FILE COPY

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
THIRTY-SECOND GUAM LEGISLATURE
155 Hesler Place, Hagåtña, Guam 96910

November 13, 2013

The Honorable Edward J.B. Calvo
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
***Hagåtña,* Guam 96910**

OFFICE OF THE GOVERNOR
CENTRAL FILES
J. Dela Rosa
RECEIVED BY
TIME 11:28 a.m. DATE 11/15/13

Dear *Maga'lahi* Calvo:

Transmitted herewith are Bill and Substitute Bill Nos. 35-32(COR), 74-32(LS), 75-32(LS), 91-32(COR), 94-32(COR), 98-32(LS), 99-32(LS), 108-32(COR), 112-32(COR), 116-32(COR), 133-32(COR), 134-32(COR), 140-32(COR), 141-32(COR), 143-32(COR), 145-32(LS), 150-32(COR), 153-32(COR), 154-32(COR), 156-32(COR), 157-32(COR), 158-32(COR), 160-32(COR), 161-32(COR), 162-32(LS), 165-32(COR), 170-32(LS), 176-32(COR), 189-32(COR), 193-32(COR), 194-32(COR), 195-32(COR), 196-32(COR), 200-32(COR), 205-32(COR), 210-32(COR), 211-32(COR) and 217-32(LS) which were passed by *I Mina'Trentai Dos Na Liheslaturan Guåhan* on November 12, 2013.

Sincerely,

Tina Rose Muña Barnes
Legislative Secretary

Enclosures (38)

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I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that **Bill No. 160-32 (COR), "AN ACT TO ADOPT THE RULES OF PROCEDURE FOR THE GOVERNMENT OF GUAM HEALTH INSURANCE NEGOTIATING TEAM AND THE CONDUCT OF THE ANNUAL SOLICITATION OF HEALTH INSURANCE COVERAGE FOR GOVERNMENT OF GUAM ACTIVE EMPLOYEES, RETIREES, AND THEIR DEPENDANTS",** was on the 12th day of November 2013, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 15th day of Nov, 2013, at 11:28 o'clock A.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 160-32 (COR)
As amended on the Floor.

Introduced by: Dennis G. Rodriguez, Jr.
T. C. Ada
V. Anthony Ada
FRANK B. AGUON, JR.
B. J.F. Cruz
Chris M. Dueñas
Michael T. Limtiaco
Brant T. McCreadie
Tommy Morrison
T. R. Muña Barnes
Vicente (ben) C. Pangelinan
R. J. Respicio
Michael F. Q. San Nicolas
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO ADOPT THE RULES OF PROCEDURE FOR THE GOVERNMENT OF GUAM HEALTH INSURANCE NEGOTIATING TEAM AND THE CONDUCT OF THE ANNUAL SOLICITATION OF HEALTH INSURANCE COVERAGE FOR GOVERNMENT OF GUAM ACTIVE EMPLOYEES, RETIREES, AND THEIR DEPENDANTS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that on July 19, 2013, the Government of Guam Health Insurance Negotiating Team submitted the proposed Rules of Procedure to the Legislature. The authority and mandate to establish the Rules of Procedure is provided for pursuant to §4302(c) of Article 3, Chapter 4, Title 4, Guam Code Annotated. The rules are

intended to provide for the orderly and equitable process by which the Negotiating Team *shall* annually seek to acquire healthcare insurance coverage for active and retired government of Guam employees, and their dependants.

I Liheslaturan Guåhan takes due notice that the annual process relative to the solicitation, receipt, review and contract award process for health insurance coverage is currently being conducted under interim rules of procedure, pending formal legislative action.

It is, therefore, the intent of *I Liheslaturan Guåhan* to adopt the Rules of Procedure, appended to this Act as **Exhibit "A"**.

Section 2. Adoption of Rules. Notwithstanding any other provision of law, rule, regulation and executive order, the Rules of Procedure of the Government of Guam Health Insurance Negotiating Team, and attached hereto as **Exhibit "A"**, are hereby adopted by *I Mina'Trentai Dos Na Liheslaturan Guåhan,* and *shall* be codified under a new Chapter 13 of Division 4, Title 2, Guam Administrative Rules and Regulations.

