

*I Mina Trentai Kuattro Na Liheslaturan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
204-34 (COR)	FRANK B. AGUON, JR. Joe S. San Agustin	AN ACT TO AMEND §§ 58D105(a) AND 58D112, AND ADD A NEW § 58D105(e), ALL OF CHAPTER 58D, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO DESIGNATING THE GUAM DEPARTMENT OF EDUCATION AS THE PROCURING ENTITY FOR PURPOSES OF ANY SOLICITATION RESPECTING THE CONSTRUCTION AND/OR RENOVATION OF SIMON SANCHEZ HIGH SCHOOL UNDER A LONGTERM LEASE-BACK.	11/01/17 10:09 a.m.						

*I MINA'TRENTAI KUÁTTO NA LIHESLATURAN GUÅHAN*  
2017 (FIRST) Regular Session

Bill No. 204-34 (COR)

Introduced by:

FRANK B. AGUON  
Joe S. San Agustin



**AN ACT TO AMEND §§ 58D105(a) AND 58D112, AND ADD A NEW § 58D105(e), ALL OF CHAPTER 58D, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO DESIGNATING THE GUAM DEPARTMENT OF EDUCATION AS THE PROCURING ENTITY FOR PURPOSES OF ANY SOLICITATION RESPECTING THE CONSTRUCTION AND/OR RENOVATION OF SIMON SANCHEZ HIGH SCHOOL UNDER A LONGTERM LEASE-BACK**

2017 NOV - 1 AM 10: 09K-C

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

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that the Organic Act of Guam mandates the government of Guam to provide 'an adequate public educational system of Guam, and to that end shall establish, maintain and operation publics schools according to the laws of Guam.' Section 29, Organic Act of Guam. 48 USC §1421g(b). Guam law defines an adequate public educational system as one that requires an education provided in a healthy, safe and sanitary learning environment. 1 GCA §715 (k) and (l).

*I Liheslaturan Guåhan* further finds an immediate need to protect the substantial interest of the Territory by providing an adequate public educational system to the students, parents, and faculty of Simon Sanchez High School.

1            *I Liheslaturan Guåhan* further finds that the Governor of Guam, *I*  
2 *Liheslaturan Guåhan*, Guam Department of Education, the students, parents, and  
3 faculty of Simon Sanchez High School all have a genuine vested interest in the  
4 construction of Simon Sanchez High School.

5            *I Liheslaturan Guåhan* further finds that numerous attempts to change the  
6 procurement solicitation process for the construction of a new Simon Sanchez High  
7 School have been made, with the most recent attempt being Public Law 34-19.  
8 Public Law 34-19 changed the solicitation process from a Request for Proposal  
9 solicitation to a general solicitation.

10           *I Liheslaturan Guåhan* further finds that the execution of the solicitation  
11 process for the construction of a new Simon Sanchez High School by the Department  
12 of Public Works resulted in another protest.

13           *I Liheslaturan Guåhan* further finds that after numerous protests against the  
14 Department of Public Works regarding the solicitation of the construction of a new  
15 Simon Sanchez High School, it would be in the best interest of all stakeholders to  
16 designate the Guam Department of Education as the procuring entity. Furthermore,  
17 if a protest against the Guam Department of Education should arise, authorization  
18 must be granted to the Guam Department of Education, after consultation with and  
19 the written concurrence of the Attorney General or designated Deputy Attorney  
20 General, to make a written determination that the award of the contract without delay  
21 is necessary to protect substantial interests of the Territory.

22           It is, therefore, the intent of *I Liheslaturan Guåhan* to designate the Guam  
23 Department of Education as the procuring entity for purposes of any solicitation  
24 respecting the construction and/or renovation of Simon Sanchez High School under  
25 a longterm lease-back.

26           **Section 2.** § 58D105(a) of Chapter 58D, Title 5, Guam Code Annotated, is  
27 *amended* to read as follows:

1           “~~(a) The government of Guam or an education agency Guam~~  
2           ~~Department of Education shall~~ solicit through the ~~Department of Public~~  
3           ~~Works~~, in compliance with the Guam procurement law, for the renovation or  
4           construction of the education facility under a thirty (30) year lease-back  
5           arrangement, together with insurance and maintenance of the education  
6           facility over the lease-back period, according to ~~its~~ the needs of the education  
7           ~~agency~~ and consistent with this Chapter.

8           (1) The solicitation *shall* specifically state the minimum specifications  
9           that will be required for a submitted proposal to be considered.

10          (2) The determination of responsible offerors and responsive offers  
11          ~~shall~~ be made by ~~a selection committee comprised of the Superintendent of~~  
12          ~~the Department of Education, serving as Chairman, and including the Director~~  
13          ~~of the Department of Public Works or Deputy Director, the Director of the~~  
14          ~~Department of Land Management or Deputy Director, the Administrator of~~  
15          ~~the Guam Environmental Protection Agency or Deputy Administrator, and the~~  
16          ~~Administrator of the Guam Economic Development Authority or Deputy~~  
17          ~~Administrator~~ the Guam Department of Education.

18          (3) The ~~committee~~ Guam Department of Education *shall* evaluate  
19          offerors and offers received based on the requirements set forth in the  
20          solicitation for renovation or construction of the education facility.”

21          **Section 3.** The first sentence in the first paragraph of § 58D112 of Chapter  
22          58D, Title 5, Guam Code Annotated, is *amended* to read as follows:

23                 “Prior to undertaking the work of renovating or constructing a new  
24                 Simon Sanchez High School, the Guam Economic Development Authority,  
25                 ~~the Department of Public Works~~, the Guam Department of Education, and the  
26                 developer or contractor *shall* negotiate and enter into a binding construction  
27                 contract to renovate or construct a new Simon Sanchez High School in

1 accordance with the Guam Building Code (21 GCA Ch. 67), and any other  
2 applicable requirements.”

3 **Section 4.** A new § 58D105(e) is *added* to Chapter 58D of Title 5, Guam  
4 Code Annotated, to read as follows:

5 “(e) Notwithstanding any other provision of law, rule, or regulation, in  
6 the event of a timely protest under 5 GCA § 5425(a), or under 5 GCA §  
7 5480(a), the Guam Department of Education shall not proceed further with  
8 the solicitation or with the award of the contract prior to final resolution of  
9 such protest, and any such further action is void, unless:

10 (1) The Department of Education, after consultation with and the  
11 written concurrence of the Attorney General or designated Deputy  
12 Attorney General, makes a written determination that the award of the  
13 contract without delay is necessary to protect substantial interests of the  
14 Territory.”

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