

I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN
2017 (FIRST) Regular Session

Bill No. 168-34 (COR)
As Corrected by the Prime Sponsor

Introduced by:

Tommy Morrison
B. J.F. Cruz
William M. Castro

AN ACT TO REPEAL ARTICLE 2 OF CHAPTER 20, DIVISION 2, TITLE 5, GUAM CODE ANNOTATED, AND TO ADD A NEW ARTICLE 11 TO CHAPTER 1 OF DIVISION 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE OFFICE OF TECHNOLOGY AS AN AGENCY OF THE GOVERNMENT OF GUAM.

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

2 **Section 1.** Article 2 of Chapter 20, Division 2, Title 5, Guam Code
3 Annotated, is hereby *repealed* as follows:

4 **“ARTICLE 2**

5 **OFFICE OF TECHNOLOGY**

6 ~~§ 20201. Findings and Purposes.~~

7 ~~§ 20202. Scope of Authority.~~

8 ~~§ 20203. Definitions.~~

1 ~~§ 20204. Office of Technology; Chief Technology Officer; Appointment and~~
2 ~~Qualifications.~~

3 ~~§20205. Powers and Duties of the Chief Technology Officer; Generally.~~

4 ~~§ 20206. Duties of the Chief Technology Officer Relating to Security of~~
5 ~~Government Information.~~

6 ~~§ 20207. Project Management Duties of the Chief Technology Officer.~~

7 ~~§ 20208. Major Information Technology Projects Proposals and the Establishment~~
8 ~~of Steering Committees.~~

9 ~~§20209. Notice of Request for Proposals by Agencies/Programs Required to Make~~
10 ~~Purchases Through the Guam General Services Agency.~~

11 ~~§ 20210. Notice of Request for Proposals by an Agency/Program Exempted From~~
12 ~~Submitting Purchases to the Guam General Services Agency.~~

13 ~~§ 20211. Exemptions.~~

14 ~~§ 20212. Voluntary Assistance.~~

15 ~~§ 20213. Applicability of Succession of Article.~~

16 ~~§ 20214. Semi-Annual Reporting.~~

17 ~~**§ 20201. Findings and Purposes.**~~

18 ~~*I Liheslaturan Guåhan* finds and declares that information technology is~~
19 ~~essential to finding practical solutions to the everyday problems of government,~~
20 ~~and that the management goals and purposes of government are furthered by the~~

1 ~~development of compatible, linked information systems across government.~~
2 ~~Therefore, it is the purpose of this Article to create, as an integral part of the~~
3 ~~Department of Administration, the Office of Technology with the authority to~~
4 ~~advise and make recommendations to all local governmental units on their~~
5 ~~information systems, and to have the authority to oversee coordination of the~~
6 ~~government's technical infrastructure.~~

7 ~~§ 20202. Scope of Authority.~~

8 ~~This Article shall apply to all agencies of the executive branch of the~~
9 ~~government of Guam, not including the autonomous agencies as defined by 12~~
10 ~~GCA. This Article shall not apply to the legislative and judicial branches of the~~
11 ~~government of Guam.~~

12 ~~§ 20203. Definitions.~~

13 ~~As used in this Article:~~

14 ~~(a) Information systems means computer based information equipment and~~
15 ~~related services designed for the automated transmission, storage, manipulation~~
16 ~~and retrieval of data by electronic or mechanical means;~~

17 ~~(b) Information technology means data processing and telecommunications~~
18 ~~hardware, software, services, supplies, personnel, maintenance, and training, and~~
19 ~~includes the programs and routines used to employ and control the capabilities of~~
20 ~~data processing hardware;~~

21 ~~(c) Information equipment includes central processing units, front-end~~
22 ~~processing units, microprocessors and related peripheral equipment, including data~~
23 ~~storage devices, networking equipment, services, routers, document scanners, data~~

1 ~~entry equipment, terminal controllers, data terminal equipment, and computer-~~
2 ~~based word processing systems, other than memory typewriters;~~

3 ~~(d) Related services includes feasibility studies, systems design, software~~
4 ~~development and time-sharing services, whether provided by government of Guam~~
5 ~~employees or others;~~

6 ~~(e) Telecommunications means any transmission, emission or reception of~~
7 ~~signs, signals, writings, images, or sounds of intelligence of any nature by wire,~~
8 ~~radio, or other electromagnetic or optical systems. The term includes all facilities~~
9 ~~and equipment performing those functions that are owned, leased or used by the~~
10 ~~executive agencies of the government;~~

11 ~~(f) Chief Technology Officer means the person holding the position created~~
12 ~~in § 20204 of this Article, and vested with the authority to oversee~~
13 ~~agencies/programs in planning and coordinating information systems that serve the~~
14 ~~effectiveness and efficiency of the government and individual agencies/programs,~~
15 ~~and further the overall management goals and purposes of government;~~

16 ~~(g) Technical infrastructure means all information systems, information~~
17 ~~technology, information equipment, telecommunications, and related services, as~~
18 ~~defined in this Section;~~

19 ~~(h) Information technology project means the process by which~~
20 ~~telecommunications, automated data processing, databases, the internet,~~
21 ~~management information systems and related information, equipment, goods and~~
22 ~~services are planned, procured and implemented;~~

1 (i) Major information technology project means any information technology
2 project estimated to cost more than One Hundred Thousand Dollars, or require
3 more than three hundred man hours to complete; and

4 (j) Steering committee means an internal agency oversight committee
5 established jointly by the Chief Technology Officer and the agency requesting the
6 project, which shall include representatives from the Office of Technology and at
7 least one representative from the agency requesting the project.