Section 3. Amendment of Rules. The government of Guam Health Insurance Negotiating Team *shall*, in keeping with the provisions of Article 3 of Chapter 4, Title 4 GCA, and pursuant to Article 3 - rule making procedures, of Chapter 9, Title 5, Guam Code Annotated, review and amend, as *may* be necessary, the Rules of Procedure adopted pursuant to Section 2 of this Act.

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

Section 5. Effective Date. This Act *shall* become effective upon its enactment.

Exhibit "A"

Administrative Rules of Procedure

FOR

Government of Guam Health Insurance Negotiating Team

[Authority: §4302(c) of Article 3, Chapter 4, Title 4, Guam Code Annotated]

Department of Administration

PROPOSED - Rules of Procedure for Negotiating Team [as amended in response to Public Hearing]

Approved by Negotiating Team on July 9, 2013.

I. Authority. The Negotiating Team for the government of Guam, responsible for the solicitation of group health insurance benefits for employees and retirees of the government, is established by statute. Pursuant to law, the Negotiating Team shall develop its rules of procedure in accordance with the Administrative Adjudication Law. 4 GCA § 4302(c).

The responsibilities and roles of the Negotiating Team are those set out by law at Title Four, Chapter Four, Article Three, of the Guam Code Annotated ("Group Benefits Laws"). At any time that these Rules of Procedure come into conflict with the Group Benefits Laws, the Group Benefits Laws shall preempt these rules.

II. Membership.

A. The Negotiating Team is comprised of individuals identified by statute at 4 GCA §4302(c).

B. The Negotiating Team may obtain technical support from other financial, legal and health-related agencies. The Director of Administration, upon the approval of the Negotiating Team, may invite representatives of government departments, agencies, bureaus and other government entities to Negotiating Team meetings as seen fit to serve as consultants in aid of the Negotiating Team in its duties. No unilateral consultations shall be conducted by the Chairperson or any member of the Negotiating Team nor shall they hold independent meetings or consultations with persons outside of the Negotiating Team and its consultants prior to the conclusion of the Negotiating Team proceedings.

C. The Attorney General or his designee shall act as legal advisor during all phases of the solicitation or procurement process for group health insurance benefits for employees and retirees of the government.

D. Non-delegation of representation. The following members of the Negotiating Team are not permitted, by law, to delegate to another individual the authority to serve in their stead as a substitute or proxy for purposes of participation in Negotiating Team activities:

1. Director of Administration

2. The employee representative of the Judiciary of Guam to be appointed by the Chief Justice of the Supreme Court of Guam.
3. The employee representative of the Legislative Branch to be appointed by the Speaker of *I Liheslaturan Guåhan*.
4. The retiree who is a member of the Government of Guam Retirement Fund appointed by the Board of Trustees of the Government of Guam Retirement Fund.
5. The member of the general public appointed *by I Maga'låhen Guåhan*.

E. Delegation of representation. The following members of the Negotiating Team are permitted, by law, to delegate to another individual the authority to serve in their stead as a substitute or proxy for purposes of participation in Negotiating Team activities:

1. The Administrator of the Department of Integrated Services for Individuals with Disabilities.
2. The Director of the Bureau of Budget and Management Research.
3. The Superintendent of the Department of Education.
4. The Director of the Government of Guam Retirement Fund.
5. The Chairperson of the Committee on Health or the successor committee of *I Liheslaturan Guåhan*.
6. The Chairperson of the Committee on Appropriations, or the successor committee of *I Liheslaturan Guåhan*.

F. Delegation in writing. A member of the Negotiating Team who is permitted, by law, to delegate to another individual the authority to serve in their stead as a substitute or proxy shall designate such delegation in writing and have such written delegation delivered to the Chairperson of

the Negotiating Team prior to the delegation being effective. Any member of the Negotiating Team with the authority to delegate shall delegate only one representative for the entire process to ensure for continuity of communications and to safeguard the dissemination of information. A written delegation may be repealed in writing.

III. Voting.

A. Voting Members. The following members of the Negotiating Team are voting members:

1. The Director of Administration, who shall be Chairperson of the Negotiating Team.
2. The employee representative from the Judicial Branch appointed by the Chief Justice of the Supreme Court of Guam.
3. The employee representative of the Legislative Branch to be appointed by the Speaker of *I Liheslaturan Guåhan*.
4. The retiree who is a member of the Government of Guam Retirement Fund to be appointed by the Board of Trustees of the Government of Guam Retirement Fund.
5. The member of the general public, appointed *by I Maga'låhen Guåhan*.
6. The Administrator of the Department of Integrated Services for Individuals with Disabilities, or his or her designee.
7. The Director of the Bureau of Budget and Management Research, or his or her designee.
8. The Superintendent of the Department of Education, or his or her designee.

