

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

Bill No. 117 (COR)

Introduced by:

v.c. pangelinan

2009 MAY 18
PM 2:26
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AN ACT TO ESTABLISH PROGRAM PROCUREMENT
GUIDELINES AND PROCEDURES RELATIVE TO THE
CONTRACTUAL REQUIREMENTS OF THE AMERICAN
RECOVERY AND REINVESTMENT ACT OF 2009.

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Statement and Intent.** *I' Liheslaturan Guahan* finds
2 there is a need to streamline and facilitate the procurement procedures that govern the
3 outlay of funds made available through the American Recovery and Reinvestment Act of
4 2009 ("AARA") to provide full compliance and to meet federally mandated fiduciary
5 requirements. The people of Guam stand to receive millions of dollars in ARRA funding
6 for the enhancement of public facilities, improvement of the education system,
7 installation of new technology to meet local, national and world wide environmental
8 standards and qualified capital improvements which will improve the quality of life for
9 all our community.

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

16 *I' Liheslaturan Guahan* further finds given the compressed timelines and stringent
17 management and audit regulations that accompany the receipt and expenditure of ARRA
18 funds, it is necessary to assist the Administration to meet respective administrative and

1 fiduciary obligations while ensuring full accountability of any ARRA funds expended for
2 the benefit of Guam with the ultimate objective of maintaining Guam’s eligibility to
3 participate in such programs in the future and to restore faith and confidence in the
4 government’s ability to fulfill and comply with all federal and local regulatory guidelines
5 and mandates that accompany the acceptance of such grants.

6 Therefore, it is the *I Liheslaturan Guahan* to establish program procurement
7 guidelines and procedures for contractual requirements to meet the AARA.

8 **Section 2. American Recovery and Reinvestment Act of 2009 Program**
9 **Contractual and Procurement Authority.** The Lieutenant Governor of Guam is hereby
10 granted the *program contracting and procuring authority* for the government of Guam
11 with specific regard to programs and projects funded through the American Recovery and
12 Reinvestment Act of 2009 (“AARA”). This mandate shall remain in effect throughout the
13 full term of the present ARRA grant period awarded in Fiscal Year 2009 or any
14 continuation thereof or, for subsequent grant award(s) to Guam under the ARRA.

15 **Section 3. Authorization.** The Lieutenant Governor of Guam is hereby
16 authorized to allocate, transfer, expend and or direct resources under the charge of the
17 Office of the Lieutenant Governor of Guam and the Guam State Clearinghouse including
18 budgeted operating funds, staffing, materials and supplies, office space, equipment and
19 any related logistic support and services required to fulfill the scope, purpose and intent
20 of this Act. The Office of the Lieutenant Governor is designated the sole interim
21 contracting, procuring and managing entity authorized to report, advertise, administer,
22 solicit, review and grant contractual awards of the government of Guam funded under the
23 American Recovery and Reinvestment Act of 2009.

24 **Section 4. Establishment and Composition of the American Recovery and**
25 **Reinvestment Act of 2009 Contracting Board.** (1) The Lieutenant Governor of Guam
26 shall establish the American Recovery and Reinvestment Act of 2009 (“ARRA”)
27 Contracting Board (“Board”) which shall consist of seven (8) regular voting members
28 and two (2) alternate members who are allowed to cast a vote only in the event a regular
29 voting member is/are absent. The Board shall be comprised of members from the
30 following entities:

- 31 a) The Lieutenant Governor;

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

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

- 14 a) Program administration and management of ARRA funds awarded to Guam in
- 15 2009 or thereafter, in accordance with applicable local and federal laws;
- 16 b) Announcement, solicitation and awards of bids for qualified programs and
- 17 projects funded through the ARRA of 2009 and any continuation of ARRA
- 18 programs thereafter;
- 19 c) Receipt and protection of sealed bids, request for proposals (RFP) and request
- 20 for interest (RFI), request for quotations (RFQ) and any other government of
- 21 Guam solicitation in accordance with established local procurement rules and
- 22 regulations and ARRA procedures and guidelines to ensure fair and lawful
- 23 procurement practices and compliance with federal and local laws;
- 24 d) Developing periodic reports on expenditures, encumbrances, balances, fund
- 25 reallocation and any other financial transaction or activity affecting the status
- 26 of ARRA funds while insuring compliance with ARRA requirements;
- 27 e) Maintaining project status reports, financial status reports and documentation
- 28 of financial transactions affecting the fund balance(s) of grant accounts for
- 29 audit and project close-out requirements for corresponding grant award
- 30 year(s);

1 f) Preparation of quarterly financial report(s) on ARRA funded projects and
2 programs for submission to *I' Liheslaturan Guahan*;

3 The Board shall meet as necessary to comply with this Section. The Lieutenant
4 Governor of Guam shall act as the interim AARA Chief Contracting Officer as stated in
5 Section 5 of this Act until such time a person is designed to this position.

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

7 The Lieutenant Governor of Guam is authorized to establish an unclassified
8 position to be designated as the American Recovery and Reinvestment Act of 2009
9 (“ARRA”) Chief Contracting Officer who shall provide administrative and management
10 support to the Board, as stated in Section 4 of this Act. Such ARRA Chief Contracting
11 Officer shall possess the following combination of skill and experience:

- 12 a) No less than five years of experience in administering and managing capital
13 improvement programs funded by federal, state, municipal, or private funds;
- 14 b) Ability to develop and administer contracting and procurement procedures
15 for use and adoption by the ARRA Contracting Authority;
- 16 c) Ability and experience in preparing or coordinating the preparation of
17 financial and other required reports for ARRA programs and projects as
18 mandated by federal, state and local authorities;
- 19 d) Contracting experience in federal (U.S.Government) and government of
20 Guam funded CIP and sufficient knowledge of procurement practices and
21 regulations applicable to both;
- 22 e) Ability to administer and develop public education and information program,
23 advertising, business relations, media announcement and public relations
24 campaign to promote the ARRA programs of the government of Guam;

25 **Section 6. Appropriation.** The sum of Two Hundred Fifty Thousand Dollars
26 (\$250,000) is hereby appropriated from the General Fund to the Office of the Lieutenant
27 Governor of Guam to partly defray the costs of implementing the provisions of this Act
28 and shall be used for funding the salary and benefits of the Chief Contracting Officer,
29 contractual services, supplies, materials and other operating needs of the American
30 Recovery and Reinvestment Act of 2009 Contracting Board.

1 **Section 7. Effective Date.** This Act shall become effective upon enactment.
2 The designation of a American Recovery and Reinvestment Act of 2009 Chief
3 Contracting Officer shall become effective within Sixty (60) days upon enactment of this
4 Act.

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