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

Bill No. 437-31 (COR)

Introduced by:

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AN ACT TO AUTHORIZE TAX CREDITS TO THE
AWARDEE OF A CONTRACT FOR REHABILITATION
AND RENOVATION OF PUBLIC SCHOOLS.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent. The present condition of
3 the Guam public schools is in a deplorable condition which creates an un-
4 conducive environment that hinders learning and the work and production
5 of the teachers and the students.

6 The government has available certain funds from the American
7 Reinvestment and Recovery Act ("ARRA"), which is approximately
8 \$60,000,000.00. The Department of Education estimates the cost of the
9 renovation, rebuilding and rehabilitation of the Guam public schools to be

1 about \$139,000,000.00. This leaves a government shortfall of approximately
2 \$79,000,000.00.

3 *I Liheslaturan Guahan* finds that the government of Guam is
4 financially strapped and obligated to provide essential services for all the
5 people of Guam. The government is unlikely to afford payments for
6 renovation and rehabilitation of the schools. It is therefore the intent of *I*
7 *Liheslaturan Guahan* to leverage and utilize the government's ability to issue
8 tax credits, tax rebates, and tax offsets to an Awardee of a contract willing
9 to provide financing for the renovation and rehabilitation work on the
10 schools.

11 **Section 2. Definitions.** The following definitions shall be used for
12 the purposes of this act.

13 (a) "*Government of Guam*" shall mean the government of Guam, its
14 agencies, departments, divisions, and departments.

15 (c) "*Awardee*" shall mean the party who will be selected by the Guam
16 Economic Development Authority to provide financing and to perform
17 renovation and rehabilitation.

18 **Section 3. Lease/Lease-back.** To take advantage of alternative
19 financing under the Internal Revenue Code, the government shall have the
20 option and right to lease the schools to the Awardee and lease-back the
21 schools from the Awardee. The terms and conditions of the lease/lease-

1 back shall be negotiated between the parties, which may include
2 maintenance of the schools.

3 **Section 3. Payment of Expenses.** In lieu of any cash payment from
4 the Government of Guam to the Awardee for financing, renovation,
5 rehabilitation, and maintenance expenses, the government is authorized to
6 issue tax credits, and alternative financing. The tax credits authorized
7 under this Act shall be subject to bond counsel approval. The tax credit
8 permitted shall be as follows:

9 (a) The Awardee may utilize tax credits for the payments due to
10 the Awardee from the Government. The tax credits shall be applied
11 against taxes due under the Business Privilege Tax Law (namely, 11 GCA
12 Chapter 26, which shall include business privilege tax, alcoholic beverage
13 tax, liquid fuel tax, automotive surcharges, and tobacco tax), the excise tax
14 on transient lodging and occupants as found in 11 GCA Chapter 30, and all
15 real property taxes.

16 (b) The authorization of the Awardee to off-set or credit may be
17 applied by the Awardee against any amount owed to the government of
18 Guam.

19 (c) The parties or persons entitled to use the rights of off-set and
20 credits as set forth in this law shall be as follows:

21 i. If the Awardee is a corporation, then the Awardee and

1 any shareholder owning or holding a minimum of five percent
2 (5%) in the corporation shall also have the right to use the
3 rights of off-set and credits.

4 ii. If the Awardee is a partnership, then all the partners
5 shall have the right to use the rights of off-set and credits. If a
6 partner is a corporation, then the rights as set forth above
7 concerning corporations shall apply to the corporation and its
8 shareholders.

9 iii. If the Awardee is a person or persons, then such rights
10 shall apply to a person or persons.

11 (d) The tax credit authorized herein shall be freely assignable and
12 transferable, in whole or in part, to any party, company, partnership or
13 corporation. The assignment and transfer may be by gift or may be for
14 legal consideration. Any assignment and/or transfer shall be in writing,
15 notarized, and an original thereof shall be filed with GEDA, with a copy to
16 the Department of Revenue and Taxation.

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18 Section 4. Existing Bids/Offers/RFP's. All existing bids, offers or
19 request for proposals for the financing, renovation, rehabilitation, and
20 maintenance expenses of the Guam public schools which involve the use of
21 ARRA funds are hereby terminated and cancelled. GEDA shall start a new

1 procurement process providing payments by tax credits to the Awardee.

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3 **Section 5. Procedure for GEDA.** GEDA shall immediately proceed
4 with the procurement processes necessary to accomplish the financing,
5 rehabilitation, renovation and maintenance of Guam's public schools using
6 ARRA funds and payments to the Awardee by tax credits. GEDA shall:

7 (a) Consolidate and use the remaining funds from the American
8 Recovery and Reinvestment Act (ARRA) and the financing by the
9 Awardee to accomplish said renovation, rehabilitation and
10 maintenance.

11 (b) Within fifteen (15) days of the enactment of this Act, issue a
12 Request for Proposals (RFP) relative to the needed financing,
13 rehabilitation, renovation and maintenance of the Guam public
14 schools.

15 i. Any proposal submitted by offeror(s) must be received
16 by GEDA by no later than fifteen (15) calendar days
17 after the announcement and publication of the Request
18 for Proposals, whereupon the process must be closed.

19 ii. The proposal must allow financing of the work and
20 costs of the Awardee over a period of 30 years.
21 Payments of the principal and interest due to the

1 Awardee shall be annually.

2 iii. The review, selection and award of contract process
3 shall be completed within fifteen (15) calendar days.

4 **Section 6. Report.** The Guam Economic Development Agency
5 (GEDA) shall submit an annual report to I Liheslaturan Guahan detailing
6 the impact of this Act on the various taxes, until the amount of the tax
7 credit is fully exhausted

8 **Section 7. Severability.** If any provision of this Law or its
9 application to any person or circumstance is found to be invalid or contrary
10 to law, such invalidity shall not affect or provisions or applications of this
11 Law which can be given effect without the invalid provisions or
12 application, and to this end the provisions of this Law are severable.