8 **~~§ 20204. Office of Technology; Chief Technology Officer; Appointment and~~**
9 **~~Qualifications.~~**

10 (a) ~~The Office of Technology is created within the Department of~~
11 ~~Administration. A Chief Technology Officer shall be appointed by *I-Maga'låhen*~~
12 ~~*Guåhan* (the Governor) with the advice and consent of *I-Liheslaturan-Guåhan* (the~~
13 ~~Legislature). *I-Maga'låhen-Guåhan* may create and empanel an advisory council~~
14 ~~within the Office of Technology to provide guidance and expertise to the Chief~~
15 ~~Technology Officer and the Office of Technology staff. The Chief Technology~~
16 ~~Officer shall have knowledge in the field of information technology, experience in~~
17 ~~the design and management of information systems and an understanding of the~~
18 ~~special demands upon government with respect to budgetary constraints, the~~
19 ~~protection of privacy interests and federal and local standards of accountability.~~

20 (b) ~~The candidate for this position shall have at least five (5) years of~~
21 ~~managerial experience in the field of Information Technology, Management~~
22 ~~Information Systems, Financial Information Systems, or closely related field, in a~~
23 ~~company or governmental agency with revenues in excess of Ten Million Dollars~~
24 ~~(\$10,000,000).~~

1 ~~§ 20205. Powers and Duties of the Chief Technology Officer; Generally.~~

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

3 (1) ~~develop an organized approach to information resource~~
4 ~~management for the government of Guam;~~

5 (2) ~~provide, with the assistance of the~~
6 ~~information/technology/communications services of the Department of~~
7 ~~Administration, technical assistance to the administrators of the various~~
8 ~~agencies/programs in the design and management of information systems;~~

9 (3) ~~evaluate, in conjunction with the Information Services and~~
10 ~~Communications Division, the economic justification, system design and~~
11 ~~suitability of information equipment and related services, and review and~~
12 ~~make recommendations on the purchase, lease or acquisition of information~~
13 ~~equipment and contracts for related services by the agencies/programs;~~

14 (4) ~~develop a mechanism for identifying those instances where~~
15 ~~systems of paper forms should be replaced by direct use of information~~
16 ~~equipment and those instances where applicable government of Guam or~~
17 ~~federal standards of accountability demand retention of some paper~~
18 ~~processes;~~

19 (5) ~~develop a mechanism for identifying those instances where~~
20 ~~information systems should be linked and information shared, while~~
21 ~~providing for appropriate limitations on access and the security of~~
22 ~~information;~~

1 ~~(6) create new technologies to be used in government, convene~~
2 ~~conferences, and develop incentive packages to encourage the utilization of~~
3 ~~technology;~~

4 ~~(7) engage in any other activities as directed by I Maga'låhi (the~~
5 ~~Governor);~~

6 ~~(8) charge a fee to the agencies/programs for evaluations performed~~
7 ~~and technical assistance provided under the provisions of this Section. All~~
8 ~~fees collected by the Chief Technology Officer shall be deposited in a~~
9 ~~special account in the Government of Guam Treasury to be known as the~~
10 ~~Technology Officer Administration Fund. Expenditures from the Fund shall~~
11 ~~be made by the Chief Technology Officer for the purposes set forth in this~~
12 ~~Article in accordance with an appropriation by *I Liheslaturan Guåhan*.~~

13 ~~(9) monitor trends and advances in information technology and~~
14 ~~technical infrastructure;~~

15 ~~(10) direct the formulation and promulgation of policies, guidelines,~~
16 ~~standards and specifications for the development and maintenance of~~
17 ~~information technology and technical infrastructure, including, but not~~
18 ~~limited to:~~

19 ~~(A) standards to support the government of Guam and the~~
20 ~~exchange, acquisition, storage, use, sharing and distribution of~~
21 ~~electronic information;~~

22 ~~(B) standards concerning the development of electronic~~
23 ~~transactions, including the use of electronic signatures;~~

1 ~~(C) standards necessary to support a unified approach to~~
2 ~~information technology across the totality of the government of~~
3 ~~Guam, thereby assuring that the residents and businesses of Guam~~
4 ~~receive the greatest possible security, value and convenience from~~
5 ~~investments made in technology;~~

6 ~~(D) guidelines directing the establishment of government-wide~~
7 ~~standards for the efficient exchange of electronic information and~~
8 ~~technology, including technical infrastructure, between the public and~~
9 ~~private sectors;~~

10 ~~(E) technical and data standards for information technology and~~
11 ~~related systems to promote efficiency and uniformity;~~

12 ~~(F) technical and data standards for the connectivity, priorities~~
13 ~~and interoperability of technical infrastructure used for homeland~~
14 ~~security, public safety and health, and systems reliability necessary to~~
15 ~~provide continuity of government operations in times of disaster or~~
16 ~~emergency; and~~

17 ~~(G) technical and data standards for the coordinated~~
18 ~~development of infrastructure related to deployment of electronic~~
19 ~~government services;~~

20 ~~(11) periodically evaluate the feasibility of subcontracting information~~
21 ~~technology resources and services, and to subcontract only those resources~~
22 ~~that are feasible and beneficial to the government of Guam;~~

1 ~~(12) direct the compilation and maintenance of an inventory of~~
2 ~~information technology and technical infrastructure, which may include~~
3 ~~personnel, facilities, equipment, goods and contracts for services, wireless~~
4 ~~tower facilities, geographic information systems, and any technical~~
5 ~~infrastructure or technology that is used for law enforcement, homeland~~
6 ~~security, or emergency services;~~

