

# I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN

## 2023 (FIRST) Regular Session

### VOTING RECORD

<b>Bill No. 46-37 (COR)</b> As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning and further amended on the Floor.	Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building March 21, 2023					
NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator Chris Barnett	✓					
Senator Frank Blas, Jr.	✓					
Senator Joanne Brown	✓					
Senator Christopher M. Dueñas	✓					
Senator Thomas J. Fisher	✓					
Senator Jesse A. Lujan	✓					
Vice Speaker Tina Rose Muña Barnes					✓	✓
Senator William A. Parkinson	✓					
Senator Sabina Flores Perez	✓					
Senator Roy A. B. Quinata	✓					
Senator Joe S. San Agustin	✓					
Senator Dwayne T. D. San Nicolas	✓					
Senator Amanda L. Shelton	✓					
Senator Telo T. Taitague	✓					
Speaker Therese M. Terlaje	✓					

**TOTAL**

**14**

**0**

**Not  
Voting/  
Abstained**

**Out  
During  
Roll Call**


**1**

**Absent**

**1**

**Excused**

CERTIFIED TRUE AND CORRECT:

  
 JOAQUIN P. TAITAGUE  
 Substitute Clerk of the Legislature

I = Pass

***I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN***  
**2023 (FIRST) Regular Session**

**Bill No. 46-37 (COR)**

As amended by the Committee on  
Environment, Revenue and Taxation,  
Labor, Procurement, and Statistics,  
Research, and Planning and  
further amended on the Floor.

\*

Introduced by:

Sabina Flores Perez  
Chris Barnett  
Telo T. Taitague  
Thomas J. Fisher  
Christopher M. Dueñas  
Joe S. San Agustin  
Dwayne T. D. San Nicolas  
Frank Blas, Jr.  
Joanne Brown  
Jesse A. Lujan  
Tina Rose Muña Barnes  
William A. Parkinson  
Roy A. B. Quinata  
Amanda L. Shelton  
Therese M. Terlaje

**AN ACT TO ADD A NEW §5425.2 TO PART A OF  
ARTICLE 9, CHAPTER 5 OF TITLE 5, GUAM CODE  
ANNOTATED, RELATIVE TO PROVIDING  
TEMPORARY EXPEDITED PROCUREMENT PROTEST  
PROCEDURES FOR ACQUISITIONS FUNDED WITH  
AMERICAN RESCUE PLAN ACT, EDUCATION  
STABILIZATION FUND, OR HEAD START GRANT  
MONEYS ALLOTTED TO THE GUAM DEPARTMENT  
OF EDUCATION.**

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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that the Guam Department of Education (GDOE) School Facilities Master Plan,  
4 published in May 2022, is a ten-year master plan that highlights and prioritizes the  
5 work that is needed to ensure safe and healthy educational environments for all  
6 public-school students. The GDOE Facilities Master Plan (FMP), which guides  
7 investments in our schools, identified needed construction and modernization work  
8 and estimated the deferred maintenance throughout our public school system.  
9 Furthermore, decades-long deferred maintenance has resulted in deterioration of  
10 aging facilities and an urgent need to repair existing or construct new facilities to  
11 ensure safe and healthy learning environments.

12           *I Liheslatura* further finds that GDOE has been provided a once in a lifetime  
13 opportunity to utilize a portion of the federal funds through the American Rescue  
14 Plan Act (ARPA) for capital improvement projects. Additionally, provided that there  
15 are no extensions, the timelines to obligate ARPA funds ends December 2024, along  
16 with the opportunity to accomplish deferred but urgent capital improvement  
17 projects. In addition to ARPA funds, other federal funds will expire within 2023 with  
18 little to no prospect of carryover, which include GDOE Education Stabilization Fund  
19 and the Head Start Grant.