9. The Director of the Government of Guam Retirement Fund, or his or her designee.

B. Non-Voting Members. The following members of the Negotiating Team are non-voting members:

1. The Chairperson of the Committee on Health or the successor committee of *I Liheslaturan Guåhan*, or his or her designee.
2. The Chairperson of the Committee on Appropriations or the successor committee of *I Liheslaturan Guåhan*, or his or her designee.

IV. Confidentiality. Members, delegates of members, consultants of the Negotiating Team, and applicable Department of Administration staff as determined by the Director of Administration must adhere to the strictest of confidentiality and acknowledge that the proposals received are confidential in nature. Team members, delegates of members, consultants, and applicable Department of Administration staff acknowledge that no information contained in the proposals, meetings or negotiations can be divulged to any person outside of the Negotiating Team. Team members, delegates of members, consultants and applicable Department of Administration staff must sign a confidentiality agreement attesting to such. Confidentiality agreements shall be signed prior to the predetermined meeting date and time for opening proposals referenced in Section IX. A delegate may brief the member of the Negotiating Team who made the delegation about the business of the Negotiating Team but both parties are subject to strict confidentiality throughout the entire process. Copies of all correspondence between the negotiating team and the Judiciary or Governor, shall also be transmitted to the Legislature.

V. **No conflict-of-interest.** A member, consultant or advisor of the Negotiating Team that has a conflict of interest (as understood and regulated by 5 GCA §§ 5625-5633) because of a financial interest with an offeror or due to employment of a family member shall recuse him or herself from being a member, consultant or advisor of the Negotiating Team during the pendency of the solicitation. Members, consultants and advisors of the Negotiating Team must sign an affidavit that no conflict of interest exists with any offerors once knowledge of the names of the carriers who submitted proposals is known and prior to receiving any information contained in the proposals. Any member, consultant or advisor who later realizes that a conflict of interest exists must recuse himself or herself from being a member of the Negotiation Team.

VI. **Meetings.** Meetings of the Negotiating Team shall be called by the Chairperson, or by a majority of the voting members of the Negotiating Team.

A. The Chairperson shall set the time, day and place of meetings with the intent to permit the largest number of voting members of the Negotiating team to attend the meeting. The Chairperson shall establish an agenda for each meeting. The agenda shall be adopted or amended by the Negotiating Team at the start of a meeting.

B. Notice of meetings of the Negotiating Team shall be provided to each member of the Negotiating Team in writing, by business email, and by other acceptable written or telephonic format as may be determined by the Negotiating Team from time to time, at least one business day in advance of the meeting.

C. Notwithstanding the foregoing, the Negotiating Team, at a properly noticed meeting with a quorum present, may adjourn its business and schedule a subsequent meeting for a time, day and place certain even though notice as prescribed here cannot be given one business day before the meeting. Nonetheless, written notice, by business email of such subsequent meeting shall be provided to each member. Nothing here prohibits additional forms of providing notice to ensure that all members receive actual notice of a scheduled meeting.

D. The Chairperson is responsible for providing timely notice to all members of the Negotiating Team of each meeting, as provided for in this rule.

VII. Quorum. The Negotiating Team may conduct official business if a quorum of its voting members is present at any properly noticed meeting. A quorum of the Negotiating Team is seven (7) voting members.

VIII. Decisions. At any properly noticed meeting of the Negotiating Team where a quorum is present, the Negotiating Team shall make decisions based upon an affirming vote of at least five (5) of the voting members present, after a motion is made by any member, and seconded by any other member. In any circumstance, a failure to get an affirming vote of at least five (5) of the voting members present shall mean that the motion being voted on fails for lack of a majority. Upon the casting of votes, team members shall sign off on a voting sheet to document the decision made.