7 ~~(13) develop job descriptions and qualifications necessary to perform~~
8 ~~duties related to information technology as outlined in this Article;~~

9 ~~(14) periodically evaluate government wide public safety/homeland~~
10 ~~security communications system/network requirements, inclusive of the~~
11 ~~"911" system, and report findings and recommendations to *I Maga'låhen*~~
12 ~~*Guåhan* and *I Liheslaturan Guåhan*, and provide support for the~~
13 ~~procurement, installation and operation of such systems/networks; and~~

14 ~~(15) promulgate rules as may be necessary to standardize and make~~
15 ~~effective the administration of the provisions of Article 6 of this Chapter.~~

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

17 ~~(1) develop a unified and integrated structure for information systems~~
18 ~~for all executive agencies;~~

19 ~~(2) establish, based on need and opportunity, priorities and time lines~~
20 ~~for addressing the information technology requirements of the various~~
21 ~~executive agencies of the government of Guam;~~

22 ~~(3) exercise authority delegated by *I Maga'låhi* (the Governor) by~~
23 ~~Executive Order to overrule and supersede decisions made by the~~

1 administrators of the various executive agencies of government with respect
2 to the design and management of information systems and the purchase,
3 lease or acquisition of information equipment and contracts for related
4 services;

5 ~~——(4) draw upon staff of other executive agencies for advice and~~
6 ~~assistance in the formulation and implementation of administrative and operational~~
7 ~~plans and policies; and~~

8 (5) ~~recommend to *I Maga'låhi* (the Governor) transfers of equipment~~
9 ~~and human resources from any executive agency and the most effective and~~
10 ~~efficient uses of the fiscal resources of executive agencies, to consolidate or~~
11 ~~centralize information processing operations.~~

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

15 (d) ~~The Chief Technology Officer shall oversee telecommunications services~~
16 ~~used by agencies/programs for the purpose of maximizing efficiency to the fullest~~
17 ~~possible extent. The Chief Technology Officer may establish microwave or other~~
18 ~~networks and hops; audit telecommunications services and usage; recommend and~~
19 ~~develop strategies for the discontinuance of obsolete or excessive utilization;~~
20 ~~participate in the renegotiation of telecommunications contracts; and encourage the~~
21 ~~use of technology and take other actions necessary to provide the greatest value to~~
22 ~~the government of Guam.~~

23 ~~§ 20206. Duties of the Chief Technology Officer Relating to Security of~~
24 ~~Government Information.~~

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

9 ~~(b) Annual audits:~~

10 ~~(1) The Chief Technology Officer shall, at least annually, perform~~
11 ~~security audits of all executive branch agencies regarding the protection of~~
12 ~~government databases and data communications.~~

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

16 ~~(c) The Chief Technology Officer may contract with a private firm, or firms,~~
17 ~~that specialize in conducting these audits.~~

18 ~~(d) All public bodies subject to the audits required by this Section shall fully~~
19 ~~cooperate with the entity designated to perform the audit.~~

20 ~~(e) The Chief Technology Officer may direct specific remediation actions to~~
21 ~~mitigate findings of insufficient administrative, technical and physical controls~~
22 ~~necessary to protect government information or data communication~~
23 ~~infrastructures.~~

1 ~~(f) The Chief Technology Officer shall promulgate rules to minimize~~
2 ~~vulnerability to threats and to regularly assess security risks, determine~~
3 ~~appropriate security measures, and perform security audits of government~~
4 ~~information systems and data communications infrastructures.~~

5 ~~(g) The Chief Technology Officer shall ensure compliance with~~
6 ~~confidentiality restrictions and other security guidelines applicable to law-~~
7 ~~enforcement agencies, emergency response personnel, and emergency management~~
8 ~~operations.~~

9 ~~(h) The provisions of this Section shall not infringe upon the responsibilities~~
10 ~~assigned to the Public Auditor, or other statutory requirements.~~

11 ~~(i) In consultation with the Adjutant General, the Chief of Police, the Fire~~
12 ~~Chief and the Director of the Division of Homeland Security, the Chief~~
13 ~~Technology Officer is responsible for the development and maintenance of an~~
14 ~~information systems disaster recovery system for the government of Guam with~~
15 ~~redundant sites in two or more locations isolated from reasonably perceived threats~~
16 ~~to the primary operations of the government of Guam. The Chief Technology~~
17 ~~Officer shall develop specifications, funding mechanisms and participation~~
18 ~~requirements for all executive branch agencies to protect the government of~~
19 ~~Guam's essential data, information systems and critical government services in~~
20 ~~times of emergency, inoperativeness, or disaster. Each executive branch agency~~
21 ~~shall assist the Chief Technology Officer in planning for its specific needs, and~~
22 ~~provide to the Chief Technology Officer any information or access to information~~
23 ~~systems or equipment that may be required in carrying out this purpose. No~~
24 ~~government wide or executive branch agency procurement of disaster recovery~~

1 ~~services may be initiated, let or extended without the expressed consent of the~~
2 ~~Chief Technology Officer.~~

3 ~~§ 20207. Project Management Duties of the Chief Technology Officer.~~

4 ~~The Chief Technology Officer shall be the Project Manager for all technology~~
5 ~~projects of agencies under the jurisdiction of this Article. The Chief Technology~~
6 ~~Officer may delegate Project Management duties to an employee or a contract~~
7 ~~manager in the event that the project's funding sources, such as a grant or specific~~
8 ~~appropriation, allows funds to be expended for project management.~~

