



Office of the Governor of Guam

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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

14 JUL 2009

2009 JUL 15 AM 9:23 AM

Honorable Judith T. Won Pat, Ed.D
Speaker
I Mina' Trenta Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

30-09-0835
Office of the Speaker
Judith T. Won Pat, Ed. D
Date
Time
Received by

Dear Speaker Won Pat:

Submitted herewith is Bill No. 117 (COR), "AN ACT TO ESTABLISH PROGRAM PROCUREMENT GUIDELINES AND PROCEDURES, RELATIVE TO THE CONTRACTUAL REQUIREMENTS OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009," which I have vetoed.

Though I appreciate the Legislature's attempt to deal with the myriad of requirements expected by the American Recovery and Reinvestment Act, I am vetoing Bill No. 117 (COR) because processes, already mandated by Guam law, exist to meet ARRA mandates. Specifically, the government of Guam's existing program procurement guidelines and procedures are well tested and understood by the many agencies which will be in receipt of ARRA funds. For instance, the Bill as written remains silent on contractual projects which are funded by both ARRA monies and the Government of Guam. Should this project comply with our existing procedures, those intended by this Bill, or both on parallel tracks?

Changing this process midstream, by assigning program management to the Office of the Lieutenant Governor, may cause unneeded confusion and costly delays. I would note that any error with regard to ARRA funding may cost the Government of Guam millions in needed stimulus funding.

Further, we cannot ignore that autonomous agencies like the Guam Waterworks Authority and the Guam Power Authority are fully capable of conducting their own procurement within the confines of law.

The Bill also mandates that the Lieutenant Governor establish the "ARRA Contracting Board" without expressly giving him the authority to create that entity. As you know, the Organic Act of Guam expressly authorizes the Governor to create boards—a power not organically granted to the Lieutenant Governor. As such Bill 117 (COR) would place the Lieutenant Governor in an untenable position.

Finally, and perhaps most important is the Bill's disregard for Executive level teamwork absent the mandates of statute. Governor Camacho may by his own authority, garner the full and complete assistance of the Office of the Lieutenant Governor, and a law memorializing that reality is superfluous and redundant.

Sins eru yan Magåhet,

A handwritten signature in black ink, appearing to read "MICHAEL W. CRUZ". The signature is stylized and written in a cursive-like font.

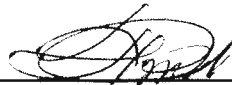
MICHAEL W. CRUZ, M.D.
I Maga'låhen Guåhan, para pa'go
Acting Governor of Guam

Attachment

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

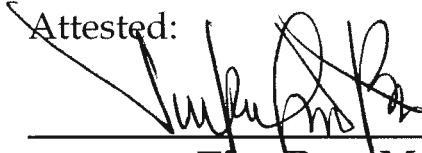
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Bill No. 117 (COR)**, "AN ACT TO ESTABLISH PROGRAM PROCUREMENT GUIDELINES AND PROCEDURES, RELATIVE TO THE CONTRACTUAL REQUIREMENTS OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009," was on the 2nd day of July 2009, duly and regularly passed.



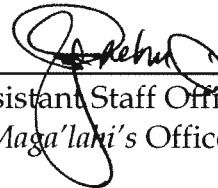
Judith T. Won Pat, Ed. D.
Speaker

Attested:



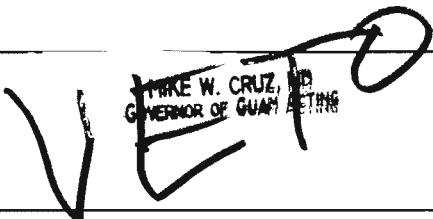
Tina Rose Muña Barnes
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 2 day of July, 2009, at
4:30 o'clock P.M.



Assistant Staff Officer
Maga'laki's Office

APPROVED:



MIKE W. CRUZ, Ed.
GOVERNOR OF GUAM

Date: _____

Public Law No. _____

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) REGULAR SESSION

Bill No. 117 (COR)

As amended by the Committee on Appropriations
Taxation, Banking, Insurance, Retirement, and Land
and amended.

Introduced by:

v. c. pangelinan
T. C. Ada
F. B. Aguon, Jr.
F. F. Blas, Jr.
E. J.B. Calvo
B. J.F. Cruz
J. V. Espaldon
Judith P. Guthertz, DPA
T. R. Muña Barnes
Adolpho B. Palacios, Sr.
M. J. Rector
R. J. Respicio
Telo Taitague
Ray Tenorio
Judith T. Won Pat, Ed.D.

