

*I Mina'trentai Siette Na Liheslaturan Guåhan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
46-37 (COR)	Sabina Flores Perez Chris Barnett	AN ACT TO ADD A NEW §5425.2 TO PART A OF ARTICLE 9, CHAPTER 5 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING TEMPORARY EXPEDITED PROCUREMENT PROTEST PROCEDURES FOR ACQUISITIONS FUNDED WITH AMERICAN RESCUE PLAN ACT MONIES ALLOTTED TO THE GUAM DEPARTMENT OF EDUCATION.	2/14/23 3:49 p.m.						

***I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN***  
**2023 (FIRST) Regular Session**

Bill No. 46-37 (COR)

Introduced by:

Sabina Flores Perez, *SFP*  
Chris Barnett *CB*

**AN ACT TO ADD A NEW §5425.2 TO PART A OF ARTICLE 9, CHAPTER 5 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING TEMPORARY EXPEDITED PROCUREMENT PROTEST PROCEDURES FOR ACQUISITIONS FUNDED WITH AMERICAN RESCUE PLAN ACT MONEYS ALLOTTED TO THE GUAM DEPARTMENT OF EDUCATION.**

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

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*

finds that the Guam Department of Education (GDOE) School Facilities Master Plan, published in May 2022, is a ten-year master plan that highlights and prioritizes the work that is needed to ensure safe and healthy educational environments for all public school students. The GDOE Facilities Master Plan (FMP), which guides investments in our schools, identified needed construction and modernization work and estimated the deferred maintenance throughout our public school system. Furthermore, decades-long deferred maintenance has resulted in deterioration of aging facilities and an urgent need to repair existing or construct new facilities to ensure safe and healthy learning environments.

*I Liheslatura* further finds that GDOE has been provided a once in a lifetime opportunity to utilize a portion of the federal funds through the American Rescue Plan Act (ARPA) for capital improvement projects. Additionally, provided that there

1 are no extensions, the timelines to obligate ARPA funds ends December 2024, along  
2 with the opportunity to accomplish deferred but urgent capital improvement  
3 projects.

4 *I Liheslatura* finds that although protests are an essential part of the  
5 procurement process, Guam’s current protest process can often lead to lengthy  
6 delays in procurement and can potentially lead to the inability of GDOE to expend  
7 funds within required deadlines or can lead to their inability to secure the best  
8 possible procurement costs to the people of Guam to undergo urgently needed  
9 facilities improvements.

10 *I Liheslaturan Guåhan* intends to provide a temporary expedited procurement  
11 protest procedure for capital improvement projects funded with American Rescue  
12 Plan Act monies allotted to the Guam Department of Education and enable GDOE  
13 to complete much needed improvement projects for the well-being of our school  
14 children and faculty.

15 **Section 2.** A new §5425.2 is *added* to Part A, Article 9, Chapter 5, Title 5,  
16 Guam Code Annotated to hereby read as follows:

17 **“§5425.2. Protest Procedure for Procurement Funded with American**  
18 **Rescue Plan Act of 2021 Moneys Allotted to the Guam Department of**  
19 **Education.**

20 (a) Notwithstanding any other provision of this Chapter and any rules  
21 promulgated therefore, if an actual or non-selected vendor, contractor, or service  
22 provider is aggrieved by an award or a contract for capital improvement projects  
23 funded, in whole or in part, by the funds allotted to the Guam Department of  
24 Education from the American Rescue Plan Act (ARPA) of 2021, the procedure for  
25 protest outlined in this Section shall apply, and shall be the exclusive means  
26 available to resolve the concerns of persons aggrieved in connection with awards or  
27 solicitations involving ARPA funds, in whole or in part. The protest shall be  
28 submitted to the Public Auditor who shall expedite the administrative review process

1 of the appeal in accordance with rules and regulation to be adopted and promulgated  
2 by the Public Auditor within six (6) months of the effective date of this Act.

3 (b) If the protest is not resolved by mutual agreement, the Public Auditor  
4 shall issue a decision, in writing, within no more than twenty (20) days, Saturdays,  
5 Sundays and Government of Guam holidays excepted, of receipt of the protest. The  
6 decision shall state the reasons taken. A copy of the written decision shall be mailed,  
7 using certified mail, or otherwise furnished to the vendor, contractor, or service  
8 provider who initiated the protest, the person awarded the contract, and to all other  
9 non-selected bidders or offerors.

10 (b) For purposes of this Section, the determination of facts and decision by  
11 the Public Auditor for the resolution of protests of ARPA funded procurements shall  
12 be final and conclusive with no right of appeal or judicial review. The fact that a  
13 protest has been filed pursuant to this Section shall not stay the procurement process  
14 or award of any contract funded by ARPA monies, whether in whole or in part,  
15 unless so ordered by the Public Auditor. A request for reconsideration shall also not  
16 stay the award of any contract funded by ARPA monies, whether in whole or in part,  
17 unless so ordered by the Public Auditor.

18 This Section is repealed effective December 31, 2024, unless the federal  
19 grantor agency authorizes an extension of time for the obligation or expenditure of  
20 ARPA funds, in which case this Section shall be repealed at the end of the extension  
21 period.”

22 **Section 3. Effective Date.** This act shall be effective upon enactment.

23 **Section 4. Severability.** If any provision of this Act or its application  
24 to any person or circumstance is found to be invalid or inorganic, such invalidity  
25 shall not affect other provisions or applications of this Act that can be given effect  
26 without the invalid provision or application, and to this end the provisions of this  
27 Act are severable.