9 ~~§ 20208. Major Information Technology Projects Proposals and the~~
10 ~~Establishment of Steering Committees.~~

11 ~~(a) Prior to proceeding with a major information technology project, an~~
12 ~~agency shall submit a project proposal outlining the business need for the project,~~
13 ~~the proposed technology solution, if known, and an explanation of how the project~~
14 ~~will support the agency's business objective and the government of Guam's~~
15 ~~strategic plan for information technology. The project manager may require the~~
16 ~~submission of additional information as needed to adequately review any proposal.~~

17 ~~(b) The proposal will further include:~~

18 ~~(1) a detailed business case plan, including a cost benefit analysis;~~

19 ~~(2) a business process analysis, if applicable;~~

20 ~~(3) system requirements, if known;~~

21 ~~(4) a proposed development plan and project management~~

1 structure;

2 ~~(5) business goals and measurement criteria, as appropriate; and~~

3 ~~(6) a proposed resource or funding plan.~~

4 ~~(e) The project manager assigned to review the project development~~
5 ~~proposal shall recommend its approval or rejection to the Chief Technology~~
6 ~~Officer. If the Chief Technology Officer approves the proposal, then he or she shall~~
7 ~~notify the agency of its approval.~~

8 ~~(d) Whenever an agency has received approval from the Chief Technology~~
9 ~~Officer to proceed with the development and acquisition of a major information~~
10 ~~technology project, the Chief Technology Officer shall establish a steering~~
11 ~~committee.~~

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

15 ~~(f) The Chief Technology Officer shall ensure that the major information~~
16 ~~technology project has in place adequate project management and oversight~~
17 ~~structures for addressing the project's scope, schedule or budget, and shall address~~
18 ~~issues that cannot be resolved by the steering committee.~~

19 ~~§ 20209. Notice of Request for Proposals by Agencies/Programs Required to~~
20 ~~Make Purchases Through the Guam General Services Agency.~~

21 ~~Any agency/program that pursues an information technology purchase that~~
22 ~~does not meet the definition of a "major technology project," and that is required to~~

1 submit a request for proposal to the Guam General Services Agency prior to
2 purchasing goods or services, shall obtain the approval of the Chief Technology
3 Officer, in writing, of any proposed purchase of goods or services related to its
4 information technology and telecommunication systems. The notice shall contain a
5 brief description of the goods and services to be purchased. The agency/program
6 shall provide the notice to the Chief Technology Officer prior to the time it submits
7 its request for proposal to the Guam General Services Agency.

8 **~~§ 20210. Notice of Request for Proposals by an Agency/Program Exempted~~**
9 **~~From Submitting Purchases to the Guam General Services Agency.~~**

10 (a) ~~Any agency/program that is not required to submit a request for proposal~~
11 ~~to the Guam General Services Agency prior to purchasing goods or services shall~~
12 ~~notify the Chief Technology Officer, in writing, of any proposed purchase of goods~~
13 ~~or services related to its information technology or telecommunication systems.~~
14 ~~The notice shall contain a detailed description of the goods and services to be~~
15 ~~purchased. The agency/program shall provide the notice to the Chief Technology~~
16 ~~Officer a minimum of ten days prior to the time it requests bids on the provision of~~
17 ~~the goods or services.~~

18 (b) ~~If the Chief Technology Officer evaluates the suitability of the~~
19 ~~information technology and telecommunication equipment and related services~~
20 ~~under the provisions of § 20205(a)(3) of this Article, and determines that the goods~~
21 ~~or services to be purchased are not suitable, he or she shall, within ten days of~~
22 ~~receiving the notice from the agency/program, notify the agency/program, in~~
23 ~~writing, of any recommendations he or she has regarding the proposed purchase of~~
24 ~~the goods or services. If the agency/program receives a written notice from the~~
25 ~~Chief Technology Officer within the time period required by this Section, the~~

1 agency/program shall not put the goods or services out for bid less than fifteen
2 days following receipt of the notice from the Chief Technology Officer.

3 **§ 20211. Exemptions.**

4 (a) ~~The provisions of this Article do not apply to autonomous agencies as~~
5 ~~defined by 12 GCA, *I Liheslaturan Guåhan*, the Judiciary/Public Defender Service~~
6 ~~Corporation, the Office of Public Accountability, and the Office of the Attorney~~
7 ~~General.~~

8 (b) ~~Notwithstanding any other provision of this Article to the contrary,~~
9 ~~except for participation in the compilation and maintenance of an inventory of~~
10 ~~information technology and technical infrastructure of the government of Guam~~
11 ~~authorized by § 20205 of this Article, the provisions of this Article do not apply to~~
12 ~~the Guam Department of Education. The Guam Department of Education may~~
13 ~~cooperate and collaborate with the Chief Technology Officer to the extent feasible.~~

14 (c) ~~*I Maga'lahaen Guåhan* may, by executive order, exempt from the~~
15 ~~provisions of this Article any entity created and organized to facilitate the public~~
16 ~~and private use of health care information and the use of electronic medical records~~
17 ~~throughout the government of Guam.~~

18 **§ 20212. Voluntary Assistance.**

19 Any branch or agency exempt from the provisions of this Article by §
20 20211(a) may, by memorandum of understanding, avail itself of any of the services
21 offered by the Office of Technology if such branch or agency determines that
22 acquiring such services is feasible. Such memorandum of understanding may
23 include fees and costs paid by the branch or agency, except that no fees for such

