Twenty-Five~~
17 ~~Thousand Dollars (\$25,000.00) the small purchase limit,~~ when a written
18 determination and justification for such requirement is ~~included as an integral~~
19 ~~part of the Invitation for Bid solicitation package~~ completed. The amount
20 required for bid security and the requirement of the bidder to submit an
21 affidavit, affirming their financial ability to secure a bid security of fifteen
22 percent (15%) of the total bid, shall be prominently displayed in the Invitation
23 for Bid solicitation package.

24 (b) Amount of Bid Security. Bid security shall be in an amount equal
25 to fifteen percent (15%) of the total amount bid.

26 (c) The bid security required above under any applicable Invitation
27 for Bid ~~shall not be released upon award of the bid, but instead~~ shall continue
28 in full force and effect until delivery of the supplies or services required by

1 any contract awarded to contractor under the associated Invitation for Bid is
2 completed, except that the bid security for a lease of real property shall be
3 released upon the government's execution of the lease and taking possession
4 of the property. The Director of Administration shall review all bid security
5 for existing leases and shall release said bid security if a lessor is in
6 compliance with the lease.

7 (d) Action against Bid Security. In the event that a successful bidder
8 fails to complete delivery of supplies or services as required in the contract
9 between such contractor and the government of Guam, the government of
10 Guam may proceed to procure such supplies or services from the next lowest
11 bidder who is able to deliver such supplies or services and who shall obtain a
12 bid security bond prior to the contract. The government of Guam may retain
13 so much of the bid security as may be required to compensate the government
14 for damages arising from contractor's failure to complete delivery of such
15 supplies or services, and the government of Guam may also bring an action in
16 the Superior Court of Guam against the contractor for direct damages, if any,
17 beyond the amount of the bid security posted except that no action against bid
18 security may be taken in such circumstances where supplies or services are
19 terminated due to the government of Guam's failure to pay for such services
20 or supplies on a timely basis.

21 (e) Rejection of Bids for Noncompliance with Bid Security
22 Affidavit Requirements. When the Invitation for Bids requires the affidavit
23 for bid security, noncompliance requires that the bid be rejected ~~unless,~~
24 ~~pursuant to Policy Office regulations, it is determined that the bid fails to~~
25 ~~comply in a non-substantial manner with the security requirements.~~

26 (f) Withdrawal of Bids. After the bids are opened, they shall be
27 irrevocable for the period specified in the Invitation for Bids, except as

1 provided in §§ 5211(f) of this Chapter. ~~If a bidder is permitted to withdraw its~~
2 ~~bid before award, no action shall be had against the bidder or the bid security.~~

3 (g) No Requirement for Performance Bond. The bid security that
4 shall be held until complete delivery of the supplies or services by the
5 successful bidder is deemed to be satisfactory to adequately protect the best
6 interest of the government of Guam, from default, and thus, no separate
7 performance bond shall be required of the successful bidder on a contract for
8 supplies or services.

9 (h) Bond Forms. The Policy Office shall promulgate by regulation
10 the form of the bond or other bid security required by this Section together
11 with any additional regulations necessary for the administration of this
12 Section. Any person may request and obtain from the Government of Guam a
13 certified copy of a bond upon payment of the cost of reproduction of the bond
14 and postage, if any. A certified copy of a bond shall be prima facie evidence
15 of the contents, execution and delivery of the original.”

16 **Section 3. Enactment Date.** This act shall be effective upon enactment.

17 **Section 4. Severability.** If any provision of this Act or its application to any
18 person or circumstance is found to be invalid or inorganic, such invalidity shall not
19 affect other provisions or applications of this Act that can be given effect without
20 the invalid provision or application, and to this end the provisions of this Act are
21 severable.