**AN ACT TO ESTABLISH PROGRAM PROCUREMENT
GUIDELINES AND PROCEDURES, RELATIVE TO THE
CONTRACTUAL REQUIREMENTS OF THE
AMERICAN RECOVERY AND REINVESTMENT ACT
OF 2009.**

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

2 **Section 1. Legislative Statement and Intent.** *I Liheslaturan Guåhan*
3 finds that there is a need to streamline and facilitate the procurement procedures
4 that govern the outlay of funds made available through the American Recovery and
5 Reinvestment Act of 2009 (ARRA) to provide full compliance and to meet

1 federally mandated fiduciary requirements. The people of Guam stand to receive
2 millions of dollars in ARRA funding for the enhancement of public facilities, the
3 improvement of the education system, the installation of new technology to meet
4 local, national and world-wide environmental standards, and for qualified capital
5 improvements which will improve the quality of life for all in our community.

6 *I Liheslaturan Guåhan* further finds, having assessed the government of
7 Guam's present capacity and historical ability to administer and maintain an
8 effective system to manage federal grant awards of such magnitude and to meet the
9 regulatory and financial reporting mandates of this, as well as, other federal
10 programs that benefit Guam, that it is necessary and prudent to streamline and
11 facilitate the system of procuring contractual services related to the outlay of
12 ARRA funds by the government of Guam.

13 *I Liheslaturan Guåhan* further finds, given the compressed timelines and
14 stringent management and audit regulations that accompany the receipt and
15 expenditure of ARRA funds, that it is necessary to assist the Administration to
16 meet respective administrative and fiduciary obligations while ensuring full
17 accountability of any ARRA funds expended for the benefit of Guam with the
18 ultimate objective of maintaining Guam's eligibility to participate in such
19 programs in the future and to restore faith and confidence in the government's
20 ability to fulfill and comply with all federal and local regulatory guidelines and
21 mandates that accompany the acceptance of such grants.

22 Therefore, it is the intent of *I Liheslaturan Guåhan* to establish program
23 procurement guidelines and procedures for contractual requirements to meet the
24 ARRA.

25 **Section 2. American Recovery and Reinvestment Act of 2009 Program**
26 **Contractual and Procurement Authority.** *I Segundu na Maga'lahaen Guåhan*
27 (Lieutenant Governor of Guam) is hereby granted the *program contracting and*

1 *procuring authority* for the government of Guam with specific regard to programs
2 and projects funded through the American Recovery and Reinvestment Act of
3 2009 (ARRA), as approved by *I Maga'lahaen Guåhan* (Governor of Guam). This
4 mandate *shall* remain in effect throughout the full term of the present ARRA grant
5 period awarded in Fiscal Year 2009 or any continuation thereof, or for subsequent
6 grant award(s) to Guam under the ARRA.

7 **Section 3. Authorization.** *I Segundu na Maga'lahaen Guåhan* (Lieutenant
8 Governor of Guam) is hereby authorized to allocate, transfer, expend and/or direct
9 resources under the charge of the Office of *I Segundu na Maga'lahaen Guåhan*
10 (Lieutenant Governor of Guam) and the Guam State Clearinghouse, including,
11 budgeted operating funds, staffing, materials and supplies, office space, equipment
12 and any related logistic support and services required to fulfill the scope, purpose
13 and intent of this Act. *I Segundu na Maga'lahaen Guåhan* (Lieutenant Governor of
14 Guam) is designated the *sole* interim contracting, procuring and managing entity
15 authorized to report, advertise, administer, solicit, review and grant contractual
16 awards of the government of Guam funded under the American Recovery and
17 Reinvestment Act of 2009 as approved by *I Maga'lahaen Guåhan* (Governor of
18 Guam).

19 **Section 4. Establishment and Composition of the American Recovery**
20 **and Reinvestment Act of 2009 Contracting Board.** (a) *I Segundu na*
21 *Maga'lahaen Guåhan* (Lieutenant Governor of Guam) *shall* establish the American
22 Recovery and Reinvestment Act of 2009 (ARRA) Contracting Board (Board)
23 which *shall* consist of eight (8) regular voting members and two (2) alternate
24 members who are allowed to cast a vote *only* in the event a regular voting member
25 is/are absent. The Board *shall* be comprised of members from the following
26 entities:

27 (1) *I Segundu na Maga'lahaen Guåhan* (Lieutenant Governor of Guam);

- 1 (2) Representative of the Guam Education Policy Board;
- 2 (3) Superintendent of Education or his/her designee;
- 3 (4) Chief Engineer of the Guam Environmental Protection Agency;
- 4 (5) Attorney General of Guam or his/her designee;
- 5 (6) Director of the Department of Revenue and Taxation or his/her
- 6 designee;
- 7 (7) Chief Engineer of the Department of Public Works;
- 8 (8) Chief Procurement Officer of the government of Guam;
- 9 (9) Director of the Guam State Clearinghouse (Alternate); and
- 10 (10) Director of the Bureau of Budget and Management Research or
- 11 his/her designee (Alternate).

