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I MINA' TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) Regular Session

Bill No 497-30(LS)
Introduced by:

Judith T. Won Pat, Ed.D. *JTW*

AN ACT TO AMEND SECTION 5105 OF TITLE 5 GUAM
CODE ANNOTATED RELATIVE TO THE DUTIES OF
THE ATTORNEY GENERAL IN PROCUREMENT
OVERSIGHT AND ADVISEMENT

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds at the
3 time of the introduction of Bill No. 220-30 (LS), later to be enacted into Public
4 Law 30-72, the Department of Education did not have in place a Third Party
5 Fiduciary Agent (TPFA) overseeing the United States Department of
6 Education (USDOE) grants. At the time, it was sound to have the Office of the
7 Attorney General involved in the procurement process to ensure proper and
8 expeditious procurement of goods and services and to minimize protests of
9 bid awards and allow for a more expeditious procurement process.

10 *I Liheslatura* further finds on September 2010, the Department of Education
11 contracted with a TPFA to help improve the management of federal grants as
12 well as the handling of procurement for all federal grants. DOE has claimed
13 that the review process by the Attorney General has added days, sometimes

1 weeks, and in the immediate past, months to the procurement process and
2 that the lengthy review process may stifle DOE's ability to fully obligate and
3 expend the USDOE American Recovery and Reinvestment Act (ARRA) funds
4 by the required deadlines. Therefore, to avoid DOE from losing much
5 needed ARRA funds, the oversight and handling of procurement of ARRA
6 funds by TPFA for DOE should be sufficient to meet the objectives mandated
7 by §5150 of Title 5 Guam Code Annotated.

8 **Section 2.** § 5150 of Title 5 Guam Code Annotated is hereby amended to
9 read as follows:

10 **“§ 5150. Duties of the Attorney General.** The Attorney General, the
11 Deputy Attorney General or such Assistant Attorneys General as the Attorney
12 General may designate, shall serve as legal counsel and provide necessary
13 legal services to the Policy Office and the General Services Agency. Whenever
14 the Chief Procurement Officer, the Director of Public Works, or the head of
15 any executive branch agency, autonomous agency, instrumentality or public
16 corporation of the government of Guam conducts any solicitation or
17 procurement which is estimated to result in an award of Five Hundred
18 Thousand Dollars (\$500,000) or more, the Attorney General shall act as
19 legal advisor during all phases of the solicitation or procurement process.
20 The Attorney General shall, in addition, when he approves contracts,
21 determine not only the correctness of their form, but their legality. In making
22 such a determination of legality, he may require any or all agencies involved
23 in the contract to supply him with evidence that the required procedures

1 precedent to executing the contract were carried out. He may prescribe the
2 forms and format required to be followed by the agencies in aiding him in his
3 determination of form and legality. The Department of Education shall be
4 exempted from this section pertaining to any solicitation or procurement
5 funded by the United States Department of Education American Recovery
6 and Reinvestment Act. “