

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

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Bill No. 436-31 (*COR*)

Introduced by

Judith T. Won Pat, Ed.D. 

**AN ACT TO *AMEND* §5425.1 OF CHAPTER 5, TITLE 5
GUAM CODE ANNOTATED, RELATIVE TO PROTEST
PROCEDURE FOR PROCUREMENT FUNDED WITH
PUBLIC LAW 31-40 MONEYS ALLOTTED TO THE
GUAM DEPARTMENT OF EDUCATION.**

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

2 **Section 1.** §5425.1 of Chapter 5, Title 5 Guam Code Annotated is hereby
3 *amended* to read as follows:

4 **“§ 5425.1. Protest Procedure for Procurement Funded with 2009**
5 **~~American Recovery and Reinvestment Act~~ P.L. 31-40 Moneys Allotted to**
6 **the Guam Department of Education.**

7 (a) Notwithstanding any other provision of this Chapter and any rules
8 promulgated therefore, *if* an actual or nonselected vendor, contractor, or service
9 provider is aggrieved by an award or a contract funded, in whole or in part, by
10 the funds allotted to the Guam Department of Education from ~~the 2009~~
11 ~~American Recovery and Reinvestment Act (ARRA)~~ P.L.31-40, the procedure
12 for protest outlined in this Section *shall* apply, and *shall* be the exclusive means

1 available to resolve the concerns of persons aggrieved in connection with
2 awards or solicitations involving ARRA funds, in whole or in part. The protest
3 *shall* be submitted to the Public Auditor who may settle and resolve a protest by
4 one (1) or more of the following means:

- 5 (1) amending or canceling the solicitation;
- 6 (2) terminating the contract that was awarded;
- 7 (3) declaring the contract null and void from the time of its
8 award; *or*

9 (4) affirming the contract award decision. If the protest is *not*
10 resolved by mutual agreement, the Public Auditor *shall* issue a decision,
11 in writing, within *no more than* ten (10) working days of receipt of the
12 protest. The decision *shall* state the reasons taken. A copy of the written
13 decision *shall* be mailed, using certified mail, *or* otherwise furnished to
14 the vendor, contractor, or service provider who initiated the protest, the
15 person awarded the contract, and to all other non-selected bidders or
16 offerors.

17 (b) For purposes of this Section, the determination of facts and
18 decision by the Public Auditor for the resolution of protests of ~~ARRA-funded~~
19 procurements funded by P.L. 31-40 funds *shall* be final and conclusive with *no*
20 right of appeal *or* judicial review. The fact that a protest has been filed pursuant
21 to this Section *shall not* stay the procurement process or award of any contract
22 funded by ~~ARRA~~ P.L. 31-40 moneys, whether in whole or in part, *unless* so
23 ordered by the Public auditor. A request for reconsideration *shall also not* stay
24 the award of any contract funded by ~~ARRA~~ P.L. 31-40 moneys, whether in
25 whole or in part, *unless* so ordered by the Public Auditor. This Section is
26 repealed effective December 31, ~~2011~~ 2012., ~~unless the federal grantor agency~~
27 ~~authorizes an extension of time for the obligation or expenditure of ARRA~~

1 ~~funds, in which case this Section shall be repealed at the end of the extension~~
2 ~~period.”~~