1 ~~services shall be paid by the Office of Attorney General or the Office of Public~~
2 ~~Accountability. The Chief Technology Officer shall create a schedule of fees, rates~~
3 ~~and other consideration for services rendered to other government of Guam~~
4 ~~agencies, departments, public corporations and instrumentalities. Such schedule~~
5 ~~and any changes to such schedule must be approved by *I Maga'lahen Guåhan* and~~
6 ~~transmitted to *I Liheslaturan Guåhan* in Bill form. The fee schedule and any future~~
7 ~~changes to the fee schedule shall be subject to approval by *I Liheslaturan Guåhan*~~
8 ~~after the following conditions are met:~~

9 ~~(a) at least one (1) public hearing for the affected agencies on the fee~~
10 ~~schedules by the Office of Technology pursuant to Chapter 10 of 5 GCA; and~~

11 ~~(b) submission of the fee schedule to *I Liheslaturan Guåhan*, inclusive of the~~
12 ~~minutes of such hearing(s) on the fee schedules.~~

13 ~~Prior to initiating services requested by an agency where fees, rates or other~~
14 ~~consideration are required, the work order for such services must be certified for~~
15 ~~availability of funds and approved by the agency's approving officer.~~

16 ~~**§ 20213. Applicability of Succession of Article.**~~

17 ~~(a) All references to Automatic Data Processing Act as contained in Article~~
18 ~~2 of Chapter 20 of 5 GCA prior to the enactment of Section 1 of this Act shall~~
19 ~~henceforth refer to the Office of Technology as enacted by Section 1 of this Act.~~
20 ~~The Compiler of Laws shall make appropriate changes in the codification of public~~
21 ~~law consistent with this Section.~~

22 ~~The Office of Technology shall assume all obligations, required by contract,~~
23 ~~memoranda of understanding, rule, regulation and executive order, of the~~

1 Department of Administration as related to the operation of Article 2 of Chapter 20
2 of 5 GCA prior to the enactment of Section 1 of this Act.

3 ~~§ 20214. Semi-Annual Reporting.~~

4 The Chief Technology Officer shall submit a report to *I Liheslaturan Guåhan*
5 every six (6) months on the activities of the Office of Technology.”

6 Section 2. A new Article 11 is hereby *added* to Chapter 1 of Division
7 1, Title 5, Guam Code Annotated, as follows:

8 “ARTICLE 11

9 OFFICE OF TECHNOLOGY

10 § 1935. Findings and Purposes.

11 § 1936. Scope of Authority.

12 § 1937. Definitions.

13 § 1938. Office of Technology; Chief Technology Officer;
14 Appointment and Qualifications.

15 § 1939. Powers and Duties of the Chief Technology Officer;
16 Generally..

17 § 1940. Duties of the Chief Technology Officer Relating to Security
18 of Government Information.

19 § 1941. Project Management Duties of the Chief Technology
20 Officer.

21 § 1942. Major Information Technology Projects Proposals and the
22 Establishment of Steering Committees.

23 § 1943. Notice of Request for Proposals by Agencies/Programs
24 Required to Make Purchases Through the Guam General Services Agency.

25 § 1944. Notice of Request for Proposals by an Agency/Program

1 § 1945. Exemptions.

2 § 1946. Voluntary Assistance.

3 § 1947. Applicability of Succession of Article.

4 § 1948. Semi-Annual Reporting.

5 **§ 1935. Findings and Purposes.**

6 *I Liheslaturan Guåhan* finds and declares that information technology is
7 essential to finding practical solutions to the everyday problems of
8 government, and that the management goals and purposes of government are
9 furthered by the development of compatible, linked information systems across
10 government. Therefore, it is the purpose of this Article to create the Office of
11 Technology with the authority to advise and make recommendations to all
12 local governmental units on their information systems, and to have the
13 authority to oversee coordination of the government's technical infrastructure.

14 **§ 1936. Scope of Authority.**

15 This Article shall apply to all agencies of the executive branch of the
16 government of Guam, not including the autonomous agencies as defined by 12
17 GCA. This Article shall not apply to the legislative and judicial branches of the
18 government of Guam.

19 **§ 1937. Definitions.**

20 As used in this Article:

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

24 (b) Information technology means data processing and
25 telecommunications hardware, software, services, supplies, personnel,
26 maintenance, and training, and includes the programs and routines used to
27 employ and control the capabilities of data processing hardware;

1 (c) Information equipment includes central processing units, front-
2 end processing units, microprocessors and related peripheral equipment,
3 including data storage devices, networking equipment, services, routers,
4 document scanners, data entry equipment, terminal controllers, data terminal
5 equipment, and computer-based word processing systems, other than memory
6 typewriters;

7 (d) Related services includes feasibility studies, systems design,
8 software development and time-sharing services, whether provided by
9 government of Guam employees or others;

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

15 (f) Chief Technology Officer means the person holding the position
16 created in § 1938 of this Article, and vested with the authority to oversee
17 agencies/programs in planning and coordinating information systems that serve
18 the effectiveness and efficiency of the government and individual
19 agencies/programs, and further the overall management goals and purposes of
20 government;

21 (g) Technical infrastructure means all information systems,
22 information technology, information equipment, telecommunications, and
23 related services, as defined in this Section;

24 (h) Information technology project means the process by which
25 telecommunications, automated data processing, databases, the internet,
26 management information systems and related information, equipment, goods
27 and services are planned, procured and implemented;

1 (i) Major information technology project means any information
2 technology project estimated to cost more than One Hundred Thousand
3 Dollars, or require more than three hundred man hours to complete; and

4 (j) Steering committee means an internal agency oversight committee
5 established jointly by the Chief Technology Officer and the agency requesting
6 the project, which shall include representatives from the Office of Technology
7 and at least one representative from the agency requesting the project.