IX. Opening of Proposals. Provisions shall be made in each Request For Proposals that establish the process for receiving proposals, documenting the reception of proposals, the initial opening of proposals to ensure a proper count, documenting the count, and for adequately securing proposals

received so that they shall only be viewed by persons having legitimate access to proposals. Provisions made for the initial opening of proposals may include the involvement of the Negotiating Team and/or representatives of offerors, as determined by the Negotiating Team and set out in the Request For Proposals.

X. **Communication by Offerors and Sub-contractors.** Unsolicited communication by offerors and sub-contractors by phone, mobile phone, email, or any other mode of delivery about any facet of the RFP prior to negotiations is prohibited and may result in disqualification of proposals of any offending offeror. Prior to disqualification, the Negotiating Team shall request the Attorney General's office to conduct an investigation to verify the veracity of such communication and shall provide its recommendation to the negotiating team for action.

XI. **Authority to Clarify Proposals.** The Negotiation Team shall request any documents or information for any proposals received and deemed to be non-responsive or not qualified that will cause said proposals to be responsive and qualified. A proposal shall only be disqualified or rejected if any offeror fails to submit the requested information to the Negotiating Team within three business days after request.

XII. **Proceeding to the Next Phase.** After the conclusion of each phase identified in the RFP, Team Members must acknowledge, via signature, such approval or disapproval to proceed to the next phase.

XIII. **Weighting and Ranking.** During the planning stage of each solicitation for group health and dental insurance, the Negotiating Team shall establish the processes and mechanisms for evaluating proposals submitted in response to a solicitation for the purpose of the ultimate ranking of proposals, to include

the factors to be evaluated, the weighting of the various factors, the process of scoring the evaluation factors, the development of a scoring sheet or sheets, and all other processes that lead to the ultimate ranking of proposals. The Negotiating Team, and each Team member, shall follow the evaluation process developed for a given solicitation and as set out in the Request For Proposals for that solicitation.

XIV. Review and Audit. The Negotiating Team reserves the right and obligation to review and audit its evaluation determination during the solicitation process, consistent with the instructions and procedures provided for in a Request For Proposals, Guam law, and regulations.

XV. Roles of Team Members. The following are the responsibilities of the Department of Administration personnel, consultant and negotiating team members. Any additional duties identified in the consultant contract, 4 GCA § 4301, and other pertinent sections that may arise hereafter are also included under these Rules of Procedure.

A. **Recording of Meetings.** All meetings between the Negotiating Team's consultants and any offerors shall be recorded and be made available to members of the Negotiating Team upon request.

B. Consultant: Consultant is responsible for duties as defined in consultant contract and any amendments thereof.

C. DOA: The Department of Administration is responsible for the following:

1. Preparation of RFP to include comments and recommendations submitted by team members, finalization and issuance of RFP, advertisements, recordings of meetings with team, scheduling and notifications of meetings, compilation of voting sheets of motions

made, responding to inquiries posed during the issuance of the RFP as guided by consultant, collection of incoming proposals, review of proposals to ensure for initial compliance as defined in the RFP, preparation of negotiations materials, securing site for negotiations, logistics, communications to carriers as directed by Negotiation Team members and communications to the consultant except during designated official team meetings.

2. The publication date of the RFP is determined by the Chairperson of the Negotiation Team.

D. Negotiation Team Members: Negotiation Team members are responsible for the development of the minimum qualifications for proposals, development of the ranking system used to rank proposals, reviewing proposals upon conclusion of initial review by consultant, examination of the financial information, rating of proposals, determination of qualified carriers after review, approval and recommendation from the consultant and Department of Administration, ranking of carriers, negotiations, development of contractual language requirements, and the final recommendation, after obtaining guidance from the Consultant, Insurance Commissioner and Attorney General, to the Governor for approval.

XVI. Amendment. These Rules of Procedure may be amended by the Negotiating Team pursuant to the Administrative Adjudication Law, 5 GCA § 9301.

XVII. Compliance With Law. The Negotiating Team shall retain consultants cognizant of federal and Guam laws as applicable to the provision of health and dental insurance and health and dental services, and as applicable to the

solicitation and acquisition of group health and dental insurance programs for government employees, retirees, families and survivors.

XVIII. Vice Chairperson. There shall be a Vice Chairperson of the Negotiating Team chosen from among the members of the Negotiating Team by a majority vote of the Negotiating Team. The Vice Chairperson shall serve as Chairperson at any meeting of the Negotiating Team at which the Director of Administration is unable to attend.