

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
152-38 (COR)	Sabina Flores Perez	AN ACT TO <i>AMEND</i> § 5212 OF CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO REMOVING BID SECURITY AND REQUIRING A PERFORMANCE BOND FOR GOODS AND SERVICES IN ORDER TO IMPROVE COMPETITION FOR GOVERNMENT PROCUREMENT.	6/16/25 9:00 a.m. 6/26/25 1:00 p.m.						

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

Bill No. 152-38 (COR)

Introduced by:

Sabina Flores Perez *SFP*

AN ACT TO *AMEND* § 5212 OF CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO REMOVING BID SECURITY AND REQUIRING A PERFORMANCE BOND FOR GOODS AND SERVICES 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 by requiring the awarded bidder
9 to provide a performance bond for one hundred percent (100%) of the contracted
10 price. Furthermore, the requirement of the performance bond should be required if
11 the procurement exceeds the small purchase threshold, unless justification is
12 provided for a different amount and the specific amount is prominently displayed in
13 the Invitation for Bid Solicitation package.

14 Therefore, it is the intent of *I Liheslaturan Guåhan* to require the submission
15 of a performance bond 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) Performance Bond Requirement for Bid Security. Upon award
9 of a solicitation, Bid security a performance bond shall be required, for all
10 competitive sealed bidding, from the awarded bidder for the procurement of
11 supplies or services, when the total price is estimated by the Chief
12 Procurement Officer to exceed ~~Twenty-Five Thousand Dollars (\$25,000.00)~~
13 the small purchase limit. Bid security The performance bond shall be a bond
14 provided by a surety company authorized to do business in Guam, or the
15 equivalent in cash, or otherwise supplied in a form satisfactory to the
16 government of Guam. Nothing herein prevents the requirement of such bonds
17 on the procurement of supplies or services totaling fewer than ~~Twenty-Five~~
18 ~~Thousand Dollars (\$25,000.00)~~ the small purchase limit, when a written
19 determination and justification for such requirement is ~~included as an integral~~
20 ~~part of the Invitation for Bid solicitation package~~ completed. The amount
21 necessitating a performance bond and the requirement of the bidder to submit
22 an affidavit, affirming their financial ability to secure a performance bond in
23 the amount equal to one hundred percent (100%) of the price specified in the
24 contract, shall be prominently displayed in the Invitation for Bid solicitation
25 package.

26 (b) Amount of ~~Bid Security~~ the Performance Bond. ~~Bid security~~ The
27 performance bond shall be in an amount equal to ~~fifteen percent (15%) one~~
28 hundred percent (100%) of the ~~total amount bid~~ price specified in the contract.

1 (c) The ~~bid security~~ performance bond required above under any
2 applicable Invitation for Bid ~~shall not be released upon award of the bid, but~~
3 ~~instead~~ shall continue in full force and effect until delivery of the supplies or
4 services required by any contract awarded to contractor under the associated
5 Invitation for Bid is completed, except that the ~~bid security~~ performance bond
6 for a lease of real property shall be released upon the government's execution
7 of the lease and taking possession of the property. The Director of
8 Administration shall review all ~~bid security~~ performance bonds for existing
9 leases and shall release said ~~bid security~~ performance bond if a lessor is in
10 compliance with the lease.

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

26 (e) Rejection of Bids for Noncompliance with ~~Bid Security~~
27 Performance Bond Affidavit Requirements. When the Invitation for Bids
28 requires the affidavit for ~~bid security~~ a performance bond, noncompliance

1 requires that the bid be rejected ~~unless, pursuant to Policy Office regulations,~~
2 ~~it is determined that the bid fails to comply in a non-substantial manner with~~
3 ~~the security requirements.~~

4 (f) Withdrawal of Bids. After the bids are opened, they shall be
5 irrevocable for the period specified in the Invitation for Bids, except as
6 provided in §§ 5211(f) of this Chapter. ~~If a bidder is permitted to withdraw its~~
7 ~~bid before award, no action shall be had against the bidder or the bid security.~~

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

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

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

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