8 **§ 1938. Office of Technology; Chief Technology Officer;**
9 **Appointment and Qualifications.**

10 (a) There is within the Office of the Governor an agency of the
11 government of Guam known as the Office of Technology. The head of the
12 Office of Technology shall be the Chief Technology Officer who shall be
13 appointed by I Maga'Låhen Guåhan (the Governor) with the advice and
14 consent of I Liheslaturan Guåhan (the Legislature). I Maga'Låhen Guåhan
15 may create and empanel an advisory council within the Office of Technology
16 to provide guidance and expertise to the Chief Technology Officer and the
17 Office of Technology staff. The Chief Technology Officer shall have
18 knowledge in the field of information technology, experience in the design and
19 management of information systems and an understanding of the special
20 demands upon government with respect to budgetary constraints, the
21 protection of privacy interests and federal and local standards of
22 accountability. The Chief Technology Officer shall be responsible for the
23 administration of this Chapter and shall supervise the staff of the Office of
24 Technology. The staff shall be organized into such divisions, sections, or units
25 as are sufficient to perform the responsibilities outlined in this Article.

26 (b) The candidate for the position of Chief Technology Officer shall
27 have at least five (5) years of managerial experience in the field of Information

1 Technology, Management Information Systems, Financial Information
2 Systems, or closely related field, in a company or governmental agency with
3 revenues in excess of Ten Million Dollars (\$10,000,000).

4 **§ 1939. Powers and Duties of the Chief Technology Officer;**

5 **Generally..**

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

8 (1) develop an organized approach to information resource
9 management for the government of Guam;

10 (2) provide, with the assistance of the
11 information/technology/communications services of the Department of
12 Administration, technical assistance to the administrators of the various
13 agencies/programs in the design and management of information
14 systems;

15 (3) evaluate, in conjunction with the Information Services and
16 Communications Division, the economic justification, system design and
17 suitability of information equipment and related services, and review
18 and make recommendations on the purchase, lease or acquisition of
19 information equipment and contracts for related services by the
20 agencies/programs;

21 (4) develop a mechanism for identifying those instances where
22 systems of paper forms should be replaced by direct use of information
23 equipment and those instances where applicable government of Guam or
24 federal standards of accountability demand retention of some paper
25 processes;

26 (5) develop a mechanism for identifying those instances where
27 information systems should be linked and information shared, while

1 providing for appropriate limitations on access and the security of
2 information;

3 (6) create new technologies to be used in government, convene
4 conferences, and develop incentive packages to encourage the utilization
5 of technology;

6 (7) engage in any other activities as directed by *I Maga'Låhen*
7 (the Governor);

8 (8) charge a fee to the agencies/programs for evaluations
9 performed and technical assistance provided under the provisions of this
10 Section. All fees collected by the Chief Technology Officer *shall* be
11 deposited in a special account in the Government of Guam Treasury to
12 be known as the Technology Officer Administration Fund. Expenditures
13 from the Fund *shall* be made by the Chief Technology Officer for the
14 purposes set forth in this Article in accordance with an appropriation by
15 *I Liheslaturan Guåhan*.

16 (9) monitor trends and advances in information technology and
17 technical infrastructure;

18 (10) direct the formulation and promulgation of policies,
19 guidelines, standards and specifications for the development and
20 maintenance of information technology and technical infrastructure,
21 including, but not limited to:

22 (A) standards to support the government of Guam and the
23 exchange, acquisition, storage, use, sharing and distribution of
24 electronic information;

25 (B) standards concerning the development of electronic
26 transactions, including the use of electronic signatures;

1 (C) standards necessary to support a unified approach to
2 information technology across the totality of the government of
3 Guam, thereby assuring that the residents and businesses of Guam
4 receive the greatest possible security, value and convenience from
5 investments made in technology;

6 (D) guidelines directing the establishment of government
7 wide standards for the efficient exchange of electronic
8 information and technology, including technical infrastructure,
9 between the public and private sectors;

10 (E) technical and data standards for information
11 technology and related systems to promote efficiency and
12 uniformity;

13 (F) technical and data standards for the connectivity,
14 priorities and interoperability of technical infrastructure used for
15 homeland security, public safety and health, and systems
16 reliability necessary to provide continuity of government
17 operations in times of disaster or emergency; and

18 (G) technical and data standards for the coordinated
19 development of infrastructure related to deployment of electronic
20 government services;

21 (11) periodically evaluate the feasibility of subcontracting
22 information technology resources and services, and to subcontract only
23 those resources that are feasible and beneficial to the government of
24 Guam;

25 (12) direct the compilation and maintenance of an inventory of
26 information technology and technical infrastructure, which may include
27 personnel, facilities, equipment, goods and contracts for services,

1 wireless tower facilities, geographic information systems, and any
2 technical infrastructure or technology that is used for law enforcement,
3 homeland security, or emergency services;

4 (13) develop job descriptions and qualifications necessary to
5 perform duties related to information technology as outlined in this
6 Article;

7 (14) periodically evaluate government wide public
8 safety/homeland security communications system/network requirements,
9 inclusive of the “911” system, and report findings and recommendations
10 to *I Maga’Låhen Guåhan* and *I Liheslaturan Guåhan*, and provide
11 support for the procurement, installation and operation of such
12 systems/networks; and

13 (15) promulgate rules as may be necessary to standardize and
14 make effective the administration of the provisions of Article 6 of this
15 Chapter.