20           *I Liheslatura* finds that although protests are an essential part of the  
21 procurement process, Guam’s current protest process can often lead to lengthy  
22 delays in procurement and can potentially lead to the inability of GDOE to expend  
23 funds within required deadlines or can lead to their inability to secure the best  
24 possible procurement costs to the people of Guam to undergo urgently needed  
25 facilities improvements.

1            *I Liheslaturan Guåhan* intends to provide a temporary expedited procurement  
2 protest procedure for capital improvement projects funded with American Rescue  
3 Plan Act, Education Stabilization Fund, or Head Start Grant allotted to the Guam  
4 Department of Education and enable GDOE to complete much needed improvement  
5 projects for the well-being of our school children and faculty.

6            **Section 2.** A new §5425.2 is *added* to Part A, Article 9, Chapter 5, Title 5,  
7 Guam Code Annotated to hereby read as follows:

8            **“§5425.2. Protest Procedure for Procurement Funded with**  
9 **American Rescue Plan Act of 2021, Education Stabilization Fund, or**  
10 **Head Start Grant Allotted to the Guam Department of Education.**

11            (a) Notwithstanding any other provision of law, if a selected or non-  
12 selected vendor, contractor, or service provider is aggrieved by an award or a  
13 contract for capital improvement projects funded, in whole or in part, by the  
14 funds allotted to the Guam Department of Education from the American  
15 Rescue Plan Act (ARPA) of 2021, Education Stabilization Fund, or Head Start  
16 Grant, the procedure for initiating a protest outlined in this Section shall apply,  
17 and shall be the exclusive means available to resolve the concerns of persons  
18 aggrieved in connection with awards or solicitations funded in whole or in  
19 part with moneys allotted to GDOE from ARPA, the Education Stabilization  
20 Fund, or the Head Start Grant. The protest shall be submitted to the Public  
21 Auditor who shall expedite the administrative review process of the appeal in  
22 accordance with rules and regulations to be adopted and promulgated by the  
23 Public Auditor within sixty (60) calendar days of the effective date of this Act  
24 and approved by *I Liheslaturan Guahan*. The expedited procedures shall be  
25 prominently designated as such in the notice and the solicitation. All  
26 prospective bidders, offerors, and contractors shall acknowledge and sign an

1 affidavit stating they are aware of the expedited process and agree to abide by  
2 the rules and deadlines outlined in the expedited process.

3 (b) If the protest is not resolved by mutual agreement within twenty  
4 (20) days of the filing of the protest with the Public Auditor, the Public  
5 Auditor shall issue a decision, in writing, no later than twenty (20) days,  
6 Saturdays, Sundays and Government of Guam holidays excepted, of receipt  
7 of the protest. The decision shall state the Public Auditor's reasons for its  
8 decision. A copy of the written decision shall be served by certified mail, or  
9 otherwise personally served to the parties named in the protest, including but  
10 not limited to: the vendor, contractor, or service provider who initiated the  
11 protest, the person awarded the contract, and to all other non-selected bidders  
12 or offerors.

13 (c) For purposes of this Section, the Public Auditor's decision and  
14 determination of facts resolving protests of procurement contracts funded in  
15 whole or in part by ARPA, Education Stabilization Fund, or Head Start Grants  
16 *shall* be final and conclusive with no right of appeal or judicial review. The  
17 fact that a protest has been filed pursuant to this Section shall not stay the  
18 procurement process or award of any contract funded in whole or in part by  
19 ARPA, Education Stabilization Fund, or Head Start Grants unless so ordered  
20 by the Public Auditor. In addition, a request for reconsideration shall not stay  
21 the award of any contract funded in whole or in part by ARPA, Education  
22 Stabilization Fund, or Head Start Grants, *unless* so ordered by the Public  
23 Auditor.

24 This Section is repealed effective December 31, 2024, unless the federal  
25 grantor agency authorizes an extension of time for the expenditure of ARPA funds,  
26 in which case this Section shall be repealed at the end of the extension period.”

27 **Section 3. Effective Date.** This act shall be effective upon enactment.

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