12 (b) Duties and Responsibilities Granted. Notwithstanding any other
13 provision of law, the scope of authority, duties, and responsibilities granted in this
14 Section *shall* be for the purpose of:

- 15 (1) program administration and management of ARRA funds awarded to
- 16 Guam in 2009 or thereafter, in accordance with applicable local and
- 17 federal laws;
- 18 (2) announcement, solicitation and awards of bids for qualified programs
- 19 and projects funded through the ARRA of 2009 and any continuation
- 20 of ARRA programs thereafter;
- 21 (3) receipt and protection of sealed bids, request for proposals (RFP) and
- 22 request for interest (RFI), request for quotations (RFQ) and any other
- 23 government of Guam solicitation, in accordance with established local
- 24 procurement rules and regulations, and ARRA procedures and
- 25 guidelines, to ensure fair and lawful procurement practices and
- 26 compliance with federal and local laws;

- 1 (4) developing periodic reports on expenditures, encumbrances, balances,
2 fund reallocation and any other financial transaction or activity
3 affecting the status of ARRA funds, while insuring compliance with
4 ARRA requirements;
- 5 (5) maintaining project status reports, financial status reports and
6 documentation of financial transactions affecting the fund balance(s)
7 of grant accounts for audit and project close-out requirements for
8 corresponding grant award year(s); and
- 9 (6) preparation of quarterly financial report(s) on ARRA-funded projects
10 and programs for submission to *I Liheslaturan Guåhan*.

11 The Board *shall* meet as necessary to comply with this Section. *I Segundu*
12 *na Maga'lahren Guåhan* (Lieutenant Governor of Guam) *shall* act as the interim
13 ARRA Chief Contracting Officer, as stated in Section 5 of this Act, until such time
14 a person is designated to this position.

15 **Section 5. Establishment and Recruitment of the Chief Contracting**
16 **Officer.**

17 *I Segundu na Maga'lahren Guåhan* (Lieutenant Governor of Guam) is
18 authorized to establish an unclassified position to be designated as the American
19 Recovery and Reinvestment Act of 2009 (ARRA) Chief Contracting Officer, who
20 shall provide administrative and management support to the Board, as stated in
21 Section 4 of this Act. Such ARRA Chief Contracting Officer *shall* possess the
22 following combination of skill and experience:

- 23 (a) *no less than* five (5) years of experience in administering and
24 managing capital improvement programs funded by federal, state,
25 municipal, or private funds;
- 26 (b) ability to develop and administer contracting and procurement
27 procedures for use and adoption by the ARRA Contracting Authority;

- 1 (c) ability and experience in preparing or coordinating the preparation of
2 financial and other required reports for ARRA programs and projects
3 as mandated by federal, state and local authorities;
- 4 (d) contracting experience in federal (U.S. Government) and government
5 of Guam-funded CIP, and sufficient knowledge of procurement
6 practices and regulations applicable to both; and
- 7 (e) ability to administer and develop public education and information
8 programs, advertising, business relations, media announcements and a
9 public relations campaign to promote the ARRA programs of the
10 government of Guam.

11 **Section 6. Appropriation.** The sum of Two Hundred Fifty Thousand
12 Dollars (\$250,000) is hereby appropriated from the General Fund to the Office of *I*
13 *Segundu na Maga'lahaen Guåhan* (Lieutenant Governor of Guam) to partly defray
14 the costs of implementing the provisions of this Act, and *shall* be used for funding
15 the salary and benefits of the Chief Contracting Officer, contractual services,
16 supplies, materials and other operating needs of the American Recovery and
17 Reinvestment Act of 2009 Contracting Board.

18 **Section 7. Effective Date.** This Act *shall* become effective upon
19 enactment. The designation of the American Recovery and Reinvestment Act of
20 2009 Chief Contracting Officer *shall* become effective within sixty (60) days upon
21 enactment of this Act.

22 **Section 8. Severability.** *If* any provision of this Law or its application to
23 any person or circumstance is found to be invalid or contrary to law, such
24 invalidity shall *not* affect other provisions or applications of this Law, which can
25 be given effect without the invalid provisions or applications, and to this end the
26 provisions of this Law are severable.