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

18 (1) develop a unified and integrated structure for information
19 systems for all executive agencies;

20 (2) establish, based on need and opportunity, priorities and time
21 lines for addressing the information technology requirements of the
22 various executive agencies of the government of Guam;

23 (3) exercise authority delegated by *I Maga’Låhen* (the
24 Governor) by Executive Order to overrule and supersede decisions made
25 by the administrators of the various executive agencies of government
26 with respect to the design and management of information systems and

1 the purchase, lease or acquisition of information equipment and
2 contracts for related services;

3 (4) draw upon staff of other executive agencies for advice and
4 assistance in the formulation and implementation of administrative and
5 operational plans and policies; and

6 (5) recommend to *I Maga'Låhen* (the Governor) transfers of
7 equipment and human resources from any executive agency and the
8 most effective and efficient uses of the fiscal resources of executive
9 agencies, to consolidate or centralize information-processing operations.

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

14 (d) The Chief Technology Officer shall oversee telecommunications
15 services used by agencies/programs for the purpose of maximizing efficiency
16 to the fullest possible extent. The Chief Technology Officer may establish
17 microwave or other networks and hops; audit telecommunications services and
18 usage; recommend and develop strategies for the discontinuance of obsolete or
19 excessive utilization; participate in the renegotiation of telecommunications
20 contracts; and encourage the use of technology and take other actions
21 necessary to provide the greatest value to the government of Guam.

22 **§ 1940. Duties of the Chief Technology Officer Relating to**
23 **Security of Government Information.**

24 (a) The Chief Technology Officer shall ensure the security of
25 government information and the data communications infrastructure from
26 unauthorized uses, intrusions or other security threats. At a minimum, these
27 policies, procedures and standards shall identify and require the adoption of

1 practices to safeguard information systems, data and communications
2 infrastructures, as well as define the scope and regularity of security audits,
3 and which bodies are authorized to conduct security audits. The audits may
4 include reviews of physical security practices.

5 (b) Annual audits:

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

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

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

14 (d) All public bodies subject to the audits required by this Section
15 shall fully cooperate with the entity designated to perform the audit.

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

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

24 (g) The Chief Technology Officer shall ensure compliance with
25 confidentiality restrictions and other security guidelines applicable to law-
26 enforcement agencies, emergency response personnel, and emergency
27 management operations.

1 (h) The provisions of this Section shall not infringe upon the
2 responsibilities assigned to the Public Auditor, or other statutory requirements.

3 (i) In consultation with the Adjutant General, the Chief of Police, the
4 Fire Chief and the Director of the Division of Homeland Security, the Chief
5 Technology Officer is responsible for the development and maintenance of an
6 information systems disaster recovery system for the government of Guam
7 with redundant sites in two or more locations isolated from reasonably
8 perceived threats to the primary operations of the government of Guam. The
9 Chief Technology Officer shall develop specifications, funding mechanisms
10 and participation requirements for all executive branch agencies to protect the
11 government of Guam's essential data, information systems and critical
12 government services in times of emergency, inoperativeness, or disaster. Each
13 executive branch agency shall assist the Chief Technology Officer in planning
14 for its specific needs, and provide to the Chief Technology Officer any
15 information or access to information systems or equipment that may be
16 required in carrying out this purpose. No government-wide or executive branch
17 agency procurement of disaster recovery services may be initiated, let or
18 extended without the expressed consent of the Chief Technology Officer.

19 **§ 1941. Project Management Duties of the Chief Technology**
20 **Officer.**

21 The Chief Technology Officer shall be the Project Manager for all
22 technology projects of agencies under the jurisdiction of this Article. The Chief
23 Technology Officer may delegate Project Management duties to an employee
24 or a contract manager in the event that the project's funding sources, such as a
25 grant or specific appropriation, allows funds to be expended for project
26 management.

1 **§ 1942. Major Information Technology Projects Proposals and**
2 **the Establishment of Steering Committees.**

3 (a) Prior to proceeding with a major information technology project,
4 an agency shall submit a project proposal outlining the business need for the
5 project, the proposed technology solution, if known, and an explanation of how
6 the project will support the agency's business objective and the government of
7 Guam's strategic plan for information technology. The project manager may
8 require the submission of additional information as needed to adequately
9 review any proposal.

10 (b) The proposal will further include:

11 (1) a detailed business case plan, including a cost-benefit
12 analysis;

13 (2) a business process analysis, if applicable;

14 (3) system requirements, if known;

15 (4) a proposed development plan and project management
16 structure;

17 (5) business goals and measurement criteria, as appropriate;
18 and

19 (6) a proposed resource or funding plan.

20 (c) The project manager assigned to review the project development
21 proposal shall recommend its approval or rejection to the Chief Technology
22 Officer. If the Chief Technology Officer approves the proposal, then he or she
23 shall notify the agency of its approval.

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

1 (e) The steering committee shall provide ongoing oversight for the
2 major information technology project, and have the authority to approve or
3 reject any changes to the project’s scope, schedule or budget.

4 (f) The Chief Technology Officer shall ensure that the major
5 information technology project has in place adequate project management and
6 oversight structures for addressing the project’s scope, schedule or budget, and
7 shall address issues that cannot be resolved by the steering committee.

8 **§ 1943. Notice of Request for Proposals by Agencies/Programs**
9 **Required to Make Purchases Through the Guam General Services**
10 **Agency.**

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

21 **§ 1944. Notice of Request for Proposals by an Agency/Program**
22 **Exempted from Submitting Purchases to the Guam General Services**
23 **Agency.**

24 (a) Any agency/program that is not required to submit a request for
25 proposal to the Guam General Services Agency prior to purchasing goods or
26 services shall notify the Chief Technology Officer, in writing, of any proposed
27 purchase of goods or services related to its information technology or

1 telecommunication systems. The notice shall contain a detailed description of
2 the goods and services to be purchased. The agency/program shall provide the
3 notice to the Chief Technology Officer a minimum of ten days prior to the time
4 it requests bids on the provision of the goods or services.

5 (b) If the Chief Technology Officer evaluates the suitability of the
6 information technology and telecommunication equipment and related services
7 under the provisions of § 1939(a)(3) of this Article, and determines that the
8 goods or services to be purchased are not suitable, he or she shall, within ten
9 days of receiving the notice from the agency/program, notify the
10 agency/program, in writing, of any recommendations he or she has regarding
11 the proposed purchase of the goods or services. If the agency/program receives
12 a written notice from the Chief Technology Officer within the time period
13 required by this Section, the agency/program shall not put the goods or
14 services out for bid less than fifteen days following receipt of the notice from
15 the Chief Technology Officer.

16 **§ 1945. Exemptions.**

17 (a) The provisions of this Article do not apply to autonomous
18 agencies as defined by 12 GCA, I Liheslaturan Guåhan, the Judiciary/Public
19 Defender Service Corporation, the Office of Public Accountability, and the
20 Office of the Attorney General.

21 (b) Notwithstanding any other provision of this Article to the
22 contrary, except for participation in the compilation and maintenance of an
23 inventory of information technology and technical infrastructure of the
24 government of Guam authorized by § 1939 of this Article, the provisions of
25 this Article do not apply to the Guam Department of Education. The Guam
26 Department of Education may cooperate and collaborate with the Chief
27 Technology Officer to the extent feasible.

1 (c) I Maga'Låhen Guåhan may, by executive order, exempt from the
2 provisions of this Article any entity created and organized to facilitate the
3 public and private use of health care information and the use of electronic
4 medical records throughout the government of Guam.

5 § 1946. Voluntary Assistance.

6 Any branch or agency exempt from the provisions of this Article by §
7 1945(a) may, by memorandum of understanding, avail itself of any of the
8 services offered by the Office of Technology if such branch or agency
9 determines that acquiring such services is feasible. Such memorandum of
10 understanding may include fees and costs paid by the branch or agency, except
11 that no fees for such services shall be paid by the Office of Attorney General
12 or the Office of Public Accountability. The Chief Technology Officer shall
13 create a schedule of fees, rates and other consideration for services rendered to
14 other government of Guam agencies, departments, public corporations and
15 instrumentalities. Such schedule and any changes to such schedule must be
16 approved by I Maga'Låhen Guåhan and transmitted to I Liheslaturan Guåhan
17 in Bill form. The fee schedule and any future changes to the fee schedule shall
18 be subject to approval by I Liheslaturan Guåhan after the following conditions
19 are met:

20 (a) at least one (1) public hearing for the affected agencies on
21 the fee schedules by the Office of Technology pursuant to Chapter 10 of
22 5 GCA; and

23 (b) submission of the fee schedule to I Liheslaturan Guåhan,
24 inclusive of the minutes of such hearing(s) on the fee schedules. Prior to
25 initiating services requested by an agency where fees, rates or other
26 consideration are required, the work order for such services must be

1 certified for availability of funds and approved by the agency's
2 approving officer.

3 **§ 1947. Applicability of Succession of Article.**

4 All references to Automatic Data Processing Act as contained in Article
5 2 of Chapter 20 of 5 GCA prior to the enactment of P.L. 32-10 and this Act
6 shall henceforth refer to the Office of Technology. The Compiler of Laws shall
7 make appropriate changes in the codification of public law consistent with this
8 Section.

9 The Office of Technology shall assume all personnel, funding, facilities,
10 equipment, supplies, records, and obligations required by contract, memoranda
11 of understanding, rule, regulation and executive order, of the Department of
12 Administration as related to the operation of Article 2 of Chapter 20 of 5 GCA
13 prior to the enactment of P.L. 32-10. All personnel, funding, facilities,
14 equipment, supplies, records, and obligations required by contract, memoranda
15 of understanding, rule, regulation and executive order, of the Office of
16 Technology following the enactment of P.L. 32-10 shall also be transferred
17 from the Department of Administration to the Office of Technology as
18 established by this Act.

19 **§ 1948. Semi-Annual Reporting.** The Chief Technology Officer
20 shall submit a report to I Liheslaturan Guðhan every six (6) months on the
21 activities of the Office of Technology.”

22
23 **Section 3. Effective Date.** This Act shall become effective upon
24 enactment. The Office of Technology and the Department of Administration
25 are authorized a period of ninety (90) days immediately following the
26 enactment of this Act to complete all transition requirements.

27

1 **Section 4. Severability.** If any provision of this Act or its application to
2 any person or circumstance is found to be invalid, or contrary to law, such
3 invalidity *shall not* affect other provisions or applications of this Act that can be
4 given effect without the invalid provision or application, and to this end the
5 provisions of this Act